National Guard Bureau Supervisor's Human Resources Reference Guide

Published by the Office of Technician Personnel

People First, Mission Always!

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Forward…

Supervisors play a critical role in the implementation of the human resources program for the National Guard. For example, supervisors are responsible for initiating necessary personnel actions and utilizing the workforce in the most efficient manner to accomplish the DoD mission.
The NGB-J1-TN Division is pleased to publish the ***Supervisor's Human Resources Reference Guide*** to all managers and supervisors of the States, Territories and the District of Columbia to assist you in accomplishing this mission.

About the Guide

This Guide is designed to be a "ready reference" that provides supervisors and managers with advice and basic guidance on issues relating to human resources management. Although the contents are not regulatory in nature, the guidance has been drafted based on Federal statutes and regulations, as well as DoD and National Guard Bureau policy. Current Collective Bargaining Agreements (CBAs) must be consulted on matters related to employment and bargaining unit employees as well as this guide.

How to use this Guide

The content of the Guide was developed in a logical sequence to assist supervisors through the steps involved in "building" a competent workforce (i.e., classifying, recruiting, and compensating employees), followed by the steps in **"managing"** the workforce through career management, individual training, and organizational development. At the beginning of each section or tab, you will find a **"Checklist"** of the topics covered to assist you in locating information quickly. In addition, there is a compilation of Frequently Asked Questions or **"FAQ's"** at the end of each section to facilitate utility and understanding of each topic. NGB's goal is to ensure that our supervisors and managers are well informed. I hope that you will find the information regarding the NGB-J1-TN Division, which is included in the introduction and overview, useful. After all, we are full partners in the efficient administration and management of our most valuable resource…our employees!

The accomplishment of our mission and vision is realized when we understand and support each other's needs and the vast diversity of our workforce. To this end, the ***Supervisor's Human Resources Reference Guide*** will assist you significantly.

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NGB TECHNICIAN PERSONNEL DIVISION

MISSION – VISION – VALUES

MISSION

➔ **A HUMAN RESOURCES ENTERPRISE AND BUSINESS PARTNER PROVIDING CUSTOMER-FOCUSED TECHNICAN PERSONNEL PROGRAMS TO MEET THE NEEDS OF THE NATIONAL GUARD**

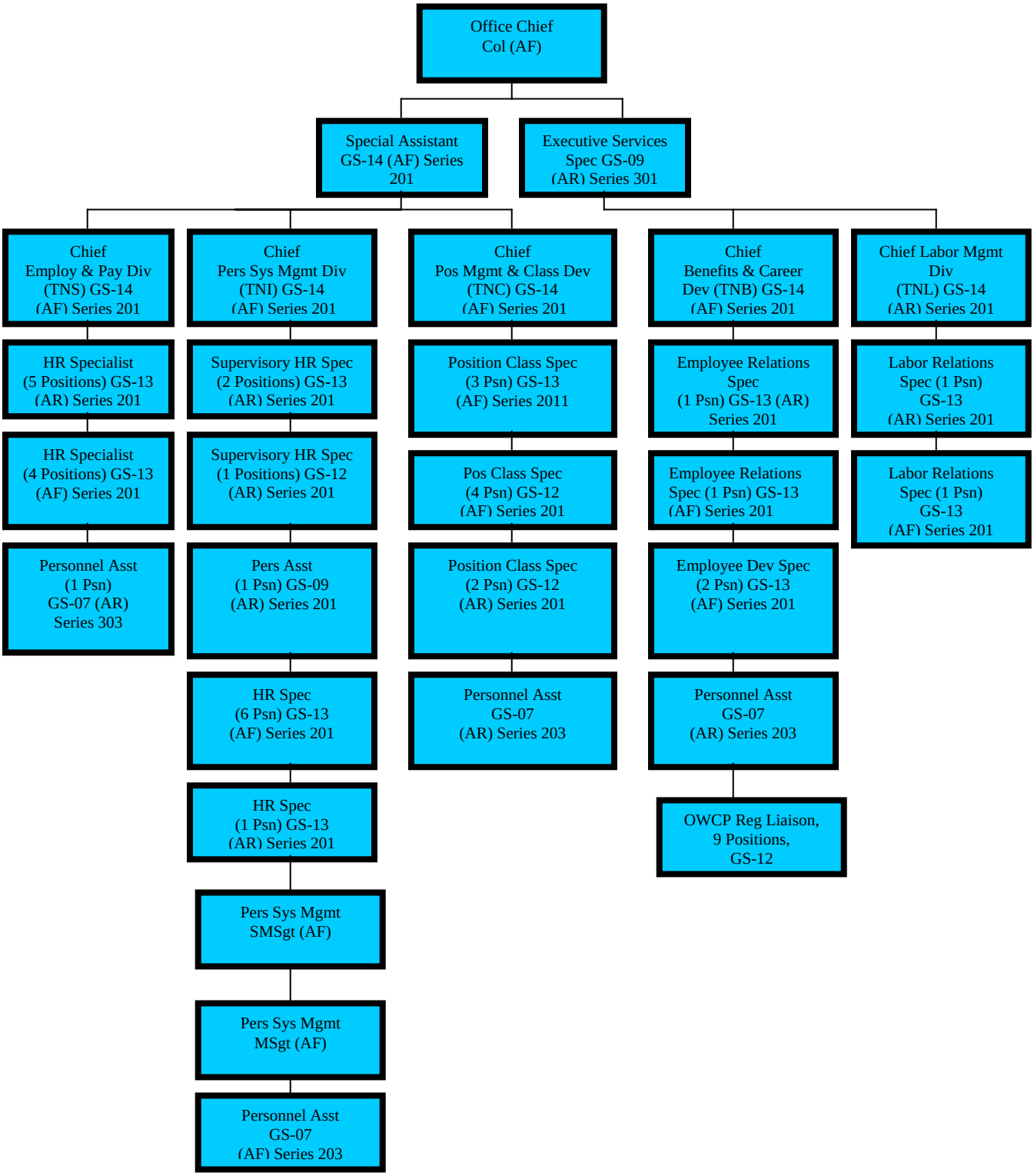
VISION

➔ **A VALUED PARTNER WITH THE NATIONAL GUARD LEADERSHIP IN DESIGNING STRATEGIES FOR OPTIMUM APPLICATION OF TECHNICIAN PERSONNEL PROGRAMS TO ENHANCE THE MISSION READINESS OF OUR MILITARY ORGANIZATIONS**

VALUES

➔ **WE VALUE OUR CUSTOMERS AND OUR PERSONAL STAFF. WE PROMOTE A CULTURE OF TRUST, DIVERSITY, COMMUNICATION AND CARING. WE FOSTER AN ENVIRONMENT WHERE TEAMWORK, RISK TAKING, CREATIVITY, ADAPTABILITY AND COMMON SENSE FLOURISH.**

NGB TECHNICIAN PERSONNEL DIVISION ORGANIZATION



NGB TECHNICIAN PERSONNEL FUNCTIONAL OVERVIEW

Functions of the Chief

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- **Participate with DoD and non-DoD Federal Agencies and Organizations in Shaping Laws, Regulations and Policies that Impact the Federal Title 32 Technician Program**
- **Design National Guard Specific Regulations, Policies and Practices that Integrate Traditional Civil Service Rules with Special Provisions Unique in Law to the National Guard**
- **Provide Advice and Guidance to NGB Leadership on Technician Personnel Management Issues**
- **Deliver Advisory Services and Training on Technician Personnel Programs to State-Level Human Resource Offices, Supervisors, and Managers**
- **Administers and Develops NGB-J1-TN Programs**
- **Responds to DOD, Congressional, OPM, GAO Inquiries Regarding NGB-J1-TN Policy and Guidance**

Functions of the Labor Relations Branch

- **Develops Plans, Policy, Guidance on Labor Law and Regulations**
- **Evaluates/Researches Labor Issues**
- **Provides Advice and Guidance for Consultation to the States and Territories on ULP Charges, Grievances and Negotiability Issues**
- **Conducts Technical Assistance Visits to keep abreast of Local Conditions and Promote Program Objectives with State and Territory Officials**
- **Promote General Labor Relations Training Advice and Guidance**
- **Provide Advice for Guidance on Discipline and Adverse Actions**

Functions of the Classification and Position Management Branch

- **Develops Policies, Provides Guidance and Issues Regulations Governing the NG Classification and Position Management Program**
- **Ensures Compliance with all Applicable Policies, Directives, Job Grading Standards and Technician Position Management and Classification Actions.**
- **Provides Interpretation, Clarification and Implementation Guidance for Pertinent Publications.**
- **Provides Advisory Services Regarding Position Management and Classification Actions**
- **Conducts Position Reviews to Ensure All NG Technician Positions are Properly Described, Graded and Classified**
- **Develops, Classifies and Approves "Standardized" Position Descriptions for Nationwide Implementation**
- **Reviews and Approves "Exception" Position Descriptions for Nationwide Implementation**
- **Develops, Schedules and Conducts Position Management and Classification Training Programs for HRO Personnel and Military and Civilian Supervisors and Managers Who Facilitate Position Management and Classification Actions that Affect NG Technician Positions**

