ADS Chapter 450

Termination of Time-Limited Appointments - Foreign Service (FS)

New Edition Date: 04/23/2001
Responsible Office: OHR
File Name: 450_042301

Functional Series 400 - Personnel
ADS 450 - Termination of Time-Limited Appointments - Foreign Service (FS)

(THIS CHAPTER SUPERSEDES HANDBOOK 30, CHAPTER 8, SECTION 8F)

This is a new ADS chapter.

Table of Contents

450.1 OVERVIEW 4

450.2 PRIMARY RESPONSIBILITIES 4

450.3 POLICY AND PROCEDURES 5

450.3.1 General Provisions 5

450.3.2 Termination Actions 6
450.3.2.1 Temporary Appointments 6
450.3.2.2 Limited Appointments (Non-Career or Career Candidate) 6
450.3.2.3 Recalled and Reemployed Annuitants 7
450.3.3 Performance Management Requirements 7

450.3.4 Performance Boards 7

450.3.5 Evaluation Process and Separation of Employees 7
450.3.5.1 Separation of Career Candidates for Performance Reasons Prior to Performance Board Review 8
450.3.5.2 Separation of Career Candidates for Performance Reasons Following Performance Board Review 9
450.3.5.3 Separation of FS Employees on Time-Limited Appointments for Cause .. 10
450.3.5.4 Separation of Career Candidate Employees for Failure to Meet Language Requirements or Medical or Security Clearances for Tenure 10
450.3.5.5 Termination of Temporary and Non-Career Appointments 10

450.3.6 Notice of Separation 10
450.3.6.1 Effective Date and Time of Delivery 11
450.3.6.2 Postponement of Effective Date 11

450.3.7 Reemployment Rights 11

450.3.8 Appeals and Grievances 12

450.4 MANDATORY REFERENCES 12

450.4.1 External Mandatory References 12

450.4.2 Internal Mandatory References 12

450.5 ADDITIONAL HELP 12

450.6 DEFINITIONS 13

Functional Series 400 - Personnel
ADS Chapter 450 - Termination of Time-Limited Appointments - Foreign Service

450.1 OVERVIEW

In accordance with section 612 of the Foreign Service Act of 1980 as amended (hereafter referred to as the Act), any member of the Foreign Service (FS) serving under a limited appointment who is assigned to a salary class in the Foreign Service schedule, or who is paid in accordance with section 407 of the Act, or who is a U.S. citizen paid under a compensation plan under section 408 of the Act may be terminated at any time. This ADS chapter sets forth the policies and procedures for terminating Foreign Service limited and temporary appointments in USAID for reasons other than misconduct. **(See Mandatory References, Foreign Service Act sections 407, 408, and 612)**

This chapter applies to the following Foreign Service employees:

- Entry-level Career Candidates (New Entry Professionals and International Development Interns);
- Mid-level Career Candidates;
- Non-Career employees;
- Recalled Career employees under time-limited appointments;
- Reemployed annuitants;
- American Family Member appointees; and
- U.S. citizen residents (resident hires).

For termination of time-limited Senior Foreign Service employees, see ADS 422. **(See Mandatory Reference, ADS 422, Personnel Operations: Senior Foreign Service)**

450.2 PRIMARY RESPONSIBILITIES

a. The Deputy Assistant Administrator for Human Resources, Bureau for Management, Office of Human Resources (DAA/M/HR) is responsible for the termination of Foreign Service appointments of entry-level and mid-level Career Candidate and Non-Career employees, except employees on American Family Member, U.S. citizen resident appointments and BS-08 employees assigned to the Office of the Inspector General (OIG). The OIG will be responsible for overseeing the termination of its limited FS personnel.

b. The Chief, Personnel Operations Division, Office of Human Resources, Bureau

for Management (M/HR/POD) is responsible for the following:

(1) Terminating the FS appointment of American Family Members and U.S. citizen residents (resident hires);

(2) Reviewing reports in which a Career Candidate's performance is rated unsatisfactory;

