



ADS Chapter 450

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

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 ADS 450 - Termination of Time-Limited Appointments - Foreign Service (FS)
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ADS Chapter 450 - Termination of Time-Limited Appointments - Foreign Service

450.1 OVERVIEW

Effective Date: 04/27/2020

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 [Foreign Service Act sections 407, 408, and 612](#)).

This chapter applies to the following Foreign Service employees:

- Entry-level career candidates;
- Mid-level career candidates;
- Non-career employees;
- Recalled career employees under time-limited appointments;
- Reemployed annuitants;
- Appointment Eligible Family Members (AEFMs); and
- U.S. citizen residents (resident hires).

For termination of time-limited Senior Foreign Service employees, see [ADS 422, Personnel Operations: Senior Foreign Service](#).

450.2 PRIMARY RESPONSIBILITIES

Effective Date: 04/27/2020

a. The **Chief Human Capital Officer (CHCO), Office of Human Capital and Talent Management (HCTM)**, 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 **Director, Office of Human Capital and Talent Management, Employee and Labor Relations Office (HCTM/ELR)** is responsible for:

- 1) Terminating the FS appointment of AEFMs 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 CHCO 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. HCTM/ELR, in consultation with the Office of the General Counsel (GC/EA), 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 Director, HCTM/ELR, may be required to deliver separation notices in USAID/Washington (USAID/W).

450.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

450.3.1 General Provisions

Effective Date: 04/23/2001

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

Effective Date: 04/23/2001

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

Effective Date: 04/23/2001

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)

Effective Date: 04/23/2001

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

Effective Date: 04/23/2001

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 [Foreign Service Act sections 303, 308, and 612](#)).

450.3.3 Performance Management Requirements

Effective Date: 04/23/2001

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, Employee Evaluation Program, Civil Service](#), 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](#).

450.3.4 Performance Boards

Effective Date: 04/23/2001

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 [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#)).

450.3.5 Evaluation Process and Separation of Employees

Effective Date: 04/27/2020

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 **CHCO** 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

Effective Date: 04/27/2020

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 **CHCO** may terminate the candidate's appointment without delay, as authorized by section 612 of the Act. (See [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#), 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 an employee is failing to meet work objectives, performance measures, or skill categories, the supervisor will discuss the performance with **HCTM/ELR** 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 **HCTM/ELR** for appropriate action.
- c. Upon receipt of the report, **HCTM/ELR** will determine the adequacy of the report and whether all procedural requirements were followed. Once satisfied that all requirements were met, **HCTM/ELR** will refer the case to the **CHCO** for review and a decision.

- d. Upon being advised that the candidate is failing to meet work objectives or skill standards, the **CHCO** 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 **CHCO** deems appropriate. All material generated by such a review or inquiry or otherwise considered by the **CHCO** 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 **CHCO** 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. **HCTM/ELR** 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 **CHCO** will re-address the issue based on overall performance history to that date (see [section 612 of the Act](#)).

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

Effective Date: 04/27/2020

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 [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#)).

The separation date will be established by the **CHCO** 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 by the CHCO. The employee will be separated in accordance with section 612 of the Act and [ADS 463](#) (see [section 612 of the Act](#) and [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#)).

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

Effective Date: 04/23/2001

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 [section 610 of the Act](#); [ADS 485, Disciplinary Action – Foreign Service; 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

Effective Date: 04/23/2001

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 [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#)).

450.3.5.5 Termination of Temporary and Non-Career Appointments

Effective Date: 04/27/2020

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 CHCO or designee. In addition, appointments may be terminated for failure to continue to meet the conditions of service, such as the medical clearance required for the specific post or not having a current valid clearance at the Top Secret level, per [ADS 414.3.1.1](#).

450.3.6 Notice of Separation

Effective Date: 04/23/2001

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 [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 **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** on primary responsibilities).

450.3.6.1 Effective Date and Time of Delivery

Effective Date: 04/27/2020

The responsible officer in **section 450.2** 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, **HCTM/ELR**. 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. **HCTM/ELR** will maintain the annotated copy with the case file (see **section 450.2** 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

Effective Date: 04/27/2020

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 **CHCO** 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

Effective Date: 04/23/2001

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 U.S.C. 3597, the responsible officer in 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 [section 310 of the Act](#); [5 USC 3597, Reemployment Rights Following Limited Appointment](#); and [ADS 412, Reemployment Rights](#)).

450.3.8 Appeals and Grievances

Effective Date: 04/23/2001

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 [section 612 of the Act](#); [ADS 486, Grievances – Foreign Service; and Joint Regulations](#); and [3 FAM 4400, Foreign Service Grievance System](#))

450.4 MANDATORY REFERENCES

Effective Date: 04/23/2001

450.4.1 External Mandatory References

Effective Date: 04/23/2001

- a. [5 U.S.C. 3597, Reemployment Rights Following Limited Appointment](#)
- b. [Foreign Service Act of 1980, as amended, sections 308, 310, 407, 408, 610, and 612](#)
- c. [Joint Regulations, 3 FAM 4360, Separation for Cause](#)
- d. [Joint Regulations, 3 FAM 4440, Foreign Service Grievance System](#)

450.4.2 Internal Mandatory References

Effective Date: 04/23/2001

- a. [ADS 412, Reemployment Rights](#)
- b. [ADS 422, Personnel Operations: Senior Foreign Service](#)
- c. [ADS 459, USAID's Foreign Service Career Candidate Program](#)
- d. [ADS 462, Employee Evaluation Program, Civil Service](#)
- e. [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#)
- f. [ADS 485, Disciplinary Action – Foreign Service](#)

g. [ADS 486, Grievances – Foreign Service](#)

450.5 ADDITIONAL HELP

Effective Date: 04/23/2001

a. [ADS 450saa, Sample Letter - Terminating Employee's Limited Appointment on the Expiration \(NTE\) Date](#)

b. [ADS 450sab, Sample Letter - Terminating Employee's Limited Appointment Prior to the Expiration \(NTE\) Date](#)

c. [ADS 450sac, Information for Separated Employees Posted Overseas](#)

450.6 DEFINITIONS

Effective Date: 04/27/2020

The terms and definitions listed below have been incorporated into the ADS Glossary. See the [ADS Glossary](#) for all ADS terms and definitions.

Appointment Eligible Family Member (AEFM)

A type of Foreign Service limited Non-Career appointment available only to U.S. citizen 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. (Chapter 450)

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. (Chapter 450, [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.
(Chapter 450, [462](#), [463](#))

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