Functions of the Benefits and Career Development Branch

- **Provides Employee Development, Benefits and Training Policy and Guidance**
- **Assists Program Managers with Individual Development Plan Formulations**
- **Performs FY Training Plan Surveys and Inventories**
- **Maintains Training Budget-Requests Funds/Manages Budget**
- **Publishes Training Opportunities/Courses/Available Materials**
- **Design and/or Deliver Benefits and Human Resources Development Courses for Technicians to Address Changes in Laws, Regulations, Policies and Processes**
- **Provide Timely Advice and Guidance in Response to Current or Anticipated Issues**
- **Conducts Formal Training-Retirement Seminars/TSP, etc.**
- **Monitors Workers' Compensation Claims/Actions**

Functions of the Personnel Systems Management Branch

- **Provides Systems Research Analysis and Development**
- **Performs Data Retrieval for NGB Offices/Personnel**
- **Evaluates Database Systems for Accuracy/Efficiency**
- **Plans and Organizes Future Personnel Information Systems Requirements**
- **Conducts Functional Application Training**
- **Provides Customer Help Desk Services**

Functions of the Employment and Pay Branch

- **Develops NG Military Technician Employment, Compatibility, and Pay Regulations, Programs, and Policies; Ensuring the Most Effective and Efficient Use of NG Technicians to Accomplish the Guard Mission**
- **Provides Expert Oral and Written Information, Advice, Clarification and guidance concerning Military Technician pay Regulations, Programs, and Policies, to the State Human Resource Specialists, and Management Officials, The State Adjutants General, NGB Program Managers, DA/DAF, DoD, OPM, Congressional staff, and Other Organizations with a Relationship to the NG Technician Program**
- **Participates with DoD and non-DoD Federal Agencies, NGB Joint Offices, and Organizations in Shaping Regulations and Policies that Impact the National Guard Military Technician Pay Program**
- **Ascertain the Impact of New Legislation on the NG Military Technician Employment Programs and Interprets and Implements New Requirements. Suggests New or Amended Legislative Language to Address Employment and Pay Requirements of NG Technician Program**
- **Interprets and Implements Government and Agency DoD-Wide Regulations or Issues Policy as they Pertain to the NG Military Technician Pay Issues**
- **Evaluates and Justifies Special Salary and/or Wages by Occupational and/or geographic Area**
- **Participates in OPM, DoD, DA and DAF Level Pay Working Groups to Represent National Guard as it Pertains to Pay Requirements of NG Technician Program**
- **Develops and Conducts an Education Program for NG Military Technician Pay to Develop a Highly Competent Corps of Human Resource Specialist Nationwide to Assist TAGs and Line Managers in Ensuring the Most Effective and Efficient use of NG Technicians to Accomplish the Guard Mission**
- **Coordinates National Guard Participation in Federal Wage Surveys**

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CLASSIFICATION AND POSITION MANAGEMENT

Checklist of Topic(s) Covered		
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	References:	
	NGB TPR 511; 5 CFR Part 511, etc.	

Getting Started

Purpose

The first step in **"building"** a quality workforce is to assess your overall knowledge of your organization, or Office, in which you have supervisory responsibility.

Supervisor's Role

You are responsible for maintaining a working knowledge of the mission, organizational structure, and basic functions of your work unit. You should periodically review the comprehensive organizational or strategic plan for your organization, specifically your command, work unit, and branch, before developing position descriptions and/or exercising position management. Significant changes must be coordinated with the NGB Office of Primary Responsibility (OPR).

Developing Position Descriptions

Purpose

To fulfill your organization's mission, you may need to create a new position or restructure current positions. The first step in accomplishing this task is writing a position description (PD). A PD states the major duties and responsibilities of a position. The grade, series, and title are determined by comparing the duties and responsibilities with appropriate classification standards.

Supervisor's Role

You are responsible for developing a PD, if one does not exist, and coordinating with the NGB Functional Manager/OPR) prior to forwarding the completed PD to the HRO classification specialist to classify the position. You may need to assist the classification specialist by providing additional information about the duties so that they can accurately classify the PD.

References NGB/OPM Qualification, OPM Classification Standards and NGB Classification Supplemental Guidance

You must write or prepare a new PD when . . .

- **You are creating a new position; or**
- **The duties, tasks, and responsibilities of a current position have changed to such an extent that the way the job is performed is significantly different from the existing PD.**

You do not have to write a new PD **You are recruiting, reassigning, or promoting an employee to an accurately described vacant position that is already classified; or**

- **You are increasing staffing of positions authorized on the manning document that are already described, filled, and classified (and the work is identical); or**
- **A position is transferred to another organizational element (without changes in duties, tasks, or responsibilities); or (NOTE: Supervisory positions will need to be reviewed)**
- **PD addendums/amendments are used when additional duties assigned are not substantive enough to require a new position description.**

If you must prepare or write a PD . . .

You should first see if a similar classified position exists. Review the PDs in the HRO position classification PD library or contact your Classification Specialist for assistance. If a similar PD exists and it adequately describes the duties and responsibilities of the position you need, use this PD. Otherwise, use the PD as a model and modify it to your individual position needs and submit it to the HRO Classification Specialist for approval. Similar PDs can usually be found.

A PD may take many forms, depending on the nature of the position and the types of duties. There are four different formats:

- **Supervisory or Managerial (General Schedule)**
- **Factor Evaluation System (General Schedule)**
- **Narrative (General Schedule)**
- **Federal Wage System**

If you are not sure which type of PD must be written for the position you are creating, contact your HRO Classification Specialist.

REMEMBER…

POSITIONS are classified not PEOPLE!

Position Management

Purpose

Structures and positions should be organized in the most effective, efficient, and economical manner to efficiently and effectively achieve the mission and goals of the organization consistent with applicable laws, regulations and directives.

Supervisor's Role

You are responsible for determining how work will be organized and assigned to individual jobs and groups of positions within your work unit.

You evaluate the effectiveness of positions and organizational structure when . . .

- **You identify core processes for the organization.**
- **You measure the mission-oriented work performed by the unit and investigate improvements.**
- **You monitor human resource investments, that is, the number, grade level, training costs, and turnover rates of positions.**
- **You monitor overall output and quality of work.**

You practice position management.

- **You streamline your organization to minimize the number of steps in a process or interfaces necessary for approval of documents or decisions.**
- **You weigh the need for a narrow or wide span of control, depending on the work being accomplished in your organization.**
- **You minimize the number of management layers.**
- **You balance work among employees.**
- **You enlarge and enrich work assignments or, alternatively, reduce the variety of duties in work assignments to maximize employee motivation.**
- **You improve clarity of assignments and eliminate fuzzy boundaries and overlap.**

You increase productivity and employee motivation when . . .

You establish organizational design goals and practice sound position management.

Reference: Technician Personnel Regulation 511

Desk Audits and Classification Appeals

Purpose

When an employee is questioning pay plan, title, series, or grade, he/she may submit a request for review of their position to the HRO. Employees also have a right to file a classification appeal. General Schedule employees may file an appeal with the Office of Personnel Management or Field Advisory Service (FAS). Federal Wage System (FWS) employees must an appeal to FAS prior to appealing to OPM. These requests may involve desk audits. A desk audit is normally requested by supervisors on their own initiative or at the request of the employee to verify the level of work being performed by the position. Employees are encouraged to request a desk audit prior to filing a classification appeal.

Supervisor's Role

Frequently, before requesting a desk audit or filing a classification appeal, the employee will discuss the position description content and classification with you. You are responsible for assigning the duties and responsibilities to positions, and you should be able to discuss the position with the employee. You may request your HRO to assist you in this discussion. If you or the employee believes a position should be reevaluated through the desk audit process, you or the employee may request the position be audited. The Classification Specialist will interview you and/or the employee to obtain information about the kind and difficulty of the employee's work. If the result of the desk audit reevaluation process is a new PD, the Classification Specialist will ask you to sign the supervisor's certification of position need and statement of work accuracy on the cover of the PD. The supervisory statement reads: "I certify that this is an accurate statement of the major duties and responsibilities of the position and its organizational relationships, and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that the information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violation of such statutes or their implementing regulations". If the position is appealed, both you and the employee will be requested to complete a statement relative to the accuracy of the position description.

General Information

- **Desk audits are normally requested prior to filing a classification appeal to verify the work being performed by the position.**
- **Appeals to OPM or FAS are routed through HRO for transmittal,**
- **General Schedule (GS) employees may appeal to either FAS or OPM.**
- **Federal Wage System (WG) employees must first appeal to FAS, before they have recourse to OPM.**

Employees may not appeal classification actions such as:

- **The content or accuracy of the official PD.**
- **The accuracy of NGB/OPM classification standards.**
- **An Agency's proposed classification decision.**
- **Classification of positions to which an employee is not officially assigned.**
- **Positions detailed or temporarily promoted to.**

POSITION REVIEW QUESTIONNAIRE
FOR
NON-SUPERVISORY POSITIONS

Your position has been identified for a position review to ensure the proper pay plan, occupational series, grade and position description are utilized correctly based on your current duties and responsibilities. This questionnaire was designed as the first step in the process of reviewing your position. Responses may be handwritten or typed.

