

**Question:**

Can we extend a new employee's probationary period? They aren't meeting expectations yet.

**Answer from Kara, JD, SPHR:**



You *can* extend an introductory period, but I would recommend a different approach. I'd also advise against using the word "probationary." I'll explain both points.

**Extending the Introductory Period**

First things first, be aware that having an introductory period for new employees has no legal impact on the employment relationship. Terminations during that time still come with risk (so problems should be discussed and documented) and terminated employees can still file for unemployment insurance. Extending the introductory period doesn't mitigate risk or affect your rights and responsibilities as an employer.

If a new employee has reached the end of their introductory period and they aren't performing up to your expectations—but you still think they have potential—I'd recommend implementing a Performance Improvement Plan (PIP). This kind of plan allows you to detail the company's expectations with respect to their performance and will provide for follow-up meetings to discuss the employee's progress. Upon the conclusion of the PIP, you make a decision as to the employee's continued employment.

**Probationary v. Introductory**

We strongly recommend using the word "introductory" instead of "probationary" for a few reasons. First, probationary has a punitive ring to it, and sounds a bit like the employee is already in trouble even though they've just started working for you. Second, and perhaps more importantly, at least one court has ruled that the term "probationary period" implies greater employment rights upon the completion of the period. Essentially, its use could interfere with the at-will relationship between the company and employees. For these reasons, we suggest using the term "introductory period" instead.