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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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This chapter has been revised in its entirety.

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ADS Chapter 450 - Termination of Time-Limited Appointments - Foreign Service

450.1 OVERVIEW

Effective Date: 03/07/2024

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 meets one of the following criteria, may be terminated at any time:

- Assigned to a salary class in the FS schedule,
- Paid in accordance with section 407 of the Act, or
- A U.S. citizen paid under a compensation plan under section 408 of the Act.

This ADS chapter sets forth the policies and procedures for terminating FS 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 FS employees:

- Entry-level and mid-level career candidates (FS Career Candidate Corps [C3]);
- Non-career employees, including those on time-limited appointments in the Senior Foreign Service (SFS);
- Recalled career employees under time-limited appointments; and
- Reemployed annuitants.

The Office of Inspector General (OIG) is responsible for overseeing the termination of its FS personnel.

450.2 PRIMARY RESPONSIBILITIES

Effective Date: 03/07/2024

a. The **Senior Deputy Assistant Administrator (Foreign Service, SDAA), Office of Human Capital and Talent Management (SDAA/HCTM)**, or their designee, is responsible for the termination of FS career candidate appointments, except BS-08 employees assigned to the OIG.

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

1. Providing advice on and assistance with addressing performance and conduct matters;

2. Reviewing reports that document unsatisfactory performance ratings for a career candidate;
3. Preparing and forwarding reports of unsatisfactory performance to the Chief Human Capital Officer (CHCO) for appropriate action;
4. Issuing separation notices to USAID career candidate employees; and
5. Processing separation actions, as appropriate.

c. The **Director, Office of Human Capital and Talent Management, Foreign Service Center (HCTM/FSC)** is responsible for the termination of Foreign Service limited (FSL) non-career appointments.

d. **Supervisors** of employees on time-limited appointments are responsible for:

1. Fulfilling all the supervisory responsibilities laid out in [ADS 461, Foreign Service and Senior Foreign Service Performance Management and Development Programs](#);
2. Counseling employees to address performance and conduct issues that do not rise to a formal disciplinary action and addressing performance deficiencies;
3. Supplying the rating official who is preparing the Tenure Evaluation Forms with adequate information to assist the Tenure Board in determining a career candidate's fitness for appointment as a career Foreign Service Officer (FSO) (see [ADS 414, Foreign Service Appointments](#)); and
4. Supplying HCTM/ELR with the necessary information for making a final judgment on possible early termination of an employee's appointment because of unsatisfactory conduct or performance.

450.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

450.3.1 General Provisions

Effective Date: 03/07/2024

It is USAID policy to:

- a. Retain a time-limited employee for the duration of the specified term of the appointment, as long as their services can be advantageously used by USAID. Pursuant to the Act, a time-limited appointment may be extended or renewed up to a maximum of five years, or as specified in appropriation acts (see [ADS 414, Foreign Service Appointments](#)). However, the Agency reserves the option to allow each appointment to expire or be terminated prior to the expiration date.

- b. Give a time limited employee reasonable advance notice regarding any change in their status prior to the effective date of the change. Therefore, the Agency must inform the employee as soon as the Agency knows whether their current appointment will be renewed, extended, or terminated.
- c. Inform a candidate, receiving 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. Terminate all non-career employees prior to the termination of career candidate employees in cases of a Reduction in Force, in accordance with [ADS 454, Reduction in Force - Foreign Service](#).

450.3.2 Basis for Termination

Effective Date: 03/07/2024

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

450.3.2.1 Temporary Appointments

Effective Date: 03/07/2024

An employee with a FS temporary appointment (one year or less) may be separated for the following:

- When the need no longer exists for the employee's service,
- When the appointment expires,
- When the employee is involved in misconduct,
- When the employee fails to satisfactorily perform the duties of their position,
- When the funds for the position are no longer available, or
- For other cause that promotes the efficiency of the service.

450.3.2.2 Limited Appointments (Non-Career or Career Candidate)

Effective Date: 03/07/2024

An employee with a FSL appointment may be terminated for the following:

- When the need no longer exists for the employee's service,
- On the expiration of the employee's appointment,
- For misconduct,

- When the employee fails to satisfactorily perform the duties of the position (see section **450.3.3.2** for separation of career candidates for unsatisfactory performance), or
- For such other cause that promotes the efficiency of the service.

[Sections 610 and 612 of the Act](#) provide authority to terminate career candidate and non-career limited appointments. The Agency may terminate appointments pursuant to these sections as dictated by the needs of the service.

450.3.2.3 Recalled and Reemployed Annuitants

Effective Date: 03/07/2024

A retired career member of the FS 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,
- For misconduct or unsatisfactory performance, or
- For such other cause that promotes the efficiency of the service.

