1999

Probationary periods - promoting excellence or legal loophole?

Daryl R. Privott
University of Nevada Las Vegas

Follow this and additional works at: https://digitalscholarship.unlv.edu/thesesdissertations

Part of the Public Administration Commons

Repository Citation
https://digitalscholarship.unlv.edu/thesesdissertations/210

This Dissertation is brought to you for free and open access by Digital Scholarship@UNLV. It has been accepted for inclusion in UNLV Theses, Dissertations, Professional Papers, and Capstones by an authorized administrator of Digital Scholarship@UNLV. For more information, please contact digitalscholarship@unlv.edu.
PROBATIONARY PERIODS - PROMOTING EXCELLENCE
OR LEGAL LOOPHOLE?

prepared by
Daryl R. Privott

University of Nevada Las Vegas (UNLV)
College of Urban Affairs
Public Administration Department
# TABLE OF CONTENTS

Abstract .................................................................................................................. 2

Chapter 1 - Introduction ......................................................................................... 3

Chapter 2 - Literature Review ............................................................................... 8

    Nevada Administrative Code 281 and 284 ....................................................... 21

Chapter 3 - Other States' Information ................................................................. 27

Chapter 4 - Procedure/Methodology ................................................................. 35

Chapter 5 - Questionnaire Findings .................................................................... 40

Chapter 6 - Summary and Recommendations ................................................ 55

References ............................................................................................................. 59

Appendixes ........................................................................................................... 64
ABSTRACT

This study, prepared for the Department of Public Administration, will evaluate the use and perceived effectiveness of probationary periods within the State of Nevada government. The probationary period is widely used throughout the private and public sectors; however very little systematic data has been collected on this topic. The probationary period can be valued as the most valid determinant of job performance and seen as the last step in the selection process or it can be a tool to deny first amendment rights. The effective use of probationary periods should be of importance to private and public agencies, managers, and prospective employees. Working from literature, selected authors writings and questionnaires, this report will describe and evaluate the use of probationary periods at the State of Nevada. The responding agencies identified that nearly 50 percent of probationary employees do not successfully complete their probationary period. It is recommended that the State of Nevada track probationary period dismissals in an attempt to assess the effectiveness of the probationary period.
CHAPTER 1

INTRODUCTION

Each of the fifty states today has hundreds of administrative agencies, cabinet departments, divisions, bureaus, branches, sections, and units performing more than 150 different functions. (Keon S. Chi, Handbook of Human Resources Management in Government, Condrey, p.35) These functions include merit testing, employee qualifications, human resource management, information systems, classification, position allocation, compensation, recruitment, selection, performance evaluation, position audits, employee promotion, employee assistance and counseling, human resource development and training, employee health and welfare programs, affirmative action, labor and employee relations, collective bargaining, grievances and appeals, alternative dispute resolution, retirement, incentive and productivity systems, attitude surveys, child care, workers compensation, group health insurance, drug testing, and budget recommendation to the legislature. (Keon S. Chi, Handbook of Human Resources Management in Government, Condrey, p.38)

One of the essential functions of state governments is that of human resources or personnel. “The importance of human resources to the operation of government is fundamental; therefore one of the main goals of public personnel managers are to attract, identify, select, evaluate, develop and retain a competent workforce” (Dresang, 1984, p.222). The State of Nevada currently employs over 14,000 people with hundreds of occupation and classifications (personal communication, January 5, 1999).
The State of Nevada hires typists, computer programmers, social workers, prison guards, game wardens, highway engineers, purchasing agents and tax auditors to name a few. This wide variety of occupations makes it fundamentally important to have personnel practices that work within a variety of occupations and situations.

One practice that is being used in Nevada is the use of the probationary period. Probationary periods have been explained as “a working test period of varying lengths used by management to observe an employee's performance before making a final selection decision” (Elliot & Peaton, Public Personnel Management Vol. 23 No. 1 Spring 1994). The probationary period was part of the Pendleton Act of 1883 and remains a part of most public personnel practices today. In the public sector the probationary period is used at the Federal level and covered in Code of Federal Regulation (CFR) 5. 5CFR315 entitled “Career and Career-Conditional Employment” establishes when required, the rules for probationary periods. At the State level, probationary periods are used in 51 states as part of the state employment systems. In Nevada it is covered under Nevada Administrative Code (NAC) 281 & 284.

The probationary period is regarded by a number of authors as the “best and most valid determinant of a new hires future performance” (Dresang, 1984, p.221). It is viewed as the last step in the selection process where unsatisfactory performers can be removed before making a long-term commitment to an individual.
In contrast, the probationary period has also been regarded by some authors as an opportunity to abrogate first amendment rights, "breed timidity and denying agencies the benefit of a fresh and unbiased perspective" (Vaughn, 1975, p.26, as cited in Elliot and Peaton, 1994 ). This view is supported by the fact that in some jurisdictions, a probationary employee can be removed without reason and does not have appeal rights.

There are clearly opposing opinions on the use of probationary periods and research on the use and effectiveness of probationary periods would be beneficial to both private and public sector personnel managers and all prospective employees. Probationary periods can be used to promote excellence within government or they can be used as a means to deny first amendment rights.

The research on the use and effectiveness of probationary periods at the State of Nevada will be conducted by reviewing the current empirical literature on the probationary period; reviewing literature of the probationary period and identifying central themes concerning the validity and perceived effectiveness of the probationary period; identifying other state practices as it relates to the probationary period; analysis of the State of Nevada Administrative code covering probationary periods; compare and contrast the State of Nevada uses of the probationary period and identifying deltas and providing recommendations. This study will also survey the use of the probationary period at the state level, by sending questionnaires to Department Heads of the State of Nevada government. The information attained from the questionnaire will be analyzed and evaluated, and displayed in tables and charts to evaluate the use and perceived effectiveness of the probationary period at the State of Nevada.
As Nevada's population continues to grow at an unparalleled rate (the population of Las Vegas has doubled during the last ten years) (Soden and Herzik, 1997, p.76), the Nevada public sector must meet the needs of this growth with qualified public sector employees. The State of Nevada will spend nearly $1.5 billion dollars on human services in fiscal year (FY) 1999 (State of Nevada, Executive Budget in Brief). This figure consumes the second largest percentage of the state budget; therefore it is critical that the public sector personnel professionals use techniques that can be applied to the "efficient acquisition, allocation and development of human resources" (Schinagl, 1966, p.18, as cited in Elliot and Peaton, 1994). This research will shed light on the use and perceived effectiveness of probationary periods at the State of Nevada. It may also ignite some debate on the topic, and will add to the literature on probationary periods. The information from this study can be applied to other governmental units within the state of Nevada.
Chapter 2 will explore the existing empirical literature on the subject which is somewhat limited. This chapter will also identify several authors and their writings on the subject of probationary periods to develop central themes about the effective use of the probationary period. Chapter 2 will close with a discussion of Nevada Administrative Code (NAC) chapters 281 and 284 and how Nevada addresses the central themes of the probationary period.

Chapter 3 will provide information on probationary period usage in other States as it relates to length, action required for dismissal and any appeal or grievance afforded the probationary employee.

Chapter 4 will provide the methodology used for this study. This section will discuss how the questionnaire was developed, distributed, return ratios, and the interviews performed to complete this study.

Chapter 5 will provide the findings from the questionnaire sent to the State of Nevada Department heads on the use and perceived effectiveness of the probationary period.