In some cases, the written responses will be enough to make a classification decision. If an on-site review is deemed necessary, your written responses will be used to establish the focus of your review, i.e., the classification specialist will seek to clarify your responses, expand the scope of your responses, and see examples of your work.

Additional positions in the organization may require a position review if your duties and responsibilities impact and overlap those contained in other positions in the organization.

1. <u>Personal Information</u>

Name:

Full-time Unit, Function, and Location:

Telephone Number: Commercial: DSN:

Current PD Title, Series, Grade, & No.

Length of Time in This Position:

Length of Time in Branch/Section:

Military Assignment:

Military Unit:

AFSC/MOS:

2. What is the primary mission of the organizational unit?

3. List the <u>major</u> functions/duties you perform in your job. Estimate the percentage of time spent on each over a one-year period, or the amount of time in an average week or other period, whichever is more appropriate to your job.

	Functions/Duties	Percentage
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____
e.	_____	_____
f.	_____	_____
g.	_____	_____
h.	_____	_____

4. How do you see the function of your job as it relates to the activity of your agency?

5. How do you receive your assignments?

6. Who reviews and approves your work?

7. Who signs your work products?

8. What types of decisions or judgments do you make in performing your job?

9. Are you responsible for the approval of work products or official documents? (If yes, list only those documents for which you have signatory authority.)

10. What guidelines (handbook, manuals, regulation, etc.) do you use in performing your job?

11. Do you feel the guidelines you use would present any significant problems as to their interpretation to a user who lacks extensive subject matter knowledge? If so, explain why.

12. What contacts do you have with other offices within the agency, outside the agency, and what is the purpose of these contacts?

13. What do you consider the most important function(s) or aspect(s) of your job? Explain:

14. Do you supervise or oversee the work of anyone? If so, who and in what manner (List name(s), position(s) and grade(s).

15. Who performs your job when you are on leave or TDY? (Give name, position, and grade.)

16. What kind of qualifications did you have to be selected for your present job (specialized experience, skill, knowledge, training, etc?)

17. Are there any additional facts which impact on the nature and difficulty of your job?

18. How do you feel your job could be improved?

19. Do you have any classification questions you would like answered during your review?

20. Is there anything else you feel the State Classifier should know prior to completion of this review?

POSITION REVIEW QUESTIONNAIRE
FOR
SUPERVISORY POSITIONS

Your position has been identified for a position review to ensure the proper title, pay plan, occupational series, grade and position description are correct based on your current duties and responsibilities. This review questionnaire is the first step in the process of reviewing your position. Responses may be handwritten or typed.

In some cases, your responses will be sufficient to make a classification decision. If an on-site review is deemed necessary, your answers will be used to establish the focus of the review, i.e. to clarify your responses, expand the scope of your responses, and see examples of your work. The goal is to ensure your position has received a comprehensive evaluation prior to making any classification decisions.

Additional positions in the organization may be reviewed if your duties and responsibilities impact and overlap those contained in other positions in the organization.

1. <u>Personal Information</u>

Name:

Full-time Unit, Function, and Location:

Telephone Number: Commercial: DSN:

Current PD Title, Series, Grade, and Number:

Length of Time in This Position:

Length of Time in Branch/Section:

Military Assignment:

Military Unit:

AFSC/MOS:

2. What is the primary mission of the organizational unit that you supervise or manage?

3. List the names, titles, series, and grades of technicians (also include AGRs and State employees) directly under your supervision (do not include employees who are supervised by subordinate supervisors who report to you).

4. Do you utilize subordinate supervisors or work leaders for direction or surveillance of the functions or programs for which you are responsible? If the answer is yes, specify whether it is a leader and/or supervisor and also specify the programs for which he/she is responsible.

5. What percentage of your time do you spend performing the following activities?

a. Planning work to be accomplished by subordinates. _____

b. Assigning, reviewing, inspecting, etc., work of subordinates. _____

c. Evaluating work performance, counseling/advising, resolving complaints, identifying training and development needs, interviewing candidates for positions, initiating personnel actions, etc. _____

d. Performing your own technical work as a supervisor. _____

6. What do you look for when you review the work of your subordinates (i.e. technical accuracy, completeness, conformance with established policy, responsiveness, etc.)?

7. What kinds of decisions do you make on your job?

8. What contacts do you have with other offices within your agency, outside the agency, and for what purpose?

9. What kind(s) of finished product(s) are you responsible (i.e. studies, analysis, reports, correspondence, etc.)? Describe and give examples or workload statistics, as applicable.

10. To whom do you report and what kind of guidance does he/she give you for the performance of your job?

11. What guidelines (laws, regulations, policies, etc.) do you use to accomplish the work of your position?

12. What functions of a non-supervisory nature do you personally perform?

13. When you are not at your job, who assumes your responsibilities (provide name, position, and grade)?

14. What kind of qualifications did you have to be selected for your present position?

15. Are there any additional factors which impact the nature and difficulty of your job?

16. How do you feel your job could be improved?

17. Do you have any classification questions you would like answered during your review?

18. Is there anything else you feel the State Classifier should know prior to completion of this review?

Frequently Asked Questions (FAQ's)

Q: What is a standard PD?

A: A standard PD is a National Guard Bureau release description that describes duties and responsibilities performed in similar organizations (i.e. work units) throughout the ARNG/ANG National Guard.

Q: Who develops the position classification standards used to classify positions?

A: Classification standards are developed by the Office of Personnel Management (OPM); however, The National Guard Bureau, DOD, Dept of the Army (DA), and Dept of the Air Force (DAF) have developed supplemental guidance for specific work assignments.

Q: What is the Factor Evaluation System (FES)?

A: The FES is the method most often used to assign grades to non-supervisory positions under the General Schedule (GS). The FES includes nine factors common to most non-supervisory positions in GS occupations.

Q: What is a "desk audit"?

A: A desk audit is no more than a conversation or interview with the person in the job or with the supervisor of the position, or sometimes with both, usually conducted at the work location. The purpose of an audit is to gain as much information as possible about the position in order to verify details and resolve questions.

Q: When can an employee file a classification appeal?

A: An employee can file a classification appeal of their position of record at any time.

Q: Does a classification appeal affect other employee appeal or grievance rights?

A: The filing of a classification appeal does not affect any other rights or privileges the employee may have under other provisions of law or regulation.

Contact:

For more information on **classification, position management, desk audits, or classification appeals**, contact your HRO Classification Specialist.

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RECRUITMENT AND PLACEMENT

Effective Options for Filling Vacant Positions

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NGB TPR 335– Merit Promotion and Placement		

Internal Recruitment

Purpose

All excepted service Federal employees may move competitively or non-competitively within the National Guard from one Federal position to another through the Merit Promotion and Placement Program. This program provides a fair and systematic means of identifying, considering, and selecting candidates for promotions and career opportunities based on merit principles.

Responsibilities – TAG/HRO/Supervisor (Selecting Officials)/Applicant

1. **The Adjutant General is the appointing authority for the National Guard Technician Program and is the highest level of authority in the State concerning the overall application of this Merit Promotion and Placement Plan.**

2. **The Human Resources Officer (HRO) is responsible to The Adjutant General in ensuring the requirements of this Merit Promotion and Placement Plan are properly administrated. The HRO will:**

a) Develop, maintain, evaluate and revise the program as necessary.

b) Assure compliance with the program.

c) Provide training, guidance and assistance to selecting officials, managers and supervisors concerning their responsibilities under this plan.

d) Assure candidates are properly evaluated and certified for placement.

e) Maintain necessary records and reports.

3. Selecting Officials, Managers and Supervisors will:

a) Be familiar with the objectives, principles and operations of the plan.

b) When acting as selecting officials, assure final selection of applicants is made on the basis of merit and within the principles of this regulation.

c) Encourage technicians under their supervision to participate in development opportunities and apply for positions for which qualified.

d) Recommend changes to this plan to the HRO.

e) Assure technicians under their supervision who are absent (military duty, service schools, etc.) are considered for positions for which they are qualified.

f) Assist the Human Resources Office in evaluating applicants, when appropriate.

g) Have a special responsibility for insuring violations do not occur.

4. Individual Technicians are responsible for:

a) Familiarizing themselves with the operation of the Merit Promotion and Placement Plan.

b) Pursuing developmental opportunities in preparing to assume higher-level duties.

c) Assuring application forms and Official Personnel Folders (OPF's) contain accurate and current information concerning qualifications and self-development activities.

d) Arranging with their supervisors to submit applications for vacancies when temporarily absent from their positions.

Supervisor's Role

Managers have flexibility in filling vacancies, but they must exercise that flexibility within budget constraints, laws and regulations designed to ensure all placement decisions are made on the basis of merit. Regardless of how you choose the job, you must follow merit staffing rules established in regulations and any applicable labor agreements.

As a supervisor, you determine the type of positions you need to establish the best sources through which to locate quality candidates, and the most appropriate methods for filling vacancies. In addition, you will assist in developing the job analysis (i.e., identifying major duties and required knowledge, skills,

and abilities, developing the crediting plan and locating appropriate subject-matter experts to assist in the rating and ranking process).