(3) Preparing and forwarding reports of unsatisfactory performance to the DAA/M/HR for appropriate action;

(4) Delivering, as may be required, separation notices issued to USAID employees assigned in Washington; and

(5) Processing separation actions as appropriate to the situation.

c. The Labor and Employee Relations and Performance Management Division, Office of Human Resources, Bureau for Management (M/HR/LERPM) is responsible for providing, upon request, general advice on and assistance with disciplinary matters to supervisors, operating officials, employees, and Bureau or Office Administrative Management Staff (AMS).

d. The Mission Director or Acting Mission Director is responsible for delivering separation notices to FS employees serving on limited appointments overseas. The Chief, Personnel Operations Division, M/HR, may be required to deliver separation notices in USAID/Washington (USAID/W).

450.3 POLICY AND PROCEDURES

Key words: Act, American Family Member appointment, employee, misconduct, performance measure, U.S. citizen resident appointment. **(See 450.6, Definitions, below, for the entire list of terms for ADS 450)**

450.3.1 General Provisions

It is the policy of USAID

a. To retain a time-limited employee as long as his or her services can be advantageously used by USAID. Pursuant to the Foreign Service Act of 1980, as amended, a time-limited appointment may be extended or renewed up to a maximum of five years. However, the Agency reserves the option to allow each appointment to expire or to effect separation prior to the expiration date.

b. To give an employee reasonable advance notice regarding any change in his or her status prior to the effective date of such change. Therefore, the Agency will inform the employee as soon as the Agency knows whether his or

her current appointment will be renewed, extended, or terminated.

c. To inform a candidate who is to receive a time-limited appointment that the not-to-exceed (NTE) date shown on the appointment document does not preclude the possibility of an earlier termination date, at the discretion of the Agency.

d. In cases of a Reduction in Force, the Agency will terminate all non-career employees prior to the termination of career candidate employees.

450.3.2 Termination Actions

Employees holding time-limited appointments may be separated under the following guidelines in 450.3.2.1 through 450.3.2.3.

450.3.2.1 Temporary Appointments

An employee with a Foreign Service temporary appointment (one year or less) may be separated:

- When the need no longer exists for the employee's service;
- On the expiration of the employee's appointment, whichever is sooner;
- For misconduct; or
- For such other cause as will promote the efficiency of the service.

450.3.2.2 Limited Appointments (Non-Career or Career Candidate)

An employee with a Foreign Service limited appointment (up to five years) may be terminated:

- When the need no longer exists for the employee's service;
- On the expiration of the employee's appointment, whichever is sooner;
- For misconduct;
- When the employee fails to satisfactorily perform the duties of the position **(See ADS 450.3.5.1 and 450.3.5.2, below, for separation of Career Candidates for unsatisfactory performance)**; or
- For such other cause as will promote the efficiency of the service.

450.3.2.3 Recalled and Reemployed Annuitants

A retired Career member of the Foreign Service who is recalled or reemployed under the authority of section 308 of the Act may be terminated.

- When the need no longer exists for the employee's service;
- On the expiration of the employee's appointment, whichever is sooner;
- For misconduct; or
- For such other causes as will promote the efficiency of the service.

(See Mandatory References, sections 303, 308, and 612 of the Act)

450.3.3 Performance Management Requirements

Supervisors are required to develop work objectives and performance measures for limited employees in accordance with the Agency's Employee Evaluation Program (EEP) outlined in ADS 462, as appropriate, at the beginning of the employee's assignment. Supervisors of New Entry Professionals (NEPs) are required to develop work objectives and performance measures for any NEP rotational assignment of two weeks or more. Supervisors will evaluate employees' work based on the work objectives and performance measures established in accordance with ADS 462. **(See Mandatory Reference, ADS 462, Employee Evaluation Program)**