Chapter 6 will be the summary and recommendations section of this report which will identify issues associated with the use of the probationary period and provide recommendations to improve the use of the probationary period at the State of Nevada.
CHAPTER 2

LITERATURE REVIEW

The literature review on the use and effectiveness of probationary periods will start with a history section. Following this will be a section identifying significant studies about the probationary period and its use. The third section will discuss several authors and their writings on the subject of the probationary periods, and present central themes about the use and validity of probationary periods. This section will close with a look at the relevant study that will be expanded upon to survey the use and perceived effectiveness of the probationary period.

HISTORY

One of the earliest uses of the term “probationary period” is documented in the Civil Service Act of 1883, otherwise known as the Pendleton Act. The Pendleton Act was passed in response to the assassination of President James Garfield by Charles Guiteau, a disappointed office seeker. President Garfield was quoted as saying that desperate office seekers were “lying in wait” for him “like vultures for a wounded bison” (www.civnet.org/resources/teach/basic/part5/28.htm).

The Pendleton Act classified certain jobs and established a “period of probation before any absolute appointment or employment aforesaid” (www.civnet.org/resources/teach/basic/part5/28.htm). This probationary period was to be a six (6) month period “in order to watch the employee’s progress” (Schinagl, 1966, as cited in Elliot and Peaton, 1994).
The Pendleton Act of 1883 led to United States Code 5 (U.S.C.). 5 U.S.C. gives the President “the authority to prescribe rules, and grant exceptions from provisions of this section” (frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi).

The Code of Federal Regulation 5 part 315 (5CFR315) was then created to enforce 5 U.S.C. 5CFR315 entitled “Career and Career-Conditional Employment” establishes, when required, the rules for probationary periods. 5CFR315 addresses issues of length of probation, agency action during probation, termination of probationers, and other areas (frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi).

In Nevada, Nevada Revised Statute (NRS) 284.290 governs probationary appointments. The origin and purposes of probationary periods in Nevada was not available, however, NRS 284.290 was enacted in 1953 (personal communication, Marjorie Paslov-Thomas, Senior Research Analyst, Research Division, 12/10/98).

NRS 284.290 states in part, “Probationary period...

All original competitive appointments to and promotions within the classified service must be for a fixed probationary period of 6 months, except that a longer period not exceeding 1 year may be established for classes of positions in which the nature of the work requires a longer period for proper evaluation of performance” (Rules for State Personnel Administration, Nevada Administrative Code, Chapters 281 and 284, p.284-69).
The personnel rules associated with NRS 284.290 is Nevada Administrative Code
(NAC) chapters 281 and 284. Chapters 281 and 284 were published in October, 1984 and
republished several times ending with the last publishing in August, 1996.

The NAC addresses areas such as length of probationary periods, trial periods,
adjustment of probationary periods, extension of probationary periods, rejection of
probationary employees and other areas. The State of Nevada Research Division was
contacted to discover the origin and original purpose of the probationary period, however,
this information was not available. The Research Division did not have minutes from
earlier legislative sessions so this information was unattainable at this time (personal
communication, Marjorie Paslov-Thomas, Senior Research Analyst, Research Division,
12/10/98).

EMPIRICAL LITERATURE ON THE TOPIC

The literature to date has produced very little empirical information about
probationary periods. Previous studies have focused on pre-hire screening efforts, such as
the number of applicants interviewed for a vacancy and the number of hours spent
interviewing each applicant (Barron et al. 1987, 1989 as cited in Groshen and Loh, 1993).
A number of theoretical studies in labor economics have noted the role of employment probation as a form of screening: for example, in models of the wage-tenure relationship (Hashimoto 1981, as cited in Groshen and Loh, 1993), adverse selection (Gausch and Weiss 1981, as cited in Groshen and Loh, 1993), internal labor markets (Barron and Loewenstein 1985, as cited in Groshen and Loh, 1993), labor turnover (Jovanovic 1979, as cited in Groshen and Loh, 1993), and up-or-out rules of promotion (O'Flaherty and Siow 1990, as cited in Groshen and Loh, 1993). However, few studies have focused on the probationary period itself.

In 1992, Eng Seng Loh of Kent University tested the hypothesis that probationary period employers who fire low productivity workers attract more productive applicants. Using the National Center for the Study of Vocational Education (NCRVE) data, Loh finds that jobs with probationary periods attract workers with a lower propensity to quit, however the evidence for sorting by other quality measures was weak. The study did not investigate benefits packages and other criteria that would make a job more appealing to an applicant.

Theoretical papers by Bull and Tedeschi (undated, as cited in Groshen and Loh, 1993) and Guasch and Weiss (1981, as cited in Groshen and Loh, 1993) study organization's use of employment tests as worker-sorting mechanisms. In Bull and Tedeschi's model, the optimal probationary period lasts the smallest number of monitoring periods needed to eliminate the incentive "lazy" workers have to mimic "hardworking" employees. It was concluded that a firm's optimal strategy should include firing any workers they detect as providing low effort during the probationary period.
Similarly, Sadanand et al. (1989, as cited in Groshen and Loh, 1993) show that a scheme where continued employment in the second period would depend on satisfactory first period performance would increase an employee's performance. This study implied that if future performance is based on previous performance for the entire employment period then the organization would have employees that were more productive because workers found to be unsuitable would face dismissal rather than reassignment to new positions or wage renegotiations.

More recently Weiss and Wang (1990, as cited in Groshen and Loh, 1994) extend the sorting model to explain within organizational wage growth, turnover of new employees, and mandatory retirement rules. In their model, the length of the testing period is an explicit choice variable for the organization. It was concluded that an organization's probationary period should last just long enough to equate the marginal costs with the benefits of testing workers. In other words, once it had been decided that a worker could perform the duties of the position then the probationary period would end.

These studies deal mainly with the private sector and not the public sector. The public sector rules for employment and continued employment are different than that of the private sector. The public sector personnel rules on recruitment, selection, compensating and maintaining a competent workforce is usually dictated by law or administrative regulations.
One study that addressed the use of probationary periods in the public sector was a study performed by Robert H. Elliot and Allen L. Peaton (1994). The study was entitled "The Probationary Period in the Selection Process: A Survey of Its Use at the State Level". This article was found in the Spring 1994 issue of Public Personnel Management. The study attempted to lay some initial quantitative groundwork regarding the actual practices by state governments with the use of probationary periods.

In the study the authors sent out questionnaires to the fifty states and the District of Columbia based on membership in the National Association of State Personnel Executives.

The questionnaires covered such areas as: extent of the use of "merit" system within the state, purposes and origins of the probationary period, length of the probationary period, appeal rights of employees, general termination rates and specific termination rates at the end of the probationary period by agency type and by employee classification, availability of training for supervisors regarding the probationary period, and the overall perceived effectiveness of the probationary period. These questionnaires were then analyzed to determine general practices relating to the use of the probationary period and its weaknesses.

Elliott and Peaton wrote in their "Summary and Conclusions" section that the probationary period is a very widely used device at the state level of government. The probationary period usually arises out of statutes and is regarded as a working test period and part of the selection process. Elliott and Peaton also found that counseling of poor performers sometimes resulted in improved performance and in about five percent of the cases resulted in termination of the probationary employee.

-13-
The authors also reported that the length of the period is most typically six months, but it does vary considerably with the complexity of the position. The probationary employee is usually provided rights to some kind of appeals process if terminated. The area that the authors felt was of extreme importance and an area of seeming weakness was training for managers regarding the probationary period. The authors found that the lack of proper training for managers was linked to a managers inability to effectively deal with poor performers and with the perception that the probationary period is not being utilized effectively. The authors felt that training in evaluation, counseling, positive discipline, the legalities of the probationary employment, and the role of the probationary period in the overall selection process should be mandatory if the probationary period is to be effective.