Types of Internal Recruitment

Merit Promotion

Merit promotion is the competitive mechanism used to select current or former Federal employees for promotion or for reassignment into positions with additional promotion potential. Merit promotion, like other competitive procedures, is a systematic approach for recruitment and selection based on merit and treats applicants fairly and equitably.

Details

A detail is the temporary assignment (salary continues to be the same) of an employee to a different position or set of unclassified duties for a specified period of time. Details can be made in increments of 120 days up to 1 year or more, for any legitimate purpose (i.e., to handle unexpected workloads or specific projects, to fill in during another employee's absence, etc.). For details of more than 120 days to a higher graded position or to a position with known promotion potential, the position must be announced through merit promotion procedures. (Note: A technician on a detail is expected to return to his/her regular duties at the end of the assignment. The individual on a detail is considered to be permanently occupying his/her regular position.) Refer to local labor agreements and/or merit promotion policies for additional information.

Reassignment

A reassignment is the change of an employee from one position to another without promotion or demotion. (Note: A reassignment may be mandatory or management directed if the employee non-concurs with the decision.)

Temporary Promotions

Time-limited promotions are used to fill temporary positions, accomplish project work, fill positions temporarily pending reorganization or downsizing, or meet other temporary needs for a specified period (not more than 2 years without NGB approval). Promotions more than 120 days must be made under merit promotion procedures. Advance written notice of the conditions of the time-limited promotion must be provided to the employee. (Note: Normally temp-promotions are not made unless the period is expected to last longer than 30 days. When a temp-promotion is less than 30 days, a detail is more appropriate.)

Key Staff Positions

Key staff positions are dual-status and supervisory or managerial in nature. In recognition of the importance of these positions to the overall effectiveness of the Guard and the unique military qualifications, special placement procedures for the identification and selection of candidates may be established.

These positions are exempt from the normal Merit Promotion Plan competitive procedures because of their special importance to the overall effectiveness of the National Guard.

The Adjutant General has authority to non-competitively assign military technicians in order to accommodate either an "overarching military consideration" or a military assignment at the key staff level.

External Recruitment

Purpose

Candidates from outside of the Federal Government may compete and be appointed to either a competitive or excepted civil service position through external vacancy announcements in accordance with Merit Promotion and Placement procedures.

Supervisor's Role

As a supervisor you, in consonance with the HRO staff, determine the type of position(s) you need to establish, the best source(s) through which to locate quality candidate(s), and the most appropriate method(s) for filling your vacancies. In addition, you assist in developing the job analysis (i.e., identifying major duties and required knowledge, skills, and abilities and developing the crediting plan and locating appropriate subject matter experts to assist in the rating and ranking process).

Merit Promotion and Placement

- **The policy of the National Guard is to create a stable work force and provide maximum opportunity for employee advancement. Evaluation and selection will be made on the basis of qualifications and merit without regard to race, color, religion, marital status, sex, age, or national origin. However, due consideration must be given to military status and military physical requirements for the position concerned as a condition of employment for those positions requiring military membership.**

Types of External Recruitment

Delegated Examining Authority

The U. S. Office of Personnel Management (OPM) has delegated to The Adjutant General the authority to announce, evaluate, and employ applicants for all permanent, temporary, indefinite, and term occupations that exist in Title 32, Excepted Civil Service.

Delegated Examining Program Requirements

- **Ensure adequate competition (opportunity to compete) for positions in the National Guard by recruiting adequate numbers of well-qualified candidates for consideration;**
- **Determine appropriate public notice areas and length of open period;**
- **Distribute application materials to applicants;**
- **Assess the validity of announced KSAs, rating criteria, etc.;**

- **Rate and rank applications against minimum qualification standards, including KSAs and other selective factors;**
- **Identify qualified candidates;**
- **Issue referral and selection certificates;**
- **Notify applicants of eligibility for consideration;**
- **Review the results of the selection process for conformance with the laws and regulations; and**
- **Ensure the maintenance of recruitment and placement records are consistent with OPM requirements.**

Direct Hire Authority

OPM authorizes the National Guard to use "direct hire" to employ qualified applicants for occupations in the Excepted Civil Service.

Temporary Limited Appointments

Temporary limited appointments are used to meet administrative needs such as lacking of work assignments, special projects and, backfilling a permanent technician who has been deployed or on extended leave. These appointments have specified not-to-exceed dates or ending dates.

Temporary Indefinite Appointments

Temporary indefinite employment is an excepted appointment with an indefinite time limitation that should be used when the appointment is expected to extend beyond one year. Competitive procedures must be used when filling a position on an indefinite basis. A technician must be given a 30-day written notice upon separation

How to Apply For Vacancies

The National Guard Technician Program is Federal Civil Service employment. Positions are available in the General Schedule (GS) and Federal Wage System (WG/WL/WS) areas. General Schedule positions are administrative in nature (white collar) whereas Wage Schedule positions are maintenance oriented (blue collar). Federal Technician positions have qualifications standards directed by the Office of Personnel Management (OPM) and the National Guard Bureau (NGB). These standards cannot be changed. If you are interested in applying for a job, you must "sell yourself". It is **YOUR** responsibility to prove to the Human Resources Office through your application that you qualify for a job and should receive an interview.

Basic Information Listed on Position Vacancy Announcements.

• **Vacancy Announcement number:** This number is located in the upper portion of the vacancy.

• **Closing Date:** The application must be received by close of business on this date in order to be considered for the job.
• **Position (list Title/Series/Grade)**
• **Location:** Work location.
• **Area of Consideration:** The area of consideration category consists of Area One and Area Two applicants. Area One applicants are current excepted National Guard Technicians and Area Two applicants are any persons outside the National Guard Technician Program.
• **Type of Appointment:** Excepted Service positions require military membership in the Air or Army National Guard as a condition of employment. Excepted service technicians wear the appropriate military uniform.
• **Military Requirement:** Officer and/or Warrant Officer and/or Enlisted.
• **Salary:** Range of salary for the applicable position from initial step rate to the highest step rate.
• **Qualification Requirements:** Listed in more detail below

The Application Process – Five Critical Steps.

***STEP 1:* Do your homework**.

The key to a strong package is attention to the Technician job announcement. Review the vacancy announcement carefully. You may request a copy of the Position Description for the position for which you are applying from the Human Resources Office or Remote Designee. The announcement summarizes the general and specialized experience, the minimum educational, work and licensing requirements and lists the Knowledge, Skills, and Abilities (KSAs) essential to the position. Individuals must meet the mandatory qualifications and indicate how they meet these qualifications. Failure to do so will result in the application being returned as not qualified. In order to hire you, we must be provided information on your education, work experience, and personal background. This information will be used to determine if you are qualified to apply for a technician vacancy.

***STEP 2: D*ecide how you will apply.**

+ THREE APPLICATION OPTIONS (Focusing on education and experience)
• **Option 1: Use the Optional Form 612 (OF-612).** The Application for Federal Employment OF-612 is a two-paged form with 18 questions on citizenship, veteran's preference (not applicable to National Guard technicians), experience, education and skills.
• **Option 2: Use the Standard Form 171 (SF-171).** The SF-171 form is optional.
• **Option 3: Write a Resume** – The resume should be in the basic format below and must include all information listed or the resume will be disqualified:

SAMPLE RESUME FORMAT

Announcement Number: (Example: 02-155)
Job Title and Grade: (Example: Computer Specialist)
Name: (Last name, first name, full middle name)
Military Rank:
Unit: Military Membership Status:
Other names ever used (maiden, etc):
Mailing address:
Day/Evening telephone numbers: use area codes (include pagers/cell phones)
Social Security Number:
Country of Citizenship: Date of Birth:

Federal Civil Service:

If you have prior Federal Civil Service or are a current Civil Service Employee, list the title, series, grade and inclusive dates of your highest grade held. Example: Military Personnel Technician, GS-0204-07, 11 Jan 82 – 30 Nov 83.

Education:
High School: Name, city and state of last high school attended, and year of graduation or GED
College/University: Name, city, and state, Major(s), type of degree and year granted. If no degree was earned, show number of semester or quarter hours completed.

Work experience:
Include the following information for any paid or non-paid work experience that is related to the job for which you are applying. Include your experience as a traditional Guard
member. List each job separately.
Job Title: (if Federal Civil Service, include Pay Plan, Series, and Grade)
Employer or Organization, name and address:
Supervisor's name and telephone number:
Starting and ending dates of employment:
Average number of hours per week (or month):
Current Salary:
Indicate if we may contact your current supervisor.
Job Description or Summary of Duties: Describe the work you did, skills acquired (typing, computer input, etc.) and any certifications or licenses earned (A & P, CPA, engineering certifications, etc.).

Other Qualifications:
1. Job related training courses (title and date).
2. Job related skills (other languages, computer hardware/software, tools, machinery, and typing speed).
3. Job related certificates and licenses, i.e. valid driver's license, (current only).
4. Job related honors, awards, and special accomplishments, leadership activities, public speaking, or Incentive awards, (give dates but do not send documents unless requested).
5. Job appraisal ratings for the past three years.