450.3.4 Performance Boards

Performance Boards meet annually to evaluate the performance of eligible Foreign Service (FS) employees and to make decisions concerning their performance, promotion, limited career extensions, performance pay, Presidential Rank Awards, and referrals to the Performance Standards Board. Performance Boards review the performance evaluation files of Career and Career Candidate employees only. They do not review Non-Career employees and employees serving on temporary appointments. **(See Mandatory Reference, ADS 463, Foreign Service Boards)**

450.3.5 Evaluation Process and Separation of Employees

The Agency expects its employees to maintain high standards of conduct and performance. Supervisors are responsible for

- Supplying the Board with adequate information on which to determine an employee's fitness for appointment as a Career Foreign Service officer;
- Providing employees with periodic assessments of their performance so they can prepare for their careers; and

- Supplying the DAA/M/HR with the necessary information for making a final judgment on possible early termination of an officer's appointment because of unsatisfactory performance of assigned duties.

450.3.5.1 Separation of Career Candidates for Performance Reasons Prior to Performance Board Review

The Foreign Service Career Candidate Program is a comprehensive program of appropriate training, assignment, evaluation, counseling, and review intended to enable candidates for Career status as Foreign Service officers to demonstrate through on-the-job experience and in the shortest time practicable whether they have the potential to serve successfully across the normal career span of a Foreign Service officer.

The Performance Boards as described in 450.3.4 normally will make that judgement after the employee has completed the first Board review and three years of review for tenure consideration. **(See 450.3.4)** However, in exceptional cases a candidate may, prior to Board review, prove unable to perform assigned duties or fail to meet the standards for a Career Foreign Service officer as assessed through a training plan and day-to-day observation of work. In such circumstances, it serves the interest of neither the Foreign Service nor the individual to retain the candidate in the service. In such instances, and pursuant to the following policies and procedures, the Deputy Assistant Administrator for Human Resources (DAA/M/HR) may terminate the candidate's appointment without delay, as authorized by section 612 of the Act. **(See Mandatory References, ADS 463, FS Boards, and section 612 of the Act)**

The following policies and procedures apply to Career Candidates who fail to meet work objectives or performance measures prior to Performance Board review:

a. When the supervisor of assignment determines that employee is failing to meet work objectives, performance measures, or skill categories, the supervisor will discuss the performance with M/HR/POD and with the employee. The supervisor will counsel the employee about areas that need improvement and measures demonstrating success and will advise the employee in writing that he or she will be given 60 days to improve performance. The employee must be given adequate guidance to remedy deficiencies.

b. If the candidate's performance continues to be deficient at the end of the 60 days, the supervisor must document in a memorandum the work objective(s), performance measures, or skill categories the employee is not demonstrating success and submit it to M/HR/POD for appropriate action.

c. Upon receipt of the report, M/HR/POD will determine the adequacy of the report and whether all procedural requirements were followed. Once satisfied that all requirements were met, M/HR/POD will refer the case to the DAA/M/HR for review and a decision.

d. Upon being advised that the candidate is failing to meet work objectives or skill standards, the DAA/M/HR will:

(1) So advise the candidate in writing and grant a period of at least 10 working days for the candidate to offer comments on the finding; and

(2) Conduct such further review or inquiry regarding the candidate's performance, as the DAA/M/HR deems appropriate. All material generated by such a review or inquiry or otherwise considered by the DAA/M/HR will be made available to the candidate, who will be granted an additional period of 10 working days from receipt of such material to offer comment.

e. Upon completion of the above procedures, the DAA/M/HR will review all relevant and admissible material on file regarding the candidate's performance and will do one of the following:

(1) Advise the employee that after a review of the case, the decision is that he or she is meeting the work objectives or skill standards identified as deficient and that his or her records will not reflect otherwise. M/HR/POD must ensure that no material related to the action is reflected in the employee's personnel records;

(2) Direct that the candidate be separated from the Foreign Service under section 612 of the Act; or

(3) Withhold judgment regarding possible action for a specified period of further on-the-job observation. In this instance, the supervisor must submit another memorandum immediately following the additional period stating either that (a) the candidate's performance meets the work objectives and skill standards or, (b) with additional documentation, the employee is still not meeting work objectives and performance measures. The DAA/M/HR will readdress the issue based on overall performance history to that date.