It is stated in this section that "soldiers are not sent into combat without ammunition; neither can we send our managers into the field to deal with poor performers without the equivalent of ammunition—proper education regarding the performance of essential tasks during the probationary period" (Elliott & Peaton, 1994, p. 57).

It is the objective of this study to incorporate the Elliott and Peaton study in a qualitative look at the State of Nevada's use and perceived effectiveness of the probationary period.

Probationary periods are used throughout the United States, however, "very little systematic data collection has been reported" (Elliot & Peaton, 1994, p. 47). Although little systematic data has been reported, information on probationary periods and their use are found in several texts.
Dennis L. Dresang (1984) in his book “Public Personnel Management and Public Policy” writes “the last and the best stage of the selection process is the probationary period. This is the best stage because it is the most valid. What better way to tell if someone can do a job than to have them actually in the job?” (p.222). He also writes that the “probationary period allows an employer to see how an individual fulfills duties and responsibilities assigned to them before making a long-term commitment to that individual” (p.222).

The valid use of probationary periods to effectively evaluate performance rests on two criteria. First, is the inference that the kind of behavior being observed is “the kind of behavior that one can expect for the indefinite future” (Dresang, 1984, p.222) and second, that periodic performance evaluations are performed.

Dresang goes on to talk about lengths of probationary periods and that they vary with the type of job. He also provides a management’s perspective about the advantages of probationary periods. Dresang writes “an advantage from a management’s perspective is that employees have very limited appeal rights if they are terminated” (p.222). It is the assumption that management has legitimate reasons for the removal of an employee and that the probationary period is not being used to discriminate or abrogate first amendment rights. The section closes with Dresang providing several reasons why public management does not take full advantage of the probationary period.

The first reason that is mentioned is that “most individuals do not regard probation as part of the selection process” (p.223). It is assumed that the selection process ends when an offer is made to an individual and the individual reports to work.
Dresang identifies that the probationary period is important because it measures actual performance on the job. This measurement is based on the supervisors ability to evaluate a new recruits performance. Dresang also reports that since probationary employees usually have no appeal rights it is management's responsibility to have legitimate reasons for the removal of a probationary employee.

Felix A. Nigro (1986) in his book entitled “The New Public Personnel Administration” reports that “from the selection standpoint the probationary period is the last stage in the sifting process; no matter how much effort is put into making preemployment tests valid, they may not screen out some candidates who lack the ability to perform satisfactorily in particular jobs” (p.260). Mr. Nigro goes on to say that “probation marks the beginning of management’s opportunity to benefit from its investment in recruiting the new employee, and management increases that investment with appropriate work assignments and training for the recruit” (p.261). This author presents the case that probation is required to complete the hiring process and that it is managements responsibility to provide the new recruit with training and appropriate work assignments.

Oscar Glenn Stahl (1962) in his book “Public Personnel Administration” writes that “almost without exception, the various civil service laws or rules provide for a probationary period before an appointment becomes final”(p.104). Stahl then talks about the length of the period and that the period be more definitely regarded as a part of the testing program.
Stahl recommends that appointing officers be required to take positive steps either to accept or reject the probationary employee at the end of the probationary period. This is referred to as a positive probationary period. The positive probationary period is when an action is required by the appointing officer to move the probationary employee into the ranks of permanent status employees. The probationary employee does not automatically attain permanent status by default at the end of the probationary period. Under the positive probationary procedure an employee is automatically separated from service at the end of the probationary period unless his appointing officer has certified in writing that his or her work warrants continuance in the organization.

This system forces the appointing authority to focus on the new employee’s performance on the job in order to make a definite decision to retain an employee. It also avoids the attainment of permanent status by default. Stahl concludes his writing on the probationary period by stating that “no perfection of probationary techniques can substitute for weaknesses or failures in other features of a sound, progressive personnel program” (p.105).

Robert Vaughn (1975) in his book entitled “The Spoiled System - A Call for Civil Service Reform” states that “The probationary period can and does serve a valuable purpose, but the lack of standards and the lack of requirements for a meaningful statement of the reasons for removal means that removal can be made on emotion or caprice” (p.26). Vaughn also states that “it is important to keep in mind that dismissal is not only a means to get people out, but a means to keep people in line” (p.25).
This author raises issues related to the dismissal of probationary employees and the fact that it is possible to deny first amendment rights and block diversity. The probationary period should have definite standards and requirements for the removal of employees. Hayes and Reeves (1984) wrote that "...supervisors have been known to program persons for failure during probation the moment they walked onto the job site. A probationary period should not be arbitrarily controlled or terminated by a single supervisor who may act without explanation or justification of some form" (Hayes and Reeves, 1984, p. 214-215, as cited in Elliott and Peaton, 1994).

Robert D Lee, Jr. (1993) addresses the socialization issues concerning the probationary period. Lee suggests that the influences a probationary employee can be understood using socialization theory, which is concerned with how "an organizational member learns the required behavior and supportive attitudes necessary to participate as a member of an organization" (R. Townsend, 1971 as cited in Lee, 1993 p.141).

Socialization is important to the probationary employee because they are "thrust into a situation that has been evolving over time, a situation with all the complexities and nuances of any social order" (Lee, 1993, p.142). Some employees may regard the probationary employee as an enemy or potential threat and therefore not assist with socialization and therefore set up the probationary employee to fail. In addition, the job in which the probationary employee may present areas where proper socialization and training does not occur.
The probationary period is when the new employee "gets the first picture of the organization, its leadership, and its norms of expected behavior" (Elliot & Peaton, 1994, p. 49). This socialization is part of the working test period and in order for the probationary period to work effectively "efforts must be made to properly socialize the employee to the organization and to the specific job" (Elliot & Peaton, 1994, p. 49). The probationary period should be used to orient and educate the new employee about the organization and the specific job that is to be performed. The "communications process between the employee and the organization is an absolute necessity if the probationary period is to fulfill this socialization function in a positive way" (Elliot & Peaton, 1994, p. 47). Management should be informed and trained by the organization to enable them to perform the communications, evaluations, and counseling tasks that are vital to the effectiveness of the probationary period.

The authors discussed have provided some central themes related to the effective and valid use of the probationary period. These themes are:

- The probationary period should have definite standards and requirements for the removal of employees.
- The employee should be properly socialized to the organization and the job in which he or she will be performing.
- Management should have the skills necessary to evaluate a new employee's performance.
The probationary period should be a positive probationary where action by the appointing authority is required for continued employment of the probationary employee.

Probationary employees should be given appropriate work assignments and training for the job they will be performing.

During the probationary period periodic performance evaluations are performed.

The length of the probationary period should be specified.

The next section will compare and contrast the Nevada Administrative Code (NAC) chapters 281 and 284 as it relates to the central themes identified for the valid and effective use of the probationary period.
NEVADA ADMINISTRATIVE CODE (NAC)

CHAPTERS 281 AND 284

This section will provide the information from the Nevada Administrative Code that address the central themes identified in the previous chapter. The central themes will be noted and the section from the NAC that addresses the theme will be identified.

The State of Nevada administrative regulations that address the use of probationary periods is the Nevada Administrative Code (NAC) chapters 281 and 284 which were published in October of 1984 and republished several times until its last publishing in August of 1996. The NAC is the administrative regulation used as the groundwork for all probationary appointments at the State of Nevada.

The first theme identified is:

1. The probationary period should have definite standards and requirements for the removal of employees.

   NRS 284.290 states in part, "Probationary period; dismissal or demotion. Dismissals or demotions may be made at any time during the probationary period in accordance with regulations established by the director"

   (Rules for State Personnel Administration, Nevada Administrative Code, Chapters 281 and 284, p.284-71).
The NAC states in 284.458 “During a probationary period, an employee may be rejected for any lawful reason, as determined by his appointing authority” (Rules for State Personnel Administration, Nevada Administrative Code, Chapters 281 and 284, p.284-71).

