

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS DIRECTIVE

4338.1,
Revision 1

5/3/22

TRAINING AS A CONDITION OF EMPLOYMENT

I. PURPOSE

This directive provides instructions for requiring and administering training as a condition of employment (TCOE) for covered positions. FSIS is reissuing this directive in its entirety to reflect current procedures related to TCOE.

II. CANCELLATION

FSIS Directive 4338.1, Amendment 2, *Training as a Condition of Employment (TCOE)*, 3/01/13

III. BACKGROUND

TCOE is a specific job requirement that employees are to satisfy in order to retain employment in a specified position. FSIS prepares and coordinates a program, course, curriculum, or routine instruction to prepare employees with the necessary knowledge, skills, and abilities to perform their duties and responsibilities. Employees need these competencies to perform their jobs successfully to ensure that the food supply is safe, wholesome, and accurately labeled. Employees who complete the required training demonstrate they are equipped with the knowledge and technical expertise to do their job. FSIS training is developed based on the specific job requirements for the position and is generally designed to provide specific knowledge related to FSIS policy, inspection verification methods, and thought processes used for determining regulatory compliance.

IV. APPLICABILITY

A. FSIS Program Areas, in consultation with the Office of Management (OM), decide whether to apply TCOE to a specified position. Positions with TCOE requirements are referred to as covered positions throughout this directive.

B. Employees in covered positions are referred to as covered employees. Covered employees include all excepted and competitive service employees appointed, transferred, reassigned, changed to lower grade, or promoted into covered positions.

C. The following positions are the covered positions located in the Office of Field Operations (OFO):

1. Consumer Safety Inspector (CSI), GS-1862-5/7/8/9;
2. Supervisory CSI, GS-1862-10;
3. Supervisory Veterinary Medical Officer (Working Title: Supervisory Public Health Veterinarian (SPHV) GS-0701-11/12; and

DISTRIBUTION: Electronic

OPI: OPPD

4. Consumer Safety Officer (CSO) (Working Title: Enforcement, Investigative, & Analysis Officer (EIAO)), GS-0696-11/12

D. The Compliance Investigator, GS-1801-09/11/12 position located in the Office of Investigation, Enforcement and Audit (OIEA) is a covered position.

E. Refer to Section X, *Documenting TCOE Completion* for specific requirements for each covered position.

F. FSIS may add to or revise the list of covered positions that fall under the provisions outlined in this directive. Covered employees in any newly added positions will be notified of their TCOE requirements during the hiring process.

G. Covered employees are required to meet specific TCOE requirements that are outlined in their training agreement and Human Resources (HR) acceptance letters within 12 months from the effective date of their assignment. Failure to complete or pass their agreed upon training requirement, which includes passing required tests with a satisfactory grade, may result in an adverse personnel action, including removal.

H. If a new TCOE training requirement is applied to an existing covered position, employees performing at or above a fully successful level at the time their position becomes subject to TCOE are not subject to the new TCOE requirements unless significant changes occur in the duties and responsibilities of the affected employees' position or occupation.

V. MANAGING TCOE REQUIREMENTS

A. The Office of Employee Engagement and Development (OEED), Center for Learning (CFL) is responsible for developing training programs for covered employees in OFO and the Office of Investigation, Enforcement and Audit (OIEA) is responsible for developing training programs for covered employees in OIEA. CFL roles include designing, validating, managing, and delivering training programs developed as a condition of employment.

B. The CFL is responsible for:

1. Developing training programs that are designed and validated as part of the TCOE requirements;
2. Coordinating with the Civil Rights Staff (CRS) and the Office of Human Resources (OHR) to ensure that the position description, performance standards, vacancy announcements, and other notification systems are updated to reflect any new requirements;
3. Working with OHR and program areas to establish the specific details in the training agreement, academic standards, and training information packet for each covered training program for publication and notification to the employees;
4. Notifying the Human Resource Operations Division (HROD) and the Program Area upon completion of training of any covered employee who fails to meet TCOE requirements; Certification letters are distributed to the Program Areas within 5 workdays of completing the course; and

5. Notifying the Labor and Employee Relations Division (LERD) of an employee's misconduct (e.g., cheating) related to their TCOE requirement.

C. HROD is responsible for partnering with subject matter experts and others in the Program Area to develop a job analysis that links the job duties to the competencies by which employees are selected, trained, and evaluated. HROD initially notifies prospective applicants of the TCOE requirement. Specifically, HROD:

1. Updates position descriptions based on input from CFL on the TCOE requirement;
2. Issues the vacancy announcements for covered positions subject to the TCOE requirement;
3. Ensures vacancy announcements for positions subject to TCOE contain information concerning the content and length of the training;
4. Issues a tentative offer letter to selectees that restates specific TCOE requirements and provides the training agreement for review and signature;
5. Answers any questions the selectee may have about TCOE during the hiring and promotion process;
6. Files the signed agreement in the employee's electronic Official Personnel File (eOPF);
7. Documents satisfactory completion of TCOE requirements in the eOPF based on notification from CFL; and
8. Processes the necessary personnel actions for covered employees who are not successful in completing the TCOE requirement.