(See Mandatory Reference, section 612 of the Act)

450.3.5.2 Separation of Career Candidates for Performance Reasons Following Performance Board Review

A Career Candidate employee will be separated if one Performance Standards Board (PSB) determines that the employees did not meet the standards of his or her class for one full rating cycle unless such action would not be in the best interests of the Agency or is reversed through the grievance process. **(See Mandatory Reference, ADS 463, Foreign Service Boards)**

The separation date will be established by the DAA/M/HR to be effective within six months from the date the PSB list of employees who failed to meet the standards of the class is received the DAA/M/HR. The employee will be separated in accordance with section 612 of the Act and ADS 463. **(See Mandatory References, section 612 of the Act and ADS 463, Foreign Service Boards)**

450.3.5.3 Separation of FS Employees on Time-Limited Appointments for Cause

Separation of employees on time-limited appointments for cause is covered under section 610 of the Act. The policies and procedures for USAID are outlined in ADS 485 and Joint Regulations under 3 FAM 4360. **(See Mandatory References, section 610 of the Act; ADS 485, FS Discipline; and Joint Regulations under 3 FAM 4360, Separation for Cause, effective August 19, 1997)**

450.3.5.4 Separation of Career Candidate Employees for Failure to Meet Language Requirements or Medical or Security Clearances for Tenure

To be eligible for tenure, employees must attain a minimum Foreign Service Institute-tested language proficiency level of S-3/R-3 in a USAID Category A language (French, Spanish, or Portuguese) or S-2/R-1 in any of the other languages qualifying for conversion to a Career appointment in USAID. In addition, employees must satisfactorily meet medical and security clearance requirements. Employees who fail to meet these requirements are subject to termination. **(See Mandatory Reference, 463, Foreign Service Boards)**

450.3.5.5 Termination of Temporary and Non-Career Appointments

Employees may be terminated for any one of the reasons outlined in 450.3.2.1 or 450.3.2.2. Advance notice of intent to separate will be prepared by and signed by the DAA/M/HR or designee.

450.3.6 Notice of Separation

When an appointment is to be terminated, the responsible officer identified in ADS 450.2 (above) will prepare a notice of separation to the employee. The notice will inform the employee that the appointment is being allowed to expire in accordance with the not-to-exceed (NTE) date shown on the appointment document, Standard Form 50, Notification of Personnel Action **(See Additional Help 450.5 a, Sample Letter - Terminating Employee's Limited Appointment on the Expiration (NTE) Date**), or is being terminated prior to the NTE date shown **(See Additional Help 450.5.b, Sample Letter - Terminating Employee's Limited Appointment Prior to the Expiration (NTE) Date)**. If the employee has reemployment rights in USAID/W or another Federal agency, the notice informs the employee that he or she must apply to his or her parent

agency no later than 30 calendar days after the effective date of the personnel action terminating the appointment. **(See ADS 450.2, above, on primary responsibilities)**

450.3.6.1 Effective Date and Time of Delivery

The responsible officer in ADS 450.2 (above) will set the effective date of the separation, which may be no less than 30 days (60 days if the employee has reemployment rights to USAID or another Federal agency) following notification of that action. If the employee is overseas, the original and one copy of the notice will be sent to the Mission Director or designee for delivery to the employee. The employee must acknowledge receipt of the letter by signing the copy and returning it to the Mission Director or Acting Mission Director for return to USAID/W.

If the employee is in the United States, the original of the notice and a copy may be delivered directly to the employee by the Chief, M/HR/POD. The employee must acknowledge receipt of the letter by signing the copy and returning it to the individual who delivered the letter.

If the employee refuses to sign the letter, the individual delivering the letter must make a notation that the employee refused to sign the letter and show the date the employee received the letter. M/HR/POD will maintain the annotated copy with the case file. **(See ADS 450.2, above, on primary responsibilities)**

Delivery date is to be as far in advance of the proposed termination date as possible and planned to allow sufficient time for the employee's direct travel to Washington if he or she is assigned abroad.