2. The employee should be properly socialized to the organization and the job in which he or she will be performing.

There is no specific mention in the NAC about socialization of new employees into the organization and what is required to properly socialize an employee. Questions 5, 6, and 7 of the survey sent to the Department Heads of the State of Nevada addresses this issue and will be discussed in the later chapters.

3. Management should have the skills necessary to evaluate a new employees performance.

The NAC does not specify that supervisors are required to receive training specific to the probationary period, however, new supervisors are required within six months to complete the supervisory training process. This process includes training on employee appraisal and work performance standards.
4. The probationary period should be a positive probationary where action by the appointing authority is required for continued employment of the probationary employee.

Nevada Revised Statute (NRS) 284.290 states that "before the end of the probationary period and in accordance with regulations established by the director, the appointing authority shall notify the director in writing whether or not the probationer is a satisfactory employee and should receive the status of a permanent appointee (Rules for State Personnel Administration, Nevada Administrative Code, Chapter 284, p.284-41).

5. Probationary employees should be given appropriate work assignments and training for the job they will be performing.

NAC 284.468 states "A standard for the performance of work is a written statement of the principal assignments and responsibilities of an employee and the results expected by both the supervisor and subordinate when the subordinate's job is satisfactorily performed under existing working conditions. Standards are required for all classified positions. In addition "the appointing authority is responsible for ensuring that each position has standards and that each employee is evaluated using those standards."
The supervisor has the primary responsibility for establishing the standards, but the employee must be involved in the initial establishment and the periodic updating of the standards for his position. Also each employee must be provided a copy of the standards for his or her position. (Rules for State Personnel Administration, Nevada Administrative Code, Chapter 284, p.284).

6. During the probationary period periodic performance evaluations are performed.

The NAC requires a performance review at the end of the second and fifth months of a six month probationary period. During a one year probationary period a performance review is required at the third, seventh and eleventh months. These reviews are of a standardized form and format as prescribed by the Personnel Division and rate the employee on a scale of one to five against job performance standards. The review and ratings are independent of the at-will dismissal option, therefore it is possible to receive standard or above standard ratings and still be terminated without cause.
The length of the probationary period should be specified.

NRS 284.290 states in part, “Probationary period...All original competitive appointments to and promotions within the classified service must be for a fixed probationary period of 6 months, except that a longer period not exceeding 1 year may be established for classes of positions in which the nature of the work requires a longer period for proper evaluation of performance” (Rules for State Personnel Administration, Nevada Administrative Code, Chapters 281 and 284, p.284-69). For grades twenty-three and higher a one year probationary period is assigned and for grades lower than twenty-three a probationary period of six months is assigned.

Of the seven central themes identified by the selected authors the Nevada Administrative Code meets six of the seven. The themes that were not addressed in the administrative regulations may be addressed in other areas of the Nevada Revised Statutes and the Nevada Administrative Code; however, these statutes and regulations will not be discussed in this study.
The main area of concern is the removal of employees without cause and without standards and procedures. The system seems to allow a single supervisor the ability to terminate a probationary employee without explanation or justification of some form.

The next chapter will discuss other state's practices relating to the use of the probationary period. This look at other state's practices will be used to determine if the State of Nevada is in pace with other states and their practices related to the probationary period.

CHAPTER 3
OTHER STATES' INFORMATION

This chapter will explore other states and their use of the probationary period in relation to four areas: existence of a probationary period, length of the probationary period, action required for dismissal of a probationary employee and any appeal or grievance allowed the dismissed probationary employee. Table 1 will identify the state practices as it relates to the above mentioned areas. The information in “Action required for dismissal” is categorized by three (3) phrases:

Documentation with cause = The employee is provided written reasons that are usually related to his or her performance and why they did not
satisfactorily complete the probationary period. 

*With or without cause* = The probationary employee can be removed from service without cause however, reasons for this action is documented and provided to the employee. 

*Without cause* = The probationary employee is released without causes stated in writing. 

In the “Appeal/Grievance” column the majority of states offered some form of appeal, however this appeal was not within any unionized appeal processes. This column does not cover grievances related to alleged discrimination. Every individual has the right to pursue discrimination litigation, however, the responsibility rests on the individual to prove his or her case. 

The State of Texas was not used because of its very decentralized personnel system. The Virgin Islands, Guam, and Washington D.C. were not contacted in relation to this study. 

**Table 1**

**STATE PROBATIONARY PERIODS**

<table>
<thead>
<tr>
<th>STATE</th>
<th>Probationary Period</th>
<th>Length</th>
<th>Dismissal</th>
<th>Appeal/ Grievance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Yes</td>
<td>6-12 months</td>
<td>With or without cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Alaska</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>Arizona</td>
<td>Yes</td>
<td>6 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>State</td>
<td>Eligibility</td>
<td>Duration</td>
<td>Reason</td>
<td>Approved</td>
</tr>
<tr>
<td>------------</td>
<td>-------------</td>
<td>----------</td>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Yes</td>
<td>6 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>California</td>
<td>Yes</td>
<td>6-24 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Colorado</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Yes</td>
<td>3-12 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Delaware</td>
<td>Yes</td>
<td>3-12 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>Florida</td>
<td>Yes</td>
<td>12 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>Georgia</td>
<td>No/Repealed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td>Yes</td>
<td>6-9 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Idaho</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Illinois</td>
<td>Yes</td>
<td>6 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>Indiana</td>
<td>Yes</td>
<td>6-18 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>Iowa</td>
<td>Yes</td>
<td>6 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Kansas</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>Louisiana</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>State</td>
<td>Yes/No</td>
<td>Duration</td>
<td>Condition</td>
<td>Result</td>
</tr>
<tr>
<td>-------------</td>
<td>--------</td>
<td>----------------</td>
<td>-----------------</td>
<td>--------</td>
</tr>
<tr>
<td>Maine</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Maryland</td>
<td>Yes</td>
<td>6-9 months</td>
<td>Without cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Yes</td>
<td>6 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Michigan</td>
<td>Yes</td>
<td>12-18 months</td>
<td>Documentation/ with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Yes</td>
<td>3-12 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>Mississippi</td>
<td>Yes</td>
<td>12 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>Missouri</td>
<td>Yes</td>
<td>6-12 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>Montana</td>
<td>Yes</td>
<td>3-6 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Yes</td>
<td>6 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>Yes</td>
<td>12 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Yes</td>
<td>4 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Yes</td>
<td>12 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>New York</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Yes</td>
<td>3-9 months</td>
<td>Documentation/ with cause</td>
<td>No</td>
</tr>
<tr>
<td>North Dakota</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>State</td>
<td>Eligible</td>
<td>Duration</td>
<td>Documentation</td>
<td>Reason</td>
</tr>
<tr>
<td>----------------</td>
<td>----------</td>
<td>-------------------</td>
<td>----------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Ohio</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Documentation/with cause</td>
<td>No</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Yes</td>
<td>12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>Oregon</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Documentation/with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>Yes</td>
<td>3-6 months</td>
<td>Documentation/with cause</td>
<td>Yes</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Yes</td>
<td>3-6 months</td>
<td>Documentation with cause</td>
<td>No</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Yes</td>
<td>12 months</td>
<td>Documentation/with cause</td>
<td>No</td>
</tr>
<tr>
<td>South Dakota</td>
<td>Yes</td>
<td>6 months</td>
<td>Documentation/with cause</td>
<td>No</td>
</tr>
<tr>
<td>Tennessee</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>Utah</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>Vermont</td>
<td>Yes</td>
<td>6-12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
<tr>
<td>Virginia</td>
<td>Yes</td>
<td>6 months</td>
<td>Documentation/with cause</td>
<td>No</td>
</tr>
<tr>
<td>Washington</td>
<td>Yes</td>
<td>6-12 months</td>
<td>With or without cause</td>
<td>No</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Yes</td>
<td>Board decides length</td>
<td>Documentation/with cause</td>
<td>No</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Yes</td>
<td>6-24 months</td>
<td>Documentation/with cause</td>
<td>No</td>
</tr>
<tr>
<td>Wyoming</td>
<td>Yes</td>
<td>12 months</td>
<td>Without cause</td>
<td>No</td>
</tr>
</tbody>
</table>
### The research on other states’ use of the probationary period reveals that forty-seven of the forty-eight states contacted use a probationary period. The probationary period is also referred to by several states as a “working test period”. The State of Georgia did use a probationary period, however this statute was repealed in 1996 and the state no longer uses a probationary period.