D. For adverse actions such as removal from Federal service, LERD in collaboration with HROD will process the personnel action.

E. Currently, TCOE requirements are applied to specified positions in OFO and OIEA. Each program area is responsible for designating a Point of Contact (POC) to coordinate the TCOE requirements with OEED and OHR. For OFO positions, the District Office (DO) POC is responsible for coordinating the TCOE requirements with the immediate supervisor, CFL, and OHR.

F. The POC is to ensure that covered employees are scheduled for and complete the necessary training requirements as soon as possible and is to resolve any issues early in the process. Specifically, the POC is responsible for:

1. Confirming the list of participants scheduled to attend required training and ensuring a copy of their TCOE Agreement is on file.
2. Scheduling all covered employees for CFL training and ensuring that TCOE requirements will be met before the 12-month timeframe (see Section VII).
3. Notifying the supervisor and covered employee of completion of TCOE requirements by providing the employee with a CFL issued training certification letter for filing in the employee's eOPF (see section X); and

4. Coordinating with HROD on required personnel actions for employees who do not satisfactorily complete TCOE requirements (see section XI).

VI. HIRING AND PROMOTION FOR COVERED EMPLOYEES

A. Before the effective date of an employee's entrance into a covered position:

1. HROD is to issue the vacancy announcement, which is to include a statement on training as a condition of employment.
2. If interviews occur, the interviewing official is to communicate the TCOE requirement to the applicants, as stated in the vacancy announcement.
3. After the job selection, the Human Resource Specialist is to provide the covered employee with the tentative offer letter, which reiterates the TCOE requirements for the position; and if the employee accepts, then a training agreement will be sent to the employee for review and signature.
4. The covered employee is to sign and return the TCOE agreement to HROD. HROD is to provide CFL with ongoing information on employees entering covered positions, including current employees going from a non-covered to a covered position, and selection dates.

B. OHR is to ensure that the TCOE requirements are listed in the vacancy announcements so that a covered employee can raise any questions he or she may have before accepting the covered position.

VII. SCHEDULING COVERED EMPLOYEES FOR TRAINING FOR OFO POSITIONS

A. CFL is responsible for:

1. Creating the yearly training schedule based on Agency training needs. CFL is to prioritize class registration for covered employees according to TCOE requirements.
2. Managing course registration for OFO covered positions with the District Office (DO) POCs.

B. The DO POC is to schedule training as follows:

1. POCs are to schedule covered employees to begin TCOE requirements as soon as practical after the employee's effective date. Any delay of more than 30 days is to be for good cause and fully documented and approved by OFO management.
2. POCs are to be aware that covered employees cannot complete more than one required course at the same time. If a covered employee is to complete any advanced courses (i.e. Thermal Processing) in addition to their specific TCOE requirement, the POC is to register the employee only after TCOE requirements are completed.
3. On a case-by-case basis the POC can reschedule a covered employee's training as soon as possible. The employee is to submit a memorandum and any supporting documentation to CFL describing the circumstances in detail, including actions taken to mitigate the hardship. Decision authority resides with CFL after coordination with the Program Area.
4. If the POC fails to schedule a covered employee for TCOE requirements within the 12-month timeframe, the timeframe is not extended. Failure to schedule does not exempt the employee from

the training requirements. Attendance and a passing score are still required within the parameters of any extension; and

5. Employees who leave a covered position after fulfilling their TCOE requirement, and later return to the same covered position are required to meet all components of the current training program unless: (1) they returned to the position less than 3 years after leaving it AND (2) their supervisor recommends waiving that requirement.

VIII. REASONABLE ACCOMMODATIONS

A. FSIS is committed to providing Reasonable Accommodations (RA) to employees with disabilities during the training unless to do so would cause undue hardship to the Agency. A disability is defined as a physical or mental impairment that substantially limits one or more major life activities, a record of such physical or mental impairment, or being “regarded as” a person with a disability. Language barriers are not considered a physical or mental disability.

B. If a covered employee needs a RA to participate in the training, they are to follow the Agency’s accommodation approval process in [FSIS Directive 4306.2](#), *Reasonable Accommodation and Accessibility for People with Disabilities*. Covered employees are to notify their immediate supervisor as soon as possible and email the RA office at ReasonableAccommodations@usda.gov to request the required forms.

C. The covered employee is to confirm approval of the RA request before the first day of training. If an RA request is not submitted prior to the start of training, the covered employee will need to contact their supervisor and the supervisor can start the process by contacting the RA office with the request. If the request is approved, the covered employee will need to coordinate with the class facilitators.

IX. TRAINING ATTENDANCE FOR COVERED EMPLOYEES

Covered employees are to attend class and fulfill all TCOE course requirements, including passing a test with a satisfactory grade. They are to participate actively in all training activities such as discussions, demonstrations, and workshops.