450.3.6.2 Postponement of Effective Date

The Agency may postpone the date on which separation is to take effect by extending the appointment, if necessary, only in the event of a delay in receipt of medical clearance or other exceptional circumstances, when approved by the DAA/M/HR or his or her designee. No appointment may be extended if it will exceed five years of total service under the limited appointment.

450.3.7 Reemployment Rights

At least two months prior to the completion of the service of a member of the Foreign Service entitled to reemployment rights under the provisions of Section 310 of the Act, and 5 USC 3597, the responsible officer in M/HR will send letters to the employee concerned and to the head of the agency or designee in which the employee was serving prior to the Foreign Service assignment. These letters will state the latest date the employee may remain on USAID rolls. Additional policies and procedures are outlined in ADS 412. **(See Mandatory References, section 310 of the Act; 5 USC 3597, Reemployment Rights Following Limited Appointment; and ADS 412, Reemployment Rights)**

450.3.8 Appeals and Grievances

This chapter creates no rights of appeal or grievance other than those that are either set forth explicitly in this chapter or in other provisions of law or regulation.

(See Mandatory References, section 612 of the Act; ADS 486, Grievances - FS; and Joint Regulations 3 FAM 4400, Foreign Service Grievance System)

450.4 MANDATORY REFERENCES

450.4.1 External Mandatory References

a. **Foreign Service Act of 1980, as amended, sections 308, 310, 407, 408, 610, and 612**

b. **Joint Regulations, 3 FAM 4360, Separation for Cause**

c. **Joint Regulations, 3 FAM 4440, Foreign Service Grievance System**

d. **5 USC 3597, Reemployment Rights Following Limited Appointment**

450.4.2 Internal Mandatory References

a. **ADS 412, Reemployment Rights**

b. **ADS 422, Personnel Operations: Senior Foreign Service**

c. **ADS 459, International Development Intern Program (New Entry Professional Program)**

d. **ADS 462, Employee Evaluation Program**

e. **ADS 463, Foreign Service Boards**

f. **ADS 485, Disciplinary Action – FS**

g. **ADS 486, Grievances - FS**

450.5 ADDITIONAL HELP

a. **Sample Letter - Terminating Employee's Limited Appointment on the Expiration (NTE) Date**

b. **Sample Letter - Terminating Employee's Limited Appointment Prior to the Expiration (NTE) Date**

c. Information for Separated Employees Posted Overseas

450.6 DEFINITIONS

All ADS chapter terms and definitions are included in the ADS Glossary. Therefore, the terms and definitions listed below have been incorporated into the ADS Glossary. **(See ADS Glossary)**

Act
For the purposes of ADS Chapters 400-499, the Foreign Service Act of 1980 as amended. (Chapters 400-499)

American Family Member appointment (AFM)
An American Family Member appointment is a type of Foreign Service limited Non-Career appointment available only to Eligible Family Members, under the authority of sections 309 and 311(a) of the Foreign Service Act of 1980 as amended. Appointments are for more than one year and not to exceed five years. (Chapters 450 and 470)

employee
For purposes of ADS 450, any member of the Foreign Service serving under a time-limited appointment. (Chapter 450)

days
Calendar days, unless otherwise specified. (Chapters 450 and 487)

misconduct
Willfully improper behavior of an employee, including (but not limited to) attendance problems, e.g., absence without official leave (AWOL), excessive tardiness, and improper use of sick or home leave. (Chapter 450)

performance measure
Statement of standards (qualitative or quantitative) used to measure an employee's achievement of a given work objective. (Chapter 450)

separation for cause
Separation from the Service for such cause as will promote the efficiency of the Service under Section 610 of the Act. (Chapter 450)

U.S. citizen resident appointment
A U.S. citizen living abroad who is not an American Family Member. (Chapter 450)

work objectives
Expectations for an employee established by management for a particular rating period. (Chapters 450, 462, and 463)
450_042301