(See [the Act sections 303, 308, and 612](#)).

450.3.3 Separation Process

450.3.3.1 Separation as a Result of Promotion Boards

Effective Date: 03/07/2024

The Agency must separate a career candidate employee if the FS Promotion Board determines that the candidate did not meet the standards of their class for one full rating cycle (see [ADS 463, Foreign Service Promotion Boards and Consolidated Senior Foreign Service Performance Board: Promotion Eligibility Requirements and Procedures](#)). The Agency must separate a career candidate who is not recommended for administratively-determined promotion (for candidates entering grades FS 04 and below) after two administrative promotion reviews (see [ADS 459, the Career Candidate Program](#)). The SDAA/HCTM must review the Boards' determination and consider any mitigating circumstances, in consultation with HCTM/FSC and the career candidate's supervisor, before making a decision to separate. The SDAA/HCTM may support the separation or determine that the career candidate will be given an opportunity to improve through counseling and/or a written improvement plan before making a final decision.

HCTM/ELR must issue the career candidate advance notice of the SDAA/HCTM's

decision to separate them as a result of the Promotion Board's recommendation. The notice must provide the candidate with the separation date, which the SDAA/HCTM establishes to be effective no later than six months from the date they receive the list of candidates who failed to meet the standards of their class from the promotion board or from the administrative promotion review.

The employee must be separated in accordance with [section 612 of the Act](#).

450.3.3.2 Separation of Career Candidates for Performance Based Reasons Prior to Promotion Board Review

Effective Date: 03/07/2024

The Agency assesses a career candidate's potential to serve successfully across the career span of a FSO through tenure consideration (see [ADS 414](#) for procedures for tenure consideration). The Agency also assesses a career candidate's relative performance through the competitive promotion review process (see [ADS 463](#) for promotion consideration). However, if a candidate demonstrates the inability to successfully perform duties as assigned or fails to meet the standards for a career FSO prior to their first Promotion Board review, it serves the interest of neither the FS nor the individual to retain the candidate in the service. In such instances, and pursuant to the following policies and procedures, the SDAA/HCTM may terminate the candidate's appointment without delay, as authorized by section 612 of the Act (see [ADS 414](#), [ADS 459](#), and [section 612 of the Act](#)).

The following policies and procedures apply to career candidates who fail to meet performance expectations prior to Promotion or Performance Board review:

- a. When the supervisor determines a candidate is failing to meet work or skill development objectives, other performance expectations (e.g. position duties), or skill standards per the FS/SFS Skills Framework, they must advise the candidate of the performance deficiencies in writing, and the candidate must be given no less than 30 days to demonstrate they can perform the assigned duties. The supervisor should consult with HCTM/ELR regarding best practices in establishing a plan.
- b. If the candidate's performance continues to be deficient at the end of the improvement period, the supervisor must document in a memorandum the work or training objective(s), performance expectations, or skill categories where the employee is not demonstrating success and submit the document to HCTM/ELR for appropriate action.
- c. Upon receipt of the report, HCTM/ELR, in consultation with the Office of the General Counsel, Ethics and Administration (GC/EA), must determine the adequacy of the report and whether all procedural requirements were followed. Once HCTM/ELR and GC/EA determine that all requirements were met, HCTM/ELR must refer the case to the SDAA/HCTM for review and a decision.

- d. Upon being advised the candidate is failing to meet work or skill development objectives, performance expectations or skill standards, HCTM must notify the candidate in writing that they have been referred to the SDAA/HCTM for termination due to poor performance. In this written notification, HCTM must inform the candidate that they have 10 business days to provide comments in writing. No oral reply or hearing is permitted.
- e. Upon completion of the above procedures, the SDAA/HCTM must review all relevant and admissible material on file regarding the candidate's performance and do one of the following:
 1. Advise the candidate that after a review of the case, the decision is that they are meeting the work objectives, performance expectations, or skill standards identified as deficient and that their 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 FS under section 612 of the Act, in which case HCTM/ELR must issue a separation notice with the SDAA/HCTM-determined date of separation; or
 3. Withhold judgment regarding possible action for a specified period of further on-the-job observation. The supervisor must submit another memorandum immediately following the additional period stating either that (a) the candidate's performance meets the work objectives, performance expectations, and skill standards, or (b) with additional documentation, the candidate is still not meeting work objectives and performance measures. The SDAA/HCTM must re-address the issue based on overall performance history to that date (see [section 612 of the Act](#)).