_____ _____
Signature and Date

Applicants must sign their resume certifying to the accuracy of all information provided. (If you make a false statement in any parts of your application, you may not be hired, or you may be fired after you begin work. Also, you may be fined or incarcerated.)
• If you are male, over age 18 and born after Dec 31, 1959, you must be registered with the Selective Service System (or have an exemption) to be eligible for a Federal job.
• If you are receiving a Federal annuity (military or civilian) your salary or annuity may be reduced if you take a Federal job.
• Also, if you take a Federal job, you must pay delinquent debts, or your agency may garnish your salary.
• Veteran's preference in hiring does not apply to the National Guard.

STEP 3: **Make sure everything is in your package.**
General and Specialized Qualification Requirements: Each position requires a minimum number of months of specialized experience (paid or unpaid) in order to be minimally qualified for the position. The experience listed will be used to determine qualifications. It is important to give a complete and detailed description of specific duties, responsibilities, and accomplishments for each position held applicable to the job. Use complete dates to indicate the amount of experience, i. e, and 12/28/00 to 4/1/02. If you held a position where you performed more than one type of work, you should estimate the percentage of time you spent performing each type of work. Use your own words to describe your work experience rather than past job descriptions. While it is important that you provide as much information about your qualifications as possible, it is equally important to keep your application free of unnecessary materials.

• **DO NOT** submit position descriptions.
• **DO NOT** submit letters of recommendation or achievement.
• **DO NOT** use appraisals or standards as proof of experience.
• **DO** list job related training courses (title and year).
• **DO** list job related skills (other languages, computer hardware/software, tools, machinery, typing speed, possess valid driver's license).
• **DO** list job-related certificates and professional licenses (current only)
• **DO** list job-related honors, awards, and special accomplishments (leadership activities, public speaking, and Incentive awards) (indicate dates but do not submit documents unless requested)
• **DO** list appraisal ratings for the past three years.
If additional space is required to complete any item on the application, a blank sheet of 8 ½ X 11 paper can be used. Remember to include your name and announcement number on each sheet.

Rating Factors – Knowledge, Skills, and Abilities (KSAs): Members who meet the general and specialized qualifications requirements will be further evaluated based on the KSAs, which are considered essential to perform the duties and responsibilities of the position. KSAs must be addressed by the applicant and must be submitted with the application in order to be considered for the position. It is recommended to complete separate sheets addressing KSAs so that the members' experience is clearly explained.
Example of KSA #1:
• Civilian experience: Enter when, where, job title, complete description of work experience that provided that KSA.
• Active duty experience: Enter when, where, job title, complete description of work experience that provided that KSA.
• National Guard traditional experience: Enter when, where, job title, complete description of work experience that provided the KSA.
Remaining KSAs (same format)

Substitution of Education for Specialized Experience: Certain positions allow for substitution of education for experience. Appropriate college transcripts must be submitted with application if specified by the vacancy announcement. However, do not include copies of Certificates of Training unless specifically requested in the vacancy announcement.

Other Qualification Requirements: If required on the vacancy announcement, applicants for the position must also list and certify other characteristics required such as engineering certifications, typing speed, valid drivers license, CDL, etc.

STEP 4: Ask another person to review your package. Utilize the checklist included in this guide (page 7).

STEP 5: Make sure you mail, fax, or hand carry your application to arrive at HRO **by the close of business on the closing date**. *Applications submitted via government fax machine or in a postage paid government mailer or envelope will not be accepted*. For questions**,** please contact your State HRO staff at any point during the application process.

Hiring Process:
Upon receipt, all applications are placed in the position vacancy announcement file. After the closing date, it will be reviewed by the Personnel Staffing Specialist to determine minimum qualifications. Qualified candidate application packages will be forwarded to the selecting official to conduct the selection process in accordance with the Merit Placement Plan and Labor-Management Contract. A review of applications will be conducted to determine qualified candidates. A personal interview may be conducted using standardized questions, and/or a Qualification Review Board (QRB) may be conducted to determine the best-qualified candidates. Applications of non-selected applicants will not be returned and will not be transferred to another vacancy file. A new application must be submitted for each vacancy announcement.

Conditions of Employment:
After an applicant is selected for a position and prior to the applicant being placed in the technician position, he or she must become a member of the Army or Air National Guard.

1. Wearing of the military uniform is required.
2. Requirement to participate in the Direct Deposit / Electronic Fund Transfer Program.
3. Applicant will not be approved for appointment until the appropriate pre-placement physical examination is completed.
4. Assignment to a compatible military position is mandatory.

Vacancy Announcement Application Checklist Check-Off Questions for Review

Neat and carefully prepared package? No binders or covers.
Is the position open to your military rank or category (officer, WO, enlisted)? (Enlisted applying for officer positions must provide evidence of eligibility – degree, age, and qualifications)
Are you within the area of consideration?
Is the job title and announcement number on your application?
If applicable, did you include your series and grade beside your job title in the WORK EXPERIENCE section? (i.e. WG-8852-10, etc.)
Clear and detailed description of duties and responsibilities?
Customized application to specific jobs rather than your entire work history?
Are all acronyms and abbreviations that are not commonly known to all audiences spelled out?
Did you address each area of the specialized experience?
Did you address all Knowledge, Skills, and Abilities (KSAs) within the application or on a separate sheet of paper with FROM and TO dates and job title (not required but recommended)?
Did you include your AFSC (Air NG) or MOS (Army NG) and drill status experience or previous military experience? (Part time, National Guard experience counts as full time experience (ex 12 drills = 1 yr experience) (From and To dates, job title, and duties for each AFSC/MOS is required.
If your experience encompassed more than one job function, did you list the percentage of time in each function?
Did you list all colleges and universities attended? (List semester or quarter hours)
Did you list dates for each period of experience? (From and To dates)
Did you list other qualifications and dates? (Incentive awards, appraisal ratings for the past three years, valid licenses, certifications, etc.)
Does your resume/application have an signature and date?
Make sure your application is received by COB on the closing date of the announcement and make copies for your records.

Job Analysis and Crediting Plans

Purpose

Rating plans are written instruments that based on a thorough job analysis are used to rate applications and distinguish highly qualified candidates from minimally qualified candidates. Rating plans identify the knowledge, skills, and abilities (KSA's) required for successful performance in a position and indicate levels of performance for each KSA. These levels are called benchmarks.

Supervisor's Role

When the HRO requires a crediting plan and is announcing a vacancy, you will serve as a subject-matter expert in analyzing positions and developing rating plans for positions in your organization. Job analysis forms and the rating plan form must be submitted with the position description for all recruitment vacancy actions.

Job Analysis and Crediting Plans Definitions…

Ability
Ability is the power to perform an activity at the present time (implied is a lack of discernible barriers, either physical or mental, to performing the activity).

Desirable KSA (knowledge, skills, and abilities)
A KSA that is considered to be desirable to effectively accomplish the mission.

Job Analysis
A job analysis is a systematic process which analyzes a position in order to determine the knowledge, skills, and abilities (KSAs) which are necessary to successfully perform the duties of the position.

Knowledge
A knowledge is an organized body of information, usually of a factual or procedural nature, which if applied, makes satisfactory performance of the job possible.

Level Definitions/Benchmarks
Level definitions are general statements, which describe progression (and differences) from one level to another (i.e., from minimally qualified to highly qualified) in terms of the common action, the object, the purpose, and/or the guidelines.

Mandatory KSA
A KSA that is considered critical to the position and is mandatory to be qualified for the job.

Operational Definitions
An operational definition is a sentence or paragraph which describes how a particular KSA will be used in a position.

Rating Factor
A rating factor is a KSA included in the rating plan which is used to distinguish highly qualified candidates from minimally qualified candidates.

Rating and Ranking Plan/Crediting Plan
A rating/crediting plan is a written instrument used to rate applications and distinguish highly qualified candidates from minimally qualified candidates. Based on a thorough job analysis, rating plans identify the KSAs required for successful performance in a position, and indicate levels of performance for KSAs which are used as benchmarks in rating applications.

Selective Placement Factor
A selective factor is a special requirement which is so essential to a position that it is made a part of the basic qualifications for that position.

Skill
A skill is the proficient manual, verbal, or mental manipulation of data or things readily measured by a performance test which indicates quantity or quality of performance (usually within an established time limit). Some desired skills may need to be current (as opposed to a skill gained in the past and not used).

Task Examples

Task examples are specific tasks which applicants may have performed and which would indicate their level of possession of a particular KSA.

Job Analysis and Crediting Plans - *cont'd*

When conducting a job analysis . . . and developing rating plans, your role is to provide subject-matter knowledge. The process of conducting job analysis and developing rating plans is detailed--a general overview is provided below. Following are the three major steps in creating rating plans and information you must provide to your HRO specialist.

1. **Identify major duties and responsibilities.** You must provide a list of all of the major duties and responsibilities (generally 4 to 6) to be performed by the person who will fill the vacancy. These duties and responsibilities will form the basis of the rating plan. This list must reflect duties and responsibilities included in the position description.

2. **Develop KSAs.** Identify as many KSAs as you can for each of the major duties and responsibilities stated in the first step.

   a) Determine how many of the KSAs are essential to performing the duties of the position.

   b) From the remaining KSAs, decide whether it will be possible to distinguish between a superior and minimal level.

   c) Combine as many KSAs as possible, so as to have not less than 4 and no more than 8.