In relation to the length of the probationary period the time frame was three months to twenty-four months depending on the classification of the job and position. The average length for the probationary period was six months. Most states allowed for an extension of the probationary period.

It was surprising to find that the majority of states (25) required documentation
with cause on why a probationary employee was being dismissed. In conversation with Peter Klein of the State of Massachusetts Personnel Division, he stated that reasons for dismissal are provided to protect against discriminatory lawsuits. Other state personnel officials provided similar information regarding identifying causes for not satisfactorily completing the probationary period. The states that have their regulations set up to allow for dismissals with or without cause, usually provide reasons for dismissal to also protect themselves from discrimination lawsuits.

The appeals for probationary employees vary from having no rights to having the case heard by a personnel board or an arbitrator to settle the action. Thirteen states provide their probationary employees with some form of appeal.
Thirty-four states allow for no appeal or grievance once a probationary employee has been dismissed. Of these thirty-four states, fourteen allow for dismissal without cause, seven allow dismissal with or without cause and the remaining thirteen require documentation for the removal of probationary employees.

This information provides the following about the usage of probationary periods by other states:

- The average length is between 6 - 12 months.
- It is possible to have a state government operate without the use of the probationary period (Georgia).
- The majority of states require some form of documentation with cause for the dismissal of probationary employees to protect against discrimination lawsuits.
- The majority of states do not allow for an appeal/grievance process for the dismissed probationary employee.

The State of Nevada agrees with other state's use of the probationary period by having its probationary period lengths between six and twelve months. The State of Nevada also does not allow for an appeal/grievance process for the dismissed probationary employee which is in line with the majority of other state’s practices. The areas where the State of Nevada is in disagreement with the majority of other states is the dismissal of employees without cause and without written documentation of the reasons the probationary employee did not successfully complete the probationary period.
Fifty-five percent of the states require documentation with reasons on why the probationary employee did not successfully complete the probationary period. Only twenty-nine percent of the states allow for dismissal without cause.

The inference drawn from this information is that the use of the probationary period varies from state to state and that there are numerous ways to structure a probationary period. One potential lesson to be learned for the State of Nevada from the information gathered for this research is reviewing the dismissal process. The majority of states identified provide for explanation or justification of some form for the dismissal of probationary employees. This is to prevent and reduce the chances of discrimination lawsuits filed against the organization.

The next chapter will identify the methodology used in this study to evaluate the use and overall perceived effectiveness of the probationary period.
CHAPTER 4
PROCEDURE/METHODOLOGY

This chapter will address the methodology used in this study to ascertain the use and overall perceived effectiveness of the probationary period at the State of Nevada. The methodology will be a qualitative procedure that will investigate the use and overall perceived effectiveness of the probationary period at the State of Nevada. The State of Nevada was chosen because of their use of a probationary period, their number of employees and their accessibility for obtaining information. The qualitative method was chosen because of the lack of systematic data collected on the probationary period and the limited time frame of the study. Miss Jeanne Greene, Acting Director of The State of Nevada Department of Personnel, was contacted and provided permission to survey State of Nevada Department Heads on the use and perceived effectiveness of the probationary period on February 17, 1999.

The questionnaire was based on questions asked by Robert H. Elliott and Allen L. Peaton in their study entitled "The Probationary Period in the Selection Process: A Survey of Its Use at the State Level". Elliott and Peaton wanted to lay some initial quantitative groundwork regarding actual practices by state governments in relation to the use and perceived effectiveness of the probationary period. The Elliott and Peaton survey asked questions covering such areas as extent an use of "merit" systems by the states, purposes and origins of the probationary period, length of the probationary period, appeal rights of probationary employees and specific termination rates by agency type and employee classifications.
The questions from the Elliott and Peaton study were used to develop the survey instrument sent to Department Heads at the State of Nevada. In addition, a personal interview was conducted on Friday, February 19, 1999 with Linda Cavelli of the State of Nevada Employees Association, to garner her input on the type of questions to be asked in the questionnaire. Also, Mr. Bob Cullins of the City of Las Vegas Fire Department was contacted to review the questionnaire for setup and content. See Appendix A and B for a copy of the questionnaire and cover letter distributed to the State of Nevada Department Heads.

The twenty-eight agencies were selected from the 1997 State of Nevada Telephone Directory which was prepared and distributed by the State of Nevada Department of Information Services. This information was verified by conducting a personal interview on February 3, 1999 with Ms. Leslie Wright, State of Nevada Department of Personnel, Administrative Services. Ms. Wright verified the twenty-eight agencies and Department heads in which to send the questionnaire. The questionnaires were sent to the twenty-eight agencies at the State of Nevada on Wednesday, February 24, 1999 with a return date of Tuesday, March 9, 1999. See Appendix C for the list of agencies that were sent the questionnaire.

The first returned questionnaire was returned on Tuesday, March 2, 1999 from the Nevada State Controller. The last questionnaire was received on Monday, March 15, 1999 from the Nevada Commission on Tourism/Nevada Magazine.
The responding agencies were the Nevada State Controller, Employers Insurance Company of Nevada, Department of Administration, Attorney General’s Office, Legislative Counsel Bureau, Colorado River Commission, State Treasurer’s Office, Department of Transportation, Gaming Control Board, Department of Taxation, Department of Personnel, Lieutenant Governors Office, Secretary of State, Department of Employment, Training and Rehabilitation, Nevada Commission on Tourism/Nevada Magazine.

Twenty-eight questionnaires were sent and fifteen questionnaires were returned for a response rate of 53.5 percent. Within the responding agencies, the Lieutenant Governor’s Office identified that the survey was not applicable to their office because every employee of their office works at the discretion of the Lieutenant Governor and therefore did not serve a probationary period (Jennifer Baldwin, Administrative Secretary, Lieutenant Governor’s Office, State of Nevada, personal communication, March 3, 1999). In addition, Pat Phillips, Deputy Chief of Staff, identified that because of the newly elected office and the change in administration, data was unavailable to answer the questionnaire (personal communication, March 8, 1999). Excluding the Lieutenant Governor’s office and the Secretary of State’s office the response rate was 46.4 percent.

The required equipment to carry out this project was a personal computer with word processing, graphics, and database capabilities, a printer, modem and Internet access. All typing and computer support was performed by the researcher.
The required supplies were twenty-eight 7 ½” x 10 ½” envelopes, fifty-six first class rate stamps, twenty-eight 9 ½” x 4" return envelopes, twenty-eight address labels, and fifty-six sheets of 8 ½” x 11" xerographic paper. The total cost of supplies for distributing the questionnaire was $100.00.