450.3.3.3 Separation of Career Candidates for Failure to Meet Language Requirements or Medical or Security Clearances for Tenure

Effective Date: 03/07/2024

To be eligible for tenure, career candidates must attain a tested language proficiency level as specified in [ADS 438, Foreign Language Programs](#). In addition, employees must satisfactorily meet medical and security clearance requirements. In certain circumstances, a waiver of medical standards may be provided at the Agency's discretion (see [ADS 414mab](#)). Employees who fail to meet these requirements are subject to termination (see [ADS 414mad](#)).

450.3.3.4 Separation of FS and SFS Employees on Time-Limited Appointments for Cause

Effective Date: 03/07/2024

Separation of employees on time-limited appointments for cause is covered under [section 610 of the Act](#). USAID's policies and procedures are outlined in [ADS 485, Disciplinary Action – Foreign Service](#).

For Civil Service (CS) employees on FSL appointments pursuant to [ADS 415](#) who commit misconduct, it is USAID policy to terminate the FSL appointment. Disciplinary action, up to and including removal, pursuant to [Title 5, CFR 432](#) and [ADS 487](#) may follow the termination of the FSL appointment. For CS employees on FSL appointments pursuant to [ADS 415](#) who are not performing at a satisfactory level, it is the rating official's decision whether to address the performance issue in the FSL position, or to terminate the FSL appointment in accordance with section **450.3.2.2**.

450.3.3.5 Separation of Employees on Temporary and Non-Career Limited Appointments

Effective Date: 03/07/2024

USAID may separate employees on temporary and non-career limited appointments for any one of the reasons outlined in section **450.3.2.1** or **450.3.2.2**. In addition, USAID may terminate these appointments for failure to continue to meet the conditions of service, such as having the medical clearance required for the specific post or not having a current valid Top Secret security clearance, per [ADS 414.3.1.1](#). Employees may be able to seek a medical clearance waiver pursuant to [ADS 414mab](#).

The Director, HCTM/FSC has the authority to terminate these appointments. The Director, HCTM/FSC must provide the employee with written notice of the termination action, which may be made effective immediately. The written notice must provide information regarding the employee's reemployment rights, if any (see [ADS 412, Reemployment Rights](#)).

450.3.4 Notice of Separation

Effective Date: 03/07/2024

When an appointment must be terminated, the responsible official issues a notice of separation to the employee. The notice must include the following information, as appropriate:

- The reason for the termination;
- Effective date of the termination;
- Reemployment rights, if any; and
- Appeal rights, if any.

450.3.4.1 Effective Date and Time of Delivery

Effective Date: 03/07/2024

The employee is considered notified of the action upon transmission of the notice of separation, whether it was delivered electronically or in person. An employee's refusal or failure to acknowledge receipt of the notice does not impact the effective date of the separation (see section **450.2**). If the employee is assigned abroad, the delivery date must allow sufficient time for the employee to travel directly to USAID/Washington.

450.3.4.2 Postponement of Effective Date

Effective Date: 03/07/2024

The Agency, with written approval of the SDAA/HCTM, may postpone the date of the separation by extending the appointment, if necessary. No appointment may be extended if it will exceed the maximum period of total service allowed by law under the limited appointment.

450.3.5 Appeals and Grievances

Effective Date: 03/07/2024

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

450.4.1 External Mandatory References

Effective Date: 03/07/2024

- 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: 03/07/2024

- a. [ADS 412, Reemployment Rights](#)
- b. [ADS 414, Foreign Service \(FS\) Appointments](#)
- c. [ADS 438, Foreign Language Programs](#)
- d. [ADS 459, USAID's Foreign Service Career Candidate Program](#)
- e. [ADS 463, Foreign Service and Senior Foreign Service Promotion Eligibility](#)

[Requirements and Procedures](#)

- f. [ADS 464, Foreign Service Performance-Based Actions](#)
- g. [ADS 485, Disciplinary Action – Foreign Service](#)
- h. [ADS 486, Grievances – Foreign Service](#)

450.5 ADDITIONAL HELP

Effective Date: 03/07/2024

- 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: 03/07/2024

See the [ADS Glossary](#) for all ADS terms and definitions.

Career Candidate

A type of appointment to the Foreign Service that is time-limited, must not exceed five years, and may not be extended or renewed except as provided in [Section 309\(b\)\(3\) of the Act](#) and [Chapter 43 of Title 38, United States Code](#). (Chapter [414](#) and [450](#))

Days

Calendar days, unless otherwise specified. (Chapter [450](#) and [487](#))

Employee

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

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**)

Work Objectives

Expectations for an employee established by management for a particular rating period.
(**Chapters 450, [462](#), [463](#)**)

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