3. **Establish benchmarks (i.e., level definitions and task examples).** Benchmarks must be defined for each KSA identified in step above, at a minimum of two levels: minimally, average, and highly qualified. You must define specific experience and specific tasks for each level. These benchmarks will ultimately be used to rate applicants and distinguish minimally qualified from highly qualified applicants.

Pay Setting Fundamentals

Purpose

Generally, pay setting is determined in accordance with the rules applicable to the pay schedule in which the position is classified (i.e., GS or WG).

General Schedule (GS)

This pay schedule covers the largest portion of Federal employees. It is based on equal pay for equal work and on comparability to salaries paid nationwide by the private sector for comparable work. The GS comprises 15 grade levels, each with 10 steps.

Federal Wage System (FWS – WG/WS/WL)

This pay schedule covers those positions engaged in trade and craft work (i.e., engine mechanics, aircraft mechanics, etc.). The rate of pay is based on the prevailing rates being paid locally by the private sector as determined by wage surveys.

Supervisor's Role

A supervisor has flexibilities in pay setting, such as Above the Minimum, Recruitment Bonus, and Retention Bonus. Applicability/requirements for these options may be discussed with HRO Staffing.

Pay Options

- **Promotion. When a GS employee is promoted, he/she is entitled to the equivalent of a two-step increase in pay; a WG employee is entitled to a 4% increase (no locality pay).**
- **Highest Previous Rate (HPR). An employee's pay may be set, for example, at a rate equivalent to the highest rate earned in prior Federal employment or at a rate based on a temporary promotion of more than one year. The applicability of HPR should be discussed with your HRO as it is a case-by-case determination.**
- **Within-Grade Increase (WIGI). A GS employee is entitled to a WIGI (i.e., equivalent to a one-step increase) after the established waiting period if the employee's supervisor certifies to an acceptable level of competence. A Federal Wage System (i.e., WG) employee also receives a WIGI, but the waiting period is different than for GS employees. These waiting periods and other criteria for a WIGI are illustrated below.**
- **Premium Pay. This is compensation paid to an employee for work performed during the normal work schedule when required. Premium pay would include holiday, and night differential. A supervisor must ensure this work is planned, and performed only when necessary. Criteria for the various types of premium pay differ and must be discussed with your HRO Employee Relations Specialist (ERS).**
- **Fair Labor Standards Act (FLSA). This Act generally does not apply to National Guard technicians. The Technician Act is the governing standard. FLSA POC is HRO/ERS.**

Special Salary Rates

Employees in certain occupations that have documented recruitment and retention problems may be authorized a special salary rate. A special salary rate may be for a particular grade level(s) of an occupation and/or a particular geographic area. Depending on the coverage of the special salary rate, this rate will be above the GS rates of compensation. In the National Guard, special salary rates are authorized for occupations such as computer specialist, engineers and pilots.

Differential Pay Rates

Night Differential Pay

Night differential rates are paid to both WG and GS technicians.

1. WG technicians are paid a 7½ percent differential when the majority of the hours of the scheduled shift are between 1500 and 2400 hours. A 10 percent differential is paid when the majority of the hours of the scheduled shift are between 2300 and 0800 hours. The differential is paid for all hours of the shift.

2. GS technicians are paid night differential of 10 percent for all hours scheduled after 1800 and before 0600 hours. The differential is paid only for the hours worked in this time span and not for the entire shift.

Environmental Differential Pay

WG technicians exposed to various degrees of hazard, physical hardship or other unusual working conditions in the performance of their duties may be authorized Environmental Differential Pay (EDP) in accordance with established regulations. Requests for determination of eligibility for EDP are submitted to the HRO Classification Specialist.
Compensation Management - *cont'd*

Hazardous Duty Pay

GS employees may be paid hazardous duty pay (HDP) only for a duty included in official listings of irregular or intermittent hazardous duties involving physical hardship. A differential may not be paid to a technician for duty listed when the duty has been credited in the classification of the technician's position. Requests for hazardous duty pay are submitted through supervisory channels for committee review and final approval by the HRO.

Within-Grade Increase Applicability Chart				
GS			WG	
Steps 2/3/4	52 Weeks Each		Step 2	26 Weeks
Steps 5/6/7	104 Weeks Each		Step 3	78 Weeks
Steps 8/9/10	156 Weeks Each		Step 4	104 Weeks
			Step 5	104 Weeks

Recruitment Tools and Pay Incentives

Purpose

Recruitment tools and pay incentives are used to attract a variety of applicants and, hopefully the best applicant for the position, especially for shortage categories and hard-to-fill positions.

Supervisor's Role

The supervisor should use knowledge of the position and previous recruiting history to determine if any of these tools and pay incentives would be useful in attracting the right applicant. Also, the supervisor is responsible for preparing the appropriate documentation justifying the request.

Appointment At Above the Minimum Rate

Generally, new civil service employees (or a person reinstated to the competitive civil service after a "break in service" of 90 days or more) are appointed at the first step of the General Schedule grade range. However, when a person possesses clearly superior qualifications or his/her skills match a special need of the Agency, an appointment may be made above this first step.

Officials must give due consideration to the following circumstances when preparing justifications for such requests:

- **Recruitment: The nature and extent of recruitment to fill the competitive or excepted service position.**
- **Availability of Candidates: The availability of highly qualified candidates.**
- **Existing Compensation: The current salary and benefits of the desired candidate.**
- **Competing Offers: Any bona fide and confirmed competing offers of employment.**
- **Recruitment Bonus: The possibility of using a recruitment bonus in lieu of an appointment at an above the minimum rate.**

****Appointments made at above the minimum rate must be approved by HRO prior to the effective date of the appointment.***

Recruitment Bonus

When recruiting for positions that are difficult to fill, selecting officials may recommend through the HRO, the use of a recruitment bonus. Recruitment bonuses are a one-time, lump-sum payment of up to 25 percent of the candidate's **basic pay (before other pay such as locality pay is added).**

A recruitment bonus . . . may be paid in lieu of, or in conjunction with, an appointment above the minimum rate. A recruitment bonus may be paid to a new Federal employee or after a ***"break in***

service" of at least 90 days. The following factors must be considered when determining whether or not to approve a recruitment bonus:

- **Qualifications: Any special qualifications needed.**
- **Recruitment History: Success of recent efforts to recruit for similar positions.**
- **Turnover: Recent turnover in similar positions.**
- **Labor Market: Other labor market factors that affect the ability to recruit for the position.**

Appointments of one year or more require a minimum one-year service agreement. Recruitment bonuses are set at the minimum percentage required to obtain the services of a candidate. The HRO retains the authority to approve recruitment bonuses.

Relocation Bonus

A relocation bonus of up to 25 percent of a current employee's basic pay (before other pay such as locality pay is added) may be paid as an inducement to ensure his/her acceptance of a position in a different commuting area. Relocation bonuses are only appropriate when it is determined that the Agency would have difficulty filling the position if a relocation bonus were not offered.

Relocation bonuses are normally only offered in conjunction with a permanent change of duty station. However, in rare instances, they may be offered to fill a temporary assignment. In both cases, a service agreement is required: a minimum one-year service agreement is required for a permanent relocation, and a minimum six-month service agreement is required for an assignment of limited duration.

The payment of a relocation bonus must be justified and fully documented. The same considerations apply to a relocation bonus that applies to a recruitment bonus (see previous page). Relocation bonuses are only payable after an employee has relocated and established a residence. Also, the approval process is identical to that used in recruitment bonuses.

Retention Allowance

In unique situations, a current Federal employee may be paid a retention allowance of up to 25 percent of his/her basic pay (before other pay such as locality pay is added). Such a payment may be authorized when it is determined that a current employee possesses unusually high or unique qualifications or there exists within the Agency a special need for the employee's service, and it is believed that the employee would leave the Federal service if a retention allowance were not provided.

However, before a retention allowance may be authorized, it must also be determined the employee's departure would affect the Agency's ability to carry out an activity or perform a function that is essential to its mission.

- **A retention allowance may . . . not be initiated during a period of employment covered by a service agreement required in conjunction with either a recruitment or relocation bonus.**
- **Before a retention allowance may be authorized, . . . consideration must be given to the success of recent recruitment efforts for similar positions, the availability of a replacement employee, the employee's specialized skills and/or role in the program, and the value of any competing employment offer.**
- **A retention allowance is . . . calculated as a percentage of an employee's basic pay and is paid at an hourly rate.**
- **The approval process for a retention allowance is . . . the same as described for recruitment bonuses. Retention allowances must be reviewed, justified, and approved annually.**

Interviewing Techniques and Principles

Purpose

The interview process is a continuation of the examining process. To hire the best person for any job, it is recommended candidates be interviewed in accordance with TPR 335 even though interviews are not required when using the Qualifications Review Board (QRB) method. A face-to-face interview is preferred; however, under certain circumstances, a telephone interview may be used. The interview normally takes place after the supervisor has been given a list of best qualified candidates for a vacancy.

Supervisor's Role

The supervisor must determine the most appropriate qualified person to fill the vacancy by conducting an interview to confirm and assess the person's knowledge/skills/abilities related to the vacancy. The supervisor makes a recommendation to the Selecting Official who makes a final selection and forwards to the HRO Staffing Specialist. The Staffing Specialist will review the selection and advise the Selecting Official to make the formal offer of employment to the selectee.