Data collection and analysis of the questionnaire was performed by the researcher. Because of the limited number of questionnaires distributed and returned, no computer software programs were used to analyze the data collected. The data collected for other state's information regarding their use of the probationary period was collected through phone interviews and the use of the Internet and the World Wide Web. The phone interviews were performed as follows:

- Question 1 - Does the State of [name of state] have or use a probationary period?
- Question 2 - What is the general length of the probationary period?
- Question 3 - What is required for dismissal of a probationary employee, can the employee be removed with cause or without cause and is there any requirement for documentation relating to the reasons why a probationary employee is being dismissed?
- Question 4 - Is there any appeal/grievance process provided for the dismissed probationary employee?

See the Reference section of this report for state's where information was collected through the use of the Internet and the World Wide Web. The time frame to accomplish the tasks identified was ninety days.
CHAPTER 5

QUESTIONNAIRE FINDINGS

This section will discuss the information attained from the questionnaires sent to the State of Nevada. Contingency tables and charts will be constructed to analyze the data received from the responding agencies. The data gathered to construct the contingency tables and charts was not verified and included estimates for the number of persons on probation and those that passed. The contingency tables are displayed with the independent variable along the columns of the table and the dependent variable down the rows of the table.

Questions two and three asked the respondent to determine the number of probationary employees that did not pass the probationary period. This information is depicted in Chart 5-1.

---

![Probationary Period Ratio Chart](chart.png)

**Probationary Period Ratio**

**Chart 5-1**

- Employees on probation
- Employees that passed probation

1/1/97 - 1/1/98

[Diagram showing the ratio of employees on probation and those that passed probation from 1/1/97 to 1/1/98 with specific numbers indicated.]
Chart 5-1 indicates that nearly 47 percent of the responding agencies' probationary employees did not pass their probationary period during calendar year January 1, 1997 - January 1, 1998. The data gathered for Chart 5-1 was not verified and included estimates for the number of persons on probation and those that passed. Excluding the departments that provided estimates the mean termination rate for probationary employees is 36.74 percent. This figure far exceeds the mean average of 4.99 percent found in the Elliott and Peaton study (Elliott and Peaton, 1994, p.54). It is recommended that the State of Nevada track dismissal information in an attempt to assess the effectiveness of the probationary period.

Question four asked “Does the probationary employee receive health and retirement benefits during the probationary period?” The majority (92.3%) of the responding agencies identified that their employees receive health benefits during the probationary period. Only the Nevada State Controller’s office identified that health and retirement benefits were not received during the probationary period. The Nevada State Controller was not contacted in relation to their answer, however the Employers Insurance Company of Nevada identified that an employee becomes eligible for health benefits following ninety (90) days of employment. This question was asked to ascertain if insurance and health benefits were withheld during the probationary period in an effort to reduce costs to the organization.
Question five asked "Does the probationary employee receive orientation training with the specific department where they will be working?" The majority (92.3%) of the responding agencies identified that the probationary employee does receive orientation training with the specific department where they will be working. See Table 5-1 for a contingency table analysis of the data collected for this question.

<table>
<thead>
<tr>
<th>Table 5-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orientation Training</td>
</tr>
<tr>
<td>Probationary Period</td>
</tr>
<tr>
<td>Passed</td>
</tr>
<tr>
<td>Not Passed</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

The data collected indicates that 99.2 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 received employee orientation training with the specific department where they would be working. Table 5-1 also indicates that more than half (53.4%) of the employees that did not pass the probationary period received orientation training.
Although orientation training is identified as a central theme related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between orientation training and successfully passing the probationary period. Additional studies are required in this area to determine if orientation training has a positive relationship to successfully passing the probationary period.

Question six asked “Does the probationary employee receive training for the position they will be performing?” The majority (92.3%) of the responding agencies identified that the probationary employee does receive training for the position they will be performing. See Table 5-2 for a contingency table analysis of the data collected for this question.

<table>
<thead>
<tr>
<th>Table 5-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position Training</td>
</tr>
<tr>
<td>Probationary Period</td>
</tr>
<tr>
<td>Passed</td>
</tr>
<tr>
<td>Not Passed</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>(n = 809)</td>
</tr>
</tbody>
</table>
The data collected indicates that 99.2 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 received training for the position they would be performing. Table 5-2 also indicates that more than half (53.4%) of the employees that did not pass the probationary period received training for the position they would be performing. Although employee training for the position to be performed is identified as a central theme related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between employee training for the position to be performed and successfully passing the probationary period. Additional studies are required in this area to determine if there is a positive relationship between employee training for the position to be performed and successfully passing the probationary period.

Question seven asked “Does the probationary employee receive procedural publications during the probationary period?” One respondent did not answer the question, therefore only twelve responses were used for this data. The majority (91.7%) of the responding agencies identified that the probationary employee received procedural publications during the probationary period. This question addresses the issue of socialization of the probationary employee and managements requirement to provide the tools necessary to successfully complete the probationary period. See Table 5-3 for a contingency table analysis of the data collected for this question.
Table 5-3

<table>
<thead>
<tr>
<th>Procedural Publications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Probationary Period</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Passed</td>
</tr>
<tr>
<td>37%</td>
</tr>
<tr>
<td>95%</td>
</tr>
<tr>
<td>Not Passed</td>
</tr>
<tr>
<td>63%</td>
</tr>
<tr>
<td>5%</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>100%</td>
</tr>
<tr>
<td>(n = 661)</td>
</tr>
<tr>
<td>100%</td>
</tr>
<tr>
<td>(n = 101)</td>
</tr>
</tbody>
</table>

The data collected indicates that 72 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 received procedural publications during the probationary period. Table 5-3 also indicates that more than half (63%) of the employees that did not pass the probationary period received procedural publications during the probationary period. Although procedural publications is identified as a central theme related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between receiving procedural publications and successfully passing the probationary period. Additional studies are required in this area to determine if receiving procedural publications has a positive relationship to successfully passing the probationary period.
Tables 5-1, 5-2, 5-3 addressed employee training and socialization of the probationary employee. The data in these cases is inconclusive about the relationship between these areas and successfully passing the probationary period. Additional studies are required to determine if there is a positive relationship between the areas identified and successfully passing the probationary period.

Question eight asked “Do supervisors receive training specific to the probationary period?” The majority (77%) of the respondents identified that supervisors receive training specific to the probationary period. See Table 5-4 for a contingency table analysis of the data collected for this question.

<table>
<thead>
<tr>
<th>Supervisor Training</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>46%</td>
<td>100%</td>
</tr>
<tr>
<td>No</td>
<td>54%</td>
<td>0%</td>
</tr>
</tbody>
</table>

The data collected indicates that 98 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 were employees of supervisors who received training specific to the probationary period.
Table 5-4 also indicates that more than half (54%) of the employees that did not pass the probationary period had supervisors that received training specific to the probationary period. Although supervisors that receive training specific to the probationary period is identified as a central theme related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between supervisors that receive training specific to the probationary period and the percentage of probationary employees that successfully pass the probationary period. Additional studies are required in this area to determine if there is a positive relationship between supervisors that receive training specific to the probationary period and the percentage of employees that successfully pass the probationary period.

Question nine asked “Do supervisors receive training in employee evaluation?” 92.3 percent of the respondents identified that their supervisors receive training in employee evaluation. See Table 5-5 for a contingency table analysis of the data collected for this question.