1. Generally, a covered employee who withdraws from a course will not receive credit for any portion that they have completed, and the POC will reschedule the training so the employee can attend a full training course as soon as possible. On a case-by-case basis, CFL and the employee’s supervisor are to decide whether the employee can resume the training at the point of departure, or whether the employee retakes the entire session.
2. Covered employees are to adhere to the code of conduct outlined in [FSIS Directive 4735.3](#), *Employees Responsibilities and Conduct* during training;
3. On the first day of training, covered employees will be reminded of their TCOE requirements and adherence to Employee Conduct and Responsibilities while attending the training.
4. CFL will strive to ensure that every student receives the assistance, support, and encouragement needed to successfully meet their TCOE requirements. Covered employees are to be aware that an employee’s college coursework cannot substitute for any portion of the training.

5. All employees are to be aware that FSIS maintains a library of technical training resources and courses on FSIS inspection on AgLearn, IPP Help, and the FSIS Training Website. All FSIS training is based on FSIS policy issuances.
6. During class, CFL will offer any of the following types of assistance to covered employees, as appropriate:
 - a. Review Sessions. The purpose of these sessions is to review critical information students have learned, to reiterate what general content will be covered on the upcoming test, and to clarify or answer any questions students have before the test.
 - b. Feedback Sessions after each quiz. The purpose of these sessions is to review information and to ensure that participants receive correct feedback for any questions they may have missed.
 - c. Training Support Checks. At the request of the students who are experiencing difficulties during class, CFL trainers will contact the students after class to address their concerns.

X. DOCUMENTING TCOE COMPLETIONS

- A. CFL is to issue a training certification letter to the POC informing covered employees of their pass/fail status. CFL will email a certification letter to DO POC and OIEA POC for distribution to the covered employee and to the HROD for filing in the eOPF.
1. Covered employees in OFO positions are to satisfactorily complete the following courses as part of their TCOE requirement. TCOE requirements are defined according to the covered position:
 - a. CSIs and Supervisory CSIs are to complete and pass the test for the Inspection Methods (IM) course. Retesting is permitted only one time for CSIs or Supervisory CSIs.
 - b. SPHVs are to complete an 8-week PHV training program that includes the IM course. They are required to pass the PHV test at the end of the 8-week PHV training.
 - c. EIAOs are to complete the IM course and the EIAO course. They are required to pass the EIAO test at the end of the EIAO course.
 2. Covered employees in OIEA positions are to satisfactorily complete the New Investigator Training Course, which includes the Surveillance, Investigation & Enforcement Methodology (SIEM) modules, as part of their TCOE requirement. They are required to pass the test for the New Investigator Training Course.
 3. Retesting is permitted only one time for all covered employees. Retests are offered within 2 weeks after failure.

XI. CONSEQUENCES OF UNSATISFACTORY COMPLETION

- A. If a covered employee is a probationary employee who fails their TCOE requirements, even after any applicable retesting during the 12-month probationary period, he or she is removed from Federal service. The probationary period cannot be extended for any reason, even if completion of the training was outside of the employee's control.

B. If a covered employee is a non-probationary employee who fails to satisfactorily complete their TCOE requirements, even after any applicable retesting, he or she has the following options:

1. Contingent upon position availability and needs of the Agency, return to their former position. The employee will return to the same step and pay grade.
2. If qualified, be offered another position at the same or lower pay grade than the position held immediately before accepting the covered position, depending on the availability of the position and the Agency's needs; or
3. Be removed from Federal service.

C. The DO POC is to oversee the consequences of failing the TCOE requirement. Specifically, the DO POC is to:

1. Consult with HROD on potential placement options for non-probationary employees who fail TCOE requirements, including informing the employee of options to accept a new position in a lower pay grade, resign, or be removed from federal service;
2. Prepare appropriate personnel action (SF-52) for change to lower pay based on the actions in section B.
3. Notify LERD if the employee declines a change to lower grade, reassignment, or resignation by emailing a completed Investigative and/or Disciplinary Request Form, FSIS Form 4700-1 to LERD (LERD@usda.gov); and
4. Notify LERD if the employee is a probationary employee by emailing a completed Investigative and/or Disciplinary Request Form, FSIS Form 4700-1 to LERD (LERD@usda.gov).

D. Any employee who fails their TCOE requirement may compete again for entry into the covered position if they meet the area eligibility and qualifications in the announcement. If selected, the employee is required to meet the TCOE requirements.

XII. QUESTIONS

Refer training questions to the CFL Registration mailbox: CFL.ClassRegistration@usda.gov.

Refer hiring process and job position questions to the HR Mailbox: FSISHR1@usda.gov.

Refer conduct or adverse personnel action questions to the LERD mailbox: LERD@usda.gov.

Assistant Administrator
Office of Policy and Program Development