Outline for Planning and Conducting a Successful Interview

1. **Study the job to be filled**

   a) Job description
   b) Technical skills
   c) Physical requirements

2. **Study application material from HRO**

   a) Frequency of job changes
   b) Order of jobs held
   c) Unexplained breaks in employment
   d) Reasons for leaving past jobs

3. **Plan the course of the interview**

   a) Topics to be covered
      i) Review probable order and importance.
      ii) Prepare questions that you may use in determining applicant's qualifications.
      iii) Questions should be specific, verifiable, factual, job-related, and open ended.
      iv) Avoid hypothetical questions (unless used to access analytical abilities, etc.)
   b) Estimate length of interview. This will vary depending on:
      i) Type of position you are filling.
      ii) Number of applicants to be interviewed.
      iii) Qualifications of applicant.
      iv) Importance and complexity of job.

4. **<u>The setting</u>**

   a) Should be pleasant and comfortable.
   b) Should be conducted in private (if at all possible).
   c) Should have no interruptions (i.e., personal or telephone).
   d) Do not make candidate wait or appear rushed for time.
   e) Allow a short time period to advise candidate about the job and allow questions
   .

Interviewing techniques and principles – *cont'd*

5. **Conduct the interview**
6. Take notes but advise candidate you will do so.
7. Advise candidate when you expect to make a selection.
8. **Review interview notes and perform reference checks.**
9. **Make selection (do not notify candidate) and contact HRO Staffing.**

Legal vs. Illegal Questions When Conducting Interviews		
The following is a quick reference detailing legal and potentially discriminating interview questions		
Topic	Legal Questions	Discriminatory Questions
Family Status	Do you have any responsibilities that conflict with the job attendance or travel requirements? (Must be asked of all applicants).	Are you married? What is your spouse's name? What is your maiden name? Do you have any children? Are you pregnant? What are your child-care arrangements?
Race	None.	What is your race?
Religion	None. (You may inquire about availability for weekend work if required for the position for which you are interviewing.)	What is your religion? Which church do you attend? What are your religious holidays?
Residence	What is your address?	Do you own or rent your home? Who resides with you?
Sex	None.	Are you male or female?
Age	If hired, can you offer proof that you are at least 18 years of age?	How old are you? What is your birth date?
Arrests or Convictions of Crime	Have you ever been convicted of a crime? Felony or misdemeanor? Motor Vehicle Offences (do you have a driver's license – if required)?	Have you ever been arrested?
Citizenship or Nationality	Can you show proof of your eligibility to work in the U.S.? Are you fluent in any languages other than English? (You may ask the second question only as it relates to the job being sought.)	Where were you born? Are you a U.S. citizen? (HRO in processing will cover citizenship issues.)
Disability	Are you able to perform the essential functions of this job. (Most National Guard jobs require you to be deployable world-wide – disabilities are disqualifying militarily in most cases)	Are you disabled? What is the nature or severity of your disability?

Interviewing Pitfalls

Allowing Interruptions. If at all possible, avoid interruptions. Failure to do so will generally tell the candidate that he or she is not as important as "rush telephone calls" or intermittent "report signing" that may interfere with the interview.

Not treating candidates as individuals. When interviewing a number of candidates for a given job, a natural tendency is to begin treating everyone as if they were the same. No two people have ever been found to be alike -- each is distinctly unique in many ways.

Not providing a good first impression. Someone once said: "No one ever found a successful way of getting a second chance at making a good first impression." Your promptness will indicate the importance of being on time to your candidates. Your being late will indicate things are hectic or that being late for work might be all right, too. Try to provide a neat, quiet, and orderly environment for the interview. Be friendly and warm. Provide a good first impression of your organization to each candidate you interview.

Not listening properly. Avoid the temptation to frequently introduce your own thoughts during the interview. The applicant is not there to hear about your experiences. Remember, you have a limited period of time to learn as much as you can about each candidate, and you won't get this information if you are doing all of the talking.

Using non job-related questions. Not only can asking these questions be unlawful, but also it waste time and will not provide you with much in the way of useful, selection/decision information. You wouldn't, for example, ask about where a person was born, for generally doing so is both unlawful (potentially discriminatory because it could be a question probing ethnic origin) and in most cases, is irrelevant to your job requirements.

Arguing. An effective employment interview is not a contest. It's an important job. The interviewer who allows his or her own pride to get in the way of getting the relevant information will have to unlearn this trait.

Making promises you can't keep. If you know what the exact salary will be or what benefits your organization offers, you might want to discuss these. But never make a promise you or your organization can't keep. For example, if you can't ensure definite "advancement" will occur within a few years after hire for the job in question, don't say that "advancement will probably be involved." The candidate is very impressionable at this point and will remember such promises, however vaguely stated.

Lack of privacy and confidentiality. A closed door, a private or quiet environment, your own sensitivity… will all go a long way to assuring the candidate you will treat information he or she shares with you confidentially.

Insufficient time for each interview. Don't try to squeeze too many interviews into a limited period of time. The time you allot should be governed primarily by the complexity of the job. From forty-five minutes to an hour is considered about right by many managers for an average job of average complexity.

Taking notes. Some find it helpful to take brief notes during an interview because notes are valuable in reconstructing information after the interview. But avoid the temptation to appear as if you are taking exceptionally careful notes when a candidate is discussing something sensitive or personal. Doing so can discourage the candidate from opening up during the remainder of the interview. If something sensitive emerges, drop the pencil, and listen with interest and sincerity. If it's important, you'll recall it after the interview.

Limiting you only to questions. Use comments too. A well-placed comment can "echo" or appear to provide support for something an candidate has just said, thus encouraging him or her to further amplify on that or other issues in the interview. Using only questions to get needed information will give candidates the impression they are under "interrogation."

Improper language level. This is a judgmental area, at best; but, in general, tries to pitch your language, your questions and your comments at the level of the candidate, and the appropriate level of the job being filled. Don't speak down; don't speak up. Be natural.

Impatience. Sometimes a candidate won't go immediately in the direction you want. Be patient. Through proper use of open-ended questions, silence, and listening on your part, the interviewee will come around. Your impatience will inevitably lead to the applicant's anxiety and tenseness, as well as your own failure to get the relevant information.

"Gut" feelings. Our "gut" feelings cause us to feel generally good or generally bad about a candidate, usually because of one thing we've observed early in the interview. It can be damaging if we don't give the candidate a chance to change that impression. Strive to keep from making judgments too quickly, especially in areas where we generally have strong, personal biases, such as with a person's appearance.

INTERVIEW GUIDE – Additional National Guard Approaches…

Part I – Interviewing Techniques

Interviewers must remember that the primary goals of the interview are to obtain quality information concerning the candidate and provide factual information regarding the National Guard and the technician position for which the candidate is being interviewed.

Initial Contact. When you arrange an interview time with the candidate, be sure to advise him or her how long the process is likely to take. Ensure the candidate understands the date, time, and location of the interview.

The Interview. When properly conducted, the interview can be an effective vehicle to evaluate the candidate's understanding of the elements of the position, motivation to complete training, interpersonal skills, and clarity of speech. Perhaps even more important, the interview provides the candidate an opportunity to gain specific, detailed information regarding the position in order to make an informed career decision.

Note Taking. Advise the candidate at the beginning of the interview you will be taking notes. Avoid taking lengthy notes during the interview since the candidate might think you are not listening and may stop talking. The candidate may also become suspicious of what you are writing and become evasive. However, it is important to document the interview thoroughly because the information may be required to provide a basis for the selection or non-selection. You may find it convenient to take a few moments after completing the interview to make summary notes.

Standard Questions. Questions should be designed to solicit information to assist you in evaluating the candidate. All questions must be job related. If a checklist questionnaire is used, you should not simply go over the list of suggested questions but use them as a starting point for additional questions, depending on the candidate's responses. It is very important that the candidate be fully aware of the National Guard policies and how they might affect his or her personal life. You should talk to all candidates about the impact of National Guard requirements for travel, mobility, training, or shift work that may have an impact on their lives and families so that they can make informed decisions concerning National Guard technician careers. However, there are some questions that are inappropriate to ask anyone. Asking a candidate personal questions about family, marriage, religion, politics, or his/her personal life is an invasion of privacy and unnecessary to the job interview. Notes on appearance or

other non job-related criteria are inappropriate. Don't rush - a hurried interview only curtails communication.

Listen Attentively. Active listening will encourage the candidate to talk more freely. Don't listen without really hearing, no matter how many interviews you have been through. As one of the candidate's first impressions of National Guard management, you may be the lasting impression as well.
Interviewing techniques and principles – *cont'd*

Don't Do All the Talking. Certainly you want to impart information about the job, but don't advise the candidate of your views, opinions, and experiences. You need to gather facts and information about the candidate, as well as to tell him/her about the job.

Don't Anticipate or Interrupt. Beware of breaking off a candidate's remarks or filling in the ends of his/her sentences. You may get the wrong idea of what the candidate really meant to say.