<table>
<thead>
<tr>
<th>Table 5-5</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Probationary Period</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passed</td>
<td>47%</td>
<td>100%</td>
</tr>
<tr>
<td>Not Passed</td>
<td>53%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>(n = 809)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>(n = 3)</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The data collected indicates that 99.2 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 were employees of supervisors who received training in employee evaluation. Table 5-5 also indicates that more than half (53%) of the employees that did not pass the probationary period had supervisors that received training in employee evaluation. Although supervisors that receive training in employee evaluation is identified as a central theme related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between supervisors that receive training in employee evaluation and the percentage of probationary employees that successfully pass the probationary period. Additional studies are required in this area to determine if there is a positive relationship between supervisors that receive training in employee evaluation and the percentage of employees that successfully pass the probationary period.

Question ten asked “Do supervisors receive training in effective communications?” One respondent did not answer the question, therefore only twelve responses were used for this data. Eighty-three percent of the respondents identified that their supervisors received training in effective communication. See Table 5-6 for a contingency table analysis of the data collected for this question.
<table>
<thead>
<tr>
<th>Probationary Period</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passed</td>
<td>46%</td>
<td>100%</td>
</tr>
<tr>
<td>Not Passed</td>
<td>54%</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>(n = 792)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(n = 4)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The data collected indicates that 98.9 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 were employees of supervisors who received training in effective communications. Table 5-6 also indicates that more than half (54%) of the employees that did not pass the probationary period had supervisors that received training in employee evaluation. Although supervisors who receive training in effective communications is identified as part of the central themes related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between supervisors that receive training in effective communications and the percentage of probationary employees that successfully pass the probationary period. Additional studies are required in this area to determine if there is a positive relationship between supervisors that receive training in effective communications and the percentage of employees that successfully pass the probationary period.

-49-
Question eleven asked "Do supervisors receive training in counseling of employees?" Two respondents did not answer the question, therefore only eleven responses were used for this data. Of the remaining eleven respondents, 72.7 percent identified that their supervisors received training in the counseling of employees. See Table 5-7 for a contingency table analysis of the data collected for this question.

| Table 5-7 |
|---|---|---|
| Counseling of Employees | | |
| **Probationary Period** | **Yes** | **No** |
| Passed | 34% | 100% |
| Not Passed | 66% | 0% |
| Total | 100% (n = 634) | 100% (n = 8) |

The data collected indicates that 96.4 percent of the employees that passed probation during calendar year January 1, 1997 - January 1, 1998 were employees of supervisors who received training in the counseling of employees. Table 5-7 also indicates that sixty-six percent of the employees that did not pass the probationary period had supervisors that received training in the counseling of employees.
Although supervisors that receive training in the counseling of employees is identified as part of the central themes related to the valid and effective use of the probationary period, the data in this case is inconclusive about the relationship between supervisors that receive training in the counseling of employees and the percentage of probationary employees that successfully pass the probationary period. Additional studies are required in this area to determine if there is a positive relationship between supervisors that receive training in the counseling of employees and the percentage of employees that successfully pass the probationary period.

Question twelve asked “How often is training provided to supervisors on evaluation, communications and counseling?” Three respondents did not answer the question so only ten responses were used for the data provided.
Chart 5-2 indicates that forty percent of the supervisors receive training in evaluation, effective communications, and counseling less than every three years. This figure may account for the large number of probationary employees that did not pass the probationary period during calendar year January 1, 1997 - January 1, 1998.

Question 13 asked “Does a single supervisor have the power to terminate a probationary employee?” Forty-six (46) percent of the responding agencies identified that a single supervisor does have the power to terminate a probationary employee. See Table 5-8 for a contingency table analysis of the data collected for this question.

<table>
<thead>
<tr>
<th>Probationary Period</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passed</td>
<td>93%</td>
<td>22%</td>
</tr>
<tr>
<td>Not Passed</td>
<td>7%</td>
<td>78%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>(n = 284)</td>
<td></td>
<td>(n = 528)</td>
</tr>
</tbody>
</table>

Table 5-8 indicates that agencies who grant a single supervisor the power to terminate a probationary employee only account for seven percent of the probationary employees that did not pass the probationary period during the time frame of this study.
Table 5-8 also indicates that seventy-eight percent of probationary employees that did not pass the probationary period worked for agencies that did not allow a single supervisor the power to terminate a probationary employee. It was assumed that the agencies that provided a single supervisor the power to terminate a probationary employee would account for a larger percentage of employees that did not pass the probationary period, however the data does not support this assumption.

Question 14 asked “Are probationary employees notified, prior to their last day of probation, that they did not successfully complete their probationary period?” 85 percent identified that the probationary employee is informed prior to the last day of the probationary period that they would not pass their probationary period. This question was recommended by Linda Cavelli of the State of Nevada Employees Association to ascertain if probationary employees were being given tasks up to the last day of the probationary period only to discover that they would not pass the probationary period. Fifteen percent of the responding agencies indicated that the probationary employee is not informed until the last day of the probationary period that they did not successfully complete the probationary period.

Question fifteen asked “What is your departments overall perceived effectiveness of the use of the probationary period?” The department heads were asked to rate their perceived effectiveness of the probationary period and Table 5-9 displays the data collected for this question. The category “needs improvement” was not selected by the respondents, and will not be displayed in Table 5-9.
Table 5-9

<table>
<thead>
<tr>
<th>Probationary Period</th>
<th>Excellent</th>
<th>Above Average</th>
<th>Average</th>
<th>Below</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passed</td>
<td>8%</td>
<td>89%</td>
<td>50%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>(n = 415)</td>
<td>(n = 376)</td>
<td>(n =16)</td>
<td>(n = 2)</td>
</tr>
<tr>
<td>Not Passed</td>
<td>92%</td>
<td>11%</td>
<td>50%</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 5-9 indicates that those departments that perceive the effectiveness of the probationary period to be “excellent” account for 92 percent of the employees that did not pass the probationary period during the time frame of this study. Table 5-9 also indicates that the majority of the respondents perceive the effectiveness of the probationary period to be “above average”. Also the respondents that perceive the effectiveness of the probationary period to be “above average” account for 89 percent of the employees that passed the probationary period during the time frame of this study.

Question sixteen asked for “Additional Comments” and the comments provided by the responding agencies are in Appendix D.
CHAPTER 6
SUMMARY AND RECOMMENDATIONS

One of the major reasons the probationary period was developed was to instill and promote excellence in the public sector, however, the very nature of probationary periods allows an opportunity to violate an individual’s first amendment rights. This qualitative look at the use of the probationary period has revealed several issues associated with the use of the probationary period. Initially, it shows that the probationary period is widely used throughout the state level of government. This study also indicates that it is possible to have a state government operate without the use of a probationary period as evidenced by the State of Georgia, which repealed its use of the probationary period in 1996.

The Nevada Administrative Code (NAC) addresses six of the central themes discussed earlier and required for the effective use of the probationary period. The theme that warrants additional attention is the dismissal of probationary employees without cause. The majority of states (25) require documentation with cause on why a probationary employee is being dismissed. In conversation with Peter Klein, State of Massachusetts Personnel Division, he stated that reasons for dismissal are provided to protect against discriminatory lawsuits. In addition, Chart 5-1 highlights that nearly half of the responding agencies probationary employees did not successfully complete their probationary period at the State of Nevada during the time frame of this study. This figure far exceeds the mean average of 4.99 percent found in the Elliott and Peaton study. Several reasons could account for this data such as inaccurate data and employees seeking other employment.
It is recommended that the State of Nevada track dismissal information in an attempt to assess the effective use of the probationary period.

Contingency tables 5-1, 5-2, and 5-3 are inconclusive about the relationships between the central themes related to the valid and effective use of the probationary period, and successfully passing the probationary period at the State of Nevada. Although the data is inconclusive, it is recommended that the State of Nevada provide probationary employees orientation training with the specific department where they will be working, position training, and procedural publications, because these areas are identified as central themes related to the valid and effective use of the probationary period.

Contingency tables 5-4, 5-5, 5-6, and 5-7 are inconclusive about the relationships between the central themes related to the valid and effective use of the probationary period, and successfully passing the probationary period at the State of Nevada. Although the data is inconclusive, it is recommended that the State of Nevada require supervisors to receive training specific to the probationary period, employee evaluation, effective communications and the counseling of employees, because these areas are identified as central themes related to the valid and effective use of the probationary period. The State of Nevada Department of Personnel identified that within six months of attaining supervisory status a new supervisor has to complete a supervisory training program which includes training on performance evaluations and appraisals. This training is only required for new supervisors and current supervisors are not required to complete this training.
From the data collected it seems that the majority of departments and department heads are providing the necessary elements for a successful probationary experience, however Chart 5-1 highlights that nearly half of the responding agencies probationary employees did not successfully complete the probationary period. The title of this study asks “is the probationary period being used to promote excellence or is it being used as a legal loophole to terminate employees”, the data collected and analyzed for this study would suggest the latter.

This study was a cursory look at the State of Nevada’s use and perceived effectiveness of the probationary period. Future studies could take a quantitative look at the use and perceived effectiveness of the probationary period, in an attempt to ascertain data with a higher degree of validity. In addition, future studies of the State of Nevada’s use and perceived effectiveness of the probationary period could consists of benchmarking with other states’ practices in an effort to develop a more effective policy that addresses all the central themes identified in this study as required for the valid and effective use of the probationary period.

If time permitted this study would have included personal interviews with department heads and staff to further analyze the use of the probationary period. In addition, interviews would have been performed with probationary employees to ascertain their view of the use and perceived effectiveness of the probationary period.

Without supervisory training, managers and supervisors may view that their only recourse when dealing with a poor performer is termination. In addition, without employee training the most qualified employee is likely to fail.
The probationary period should not be used as a loophole to terminate employees but as a tool to promote excellence within the public sector.
REFERENCES


http://www2.state.id.us/adm/adminrules/rules/idapa28/0101.pdf


http://janus.state.me.us/bhr/civil%20Service%20Rules/homepage.htm


State of West Virginia (1999). Department of Administration. Retrieved March 12, 1999 from the World Wide Web:

http://www.state.wv.us/admin/personel/emprel/rules.htm
Appendix A
SURVEY INSTRUMENT

This survey solicits information pertaining to the State of Nevada’s use of the probationary period. The information gained from this survey will be used to evaluate the use and overall perceived effectiveness of the probationary period at the State of Nevada for a graduate project. Your assistance in completing this survey is greatly appreciated.

Copies of the completed study will be available upon request.

1. Please list the title/name of the department ____________________________

2. During the calendar year January 1, 1997 - January 1, 1998 how many employees were on probation in your department? ____________________________

3. During the calendar year January 1, 1997 - January 1, 1998 how many employees passed the probationary period in your department? ____________________________

4. Does the probationary employee receive health and retirement benefits during the probationary period? Yes No

5. Does the probationary employee receive orientation training with the specific department where they will be working? Yes No

6. Does the probationary employee receive training for the position they will be performing? Yes No

7. Does the probationary employee receive procedural publications during the probationary period? Yes No

8. Do supervisors receive training specific to the probationary period? Yes No

9. Do supervisors receive training in employee evaluation? Yes No

10. Do supervisors receive training in effective communications? Yes No

11. Do supervisors receive training in counseling of employees? Yes No

12. How often is training provided to supervisors on evaluation, communications, and counseling? _____ Annually

    _____ Once every two to three years

    _____ Less than every three years

13. Does a single supervisor have the power to terminate a probationary employee? Yes No

14. Are probationary employees notified, prior to their last day of probation, that they did not successfully complete their probationary period? Yes No

15. What is your department's overall perceived effectiveness of the use of the probationary period?

    _____ Excellent

    _____ Above Average

    _____ Average

    _____ Below average

    _____ Needs improvement

16. Additional Comments ____________________________________________
Appendix B

COVER LETTER

To: Whom it may concern

From: Daryl Privott, MPA Graduate Student

Subject: Probationary Periods

Please take a few moments to complete the enclosed survey and place it in the return envelope provided. The information gained from this survey will be used to evaluate the use and overall perceived effectiveness of the probationary period at the State of Nevada and complete my graduate requirements. The requested turn around time is two weeks from receipt of the survey. It is requested that all surveys be completed and returned prior to Tuesday, March 9, 1999. Should you have questions please feel free to contact me: (702) 360-5451; email: privott@nevada.edu

Thank you for your time and effort in completing this survey.

Respectfully,

Daryl Privott
Appendix C

Department of Administration
209 East Musser Street
Blasdel Building, Room 200
Carson City, Nevada 89710
Attn: John P. Comeaux, Director

Department of Conservation and Natural Resources
123 West Nye Lane
Carson City, Nevada 89710
Attn: Peter G. Morros, Director

Department of Employment, Training, and Rehabilitation
500 East Third Street, Suite 200
Carson City, Nevada 89713
Attn: Carol A. Jackson, Director

Department of Human Resources
505 East King Street
Kinkead Building, Room 600
Carson City, Nevada 89710
Attn: Charlotte Crawford, Director

Lieutenant Governor’s Office
Capitol Building
Carson City, Nevada 89710
Attn: Lorraine Hunt, Lieutenant Governor

Department of Personnel
209 East Musser Street
Blasdel Building, Room 300
Carson City, Nevada 89710
Attn: Jeanne Greene, Director

Secretary of State
Capitol Building
Carson City, Nevada 89710
Attn: Dean Heller, Secretary of State

Commission on Tourism
5151 South Carson Street
Carson City, Nevada 89710
Attn: Thomas G. Tait, Executive Director

Colorado River Commission
555 East Washington Ave., Suite 3100
Las Vegas, Nevada 89101
Attn: George M. Caan, Director

University of Nevada Las Vegas (UNLV)
4505 Maryland Parkway
Las Vegas, Nevada 89154
Attn: Carol Harter, President

Attorney’s General Office
198 South Carson Street
Carson City, Nevada 89710
Attn: Frankie Sue Del Papa, Attorney General

Controller’s Office
State Capitol
Carson City, Nevada 89710
Attn: Darrel Daines, State Controller

Gaming Control Board
1150 East William Street
Carson City, Nevada 89710
Attn: William A. Bible, Chairman

Department of Information Services
505 East King Street
Kinkead Building, Room 403
Carson City, Nevada 89710
Attn: Marlene Lockard, Director
Appendix D

Nevada State Controller

"If you hire good qualified people the probationary period is non-existent. In 16 years we have only terminated one probationary employee and that was not related to his employment."

Nevada State Department of Personnel

"Employee contributes to Public Employee Retirement System if working 20+ hours/week. Eligible for retirement benefits at age 60 with 10 yrs of service"

Employers Insurance Company of Nevada

"#4) An employee becomes eligible for health benefits following 90 days of employment and, depending on the retirement plan selected, an employee begins contributions to the retirement plan immediately. 11) It depends on what you consider counseling. 12) It depends on the individual supervisor, but, training is offered on an annual basis"

Attorney General Office

The largest amount of our employees are unclassified which have no probationary period and can be released as soon as they are hired. We also have student workers. They never pass probation since they are in student status. * Of this count not all employees are through their 1 year probation."
Department of Transportation

"New supervisors and managers receive training after they are first promoted. Any follow up training would be taken as needed. Questions call Marilyn Yezek 775-888-7430"

Gaming Control Board

"The 10 employees didn’t pass probation because they left the employment of the Board prior to passing probation.”