Consider How You are Asking Questions. Use open-ended and appraisal-type questions; avoid closed-end questions which will result in short answers and burden you with the task of constantly asking questions while the candidate does little or no talking.

Don't be Adversarial or Antagonistic. An interview should not be an inquisition or a cross-examination. Questions should be direct and straightforward if your technique is abrupt or challenging, the candidate will withdraw or become defensive.

Be Considerate of the Candidate as a Human Being. Remember that you are playing a role in the candidate's life which may very will affect him or her for many years to come.

Closing the Interview. The final step in the interview process is closing. Summarize the interview with the candidate and supply any missing information. It is important the candidate understands what kind of job he or she is being considered for and what kind of environment he or she may be working in. The candidate should be given a final opportunity to ask questions at this time. Close the interview by thanking the candidate, giving him or her the office address and telephone number, summarizing what will happen next, and giving an approximate time frame in which a decision will be made.

PART II – Interview Criteria

Upon receipt of a selection and referral certificate, interview candidates for selection consideration. The Selecting Official or recommending supervisor will develop and utilize an established set of interview questions, to be used in interviewing referred candidates. By using the Interview Rating Form, the selecting official or the recommending supervisor should develop questions and rate candidates using the Knowledge, Skills, and Abilities (KSA's) shown on the technician vacancy announcement. Questions should be consistent and identical for each candidate for a position.

Step 1: A prior set of interview questions should be developed for the KSA's being assessed in the interview. The questions asked in the selection interview must be carefully constructed to preclude questions and responses that do not provide information related to the ability to perform the work of the position.

Step 2: Using an interview worksheet, the selecting official or supervisor will rate each candidate on each KSA.

Step 3: The interview should be considered in combination with other evaluation methods to identify the candidate best qualified based on all the evaluation criteria.

Step 4: Upon completion, interview worksheets will be forwarded with the selection package to the HRO. These worksheets will become source documents to support the selection or non-selection.

Every effort should be made to conduct each interview for a particular position with consistency, that is, each candidate for the advertised position should be interviewed using identical methods and questions.

Reference Checks

Purpose

A key component in the employee selection process is conducting reference inquiries or "checks." Reference checks are required to verify applicant's qualifications, skills, and suitability for the position.

Supervisor's Role

As a supervisor, you should be sure that appropriate reference checks are conducted before you recommend selection of a candidate. Most recommending supervisors prefer to personally conduct the checks (HRO also recommends this method). It is a good idea to use the business references (i.e., past supervisors rather than the candidate's personal references). You should check with at least two previous employers.

When conducting reference checks . . . you should contact the applicant's current (if applicant has given permission for contact) and former supervisors that are listed on the application form. The most expedient way of conducting a reference check is by telephone; this also allows you to follow up on any questions that may arise. If necessary, you can mail the form out and request that it be returned to you. The following are some key points to keep in mind when conducting reference checks:

- **Be consistent. Ask the same questions to each person you contact.**
- **Avoid any questions that may appear culturally or racially motivated. Focus only on the requirements of the job and the applicant's performance in previous jobs.**
- **Avoid any questions about the applicant's personal life. Do not ask about marital status, children, hobbies, financial status, etc.**

Security Clearances

Purpose

To ensure all persons who require access to classified information have the appropriate investigation.

The appropriate investigation . . . is driven by the sensitivity code on the PD assigned either militarily or by HRO which is derived from the duties of the position.

Supervisor’s Role

If any employee requires a security clearance, it is essential the supervisor have an understanding of the duties that require employees to have access to classified information. At times it may be necessary for a supervisor to prompt the employee to comply in a timely manner with the requirements of the security regulations.

Personnel and Position Action Definitions (for the SF 52B) - Overview

Recruit/Fill Position
When management has a vacant, established and fully funded position, it is then ready to be filled with an employee. Management submits a written request, SF-52, to the Human Resources Office (HRO). Once the HRO receives this request, the "recruitment" process begins. Once completed, a selection is made and the position is "filled."

Removal
A disciplinary separation action from Federal employment initiated by the Agency for misconduct or disqualification, or poor performance when the employee is found to be at fault. Temporary employees may be removed from work due to lack of work or lack of funds. *Misconduct* occurs when standards of conduct are broken. Misconduct can lead to disciplinary actions such as oral admonishment, written reprimand, suspension, or removal. Examples may include excessive tardiness, refusal to obey an order, fighting, theft, reporting to work while intoxicated, etc. *Disqualification* means an employee does not meet the conditions of employment, such as failure to pass the physical examination, failure to qualify during the probationary or trial period, or failure to make correct statements on the Federal application/resume.

Leave Without Pay (LWOP)
An approved type of temporary leave in which the employee requests from the supervisor to be placed in a non-pay status. Employees may request LWOP for 80 hours or less by submitting an SF-71, Application for Leave, to the supervisor. Requests for LWOP for more than 80 hours must be in writing and made a matter of record in the Official Personnel Folder (OPF) by promptly submitting a SF 52, Request for Personnel Action, to the HRO. Supervisors are responsible for submitting the proper forms to the HRO in accordance with locally established procedures. Except for employees performing military active duty, supervisors cannot place their employees in a LWOP status if annual or sick leave is available. If an employee has exhausted all of his/her annual or sick leave, the supervisor will still annotate the employee's Time & Attendance Sheet as annual/sick leave, but it will automatically revert to LWOP. Breaks in LWOP for a single period of active duty are not authorized.

Promotion
The change of an employee to a new position with a higher rate of basic pay.

Termination
A non-disciplinary separation action initiated by the Agency which results in the employee no longer being employed with the Agency due to reasons such as:

1. disability due to employee's mental or physical disability.
2. expiration of a temporary appointment that was for a certain period of time.
3. military - action when an employee enters on active duty or fails to return from a LWOP-MIL leave status.
4. abandonment where an employee does not report for work within a reasonable period of time (generally 10 calendar days).

Return to Duty
A personnel action which brings an employee back to a pay status and duty after a continuous period of furlough, suspension, LWOP, or placement into a non-pay status.

Change to Lower Grade
A personnel action, requested by the employee, who states he/she is willing to be permanently placed in another position at a lower pay grade for which fully qualified. For example, a GS-318-05 Secretary, requesting a change to a GS-04 for which fully qualified.

Retirement
A personnel action, requested by the employee, ending his/her Federal employment due to meeting requirements for retirement established by the Federal Government. There are two retirement systems employees may be covered under: the Civil Service Retirement System (CSRS) for those hired before 1 January 1984, and the Federal Employees Retirement System (FERS).

Detail
A temporary assignment of an employee to a different position for a specified period when the employee is expected to return to his/her regular duties at the end of the assignment. Details may be granted in increments of 120 days. Check local labor agreements and merit promotion plans for specifics.

Reassignment
The change of an employee from one position to another without promotion or change to lower grade. Reassignments can be voluntary or management directed if the employee non-concurs.

The reassignment could include any of the following:

1. movement to a position in a new occupational series, or to another position in the same series.
2. assignment to a position that has been redescribed as a result of a position review.
3. assignment to a position that has been redescribed due to the introduction of a new or revised classification or job grading standard.
4. change where a different salary is the result of different local prevailing wage rates.

Death
The passing away of a Federal employee.

Name Change
A personnel action generated at the employee's request due to his/her name changing for such reasons as marriage, divorce, etc.

Resignation
A personnel action, initiated by the employee to the supervisor, ending their employment with the Federal Government. A minimum of two weeks notice is desired, except in those few instances where a severe hardship would be imposed. Should it become necessary for an employee to resign while off the job, a resignation should be submitted to the supervisor by letter, if possible.

Reduction-in-Force (RIF)
RIF is a separation of an employee from his/her competitive level. Federal layoffs do occur occasionally as a result of a decrease in funds appropriated by Congress, reorganization, or a decrease in the amount of work. Large reductions are generally avoided by planning in advance and letting normal attrition take care of surplus employees. However, if early planning does not take care of surplus employees, the Agency has established RIF procedures that must be followed so that layoffs to employees will be treated fairly. RIF's will be handled by the HRO in coordination with the union

Position Establishment (also may be a cancel and establish)
Positions may be established or changed in accordance with the basic delegation of authority to an Agency to carry out specific functions of the Federal Government, which will assure assigned missions are legally and properly accomplished. Positions may be established and remain vacant if funds are not available to employ persons who would fill them or if, for other reasons, it is not considered appropriate or necessary to fill them. Before filling the position, a supervisor should ensure him/herself that funds are available for its pay and the position is properly authorized and classified. It should also be determined the position is not scheduled to be changed or abolished through reorganization or other management action.

Position Review/Desk Audit
A personnel management specialist from the HRO reviews a position to ensure the position description is adequate (duties and responsibilities properly defined) and the classification is proper. Various individuals can request position reviews: a Human Resources Specialist, a Management Official, or the employee through the supervisor or as part of an informal appeal resolution.

Cancellation
Positions which become obsolete because of changes in functions and assignments, organizations, methods and procedures, workload, or funding. Positions which have remained unfilled for an extended period of time should be abolished in the interest of good management since they can be reestablished if they are subsequently required.

Fair Labor Standards Act (FLSA)
FLSA establishes minimum wage, pay provisions, record keeping, and child labor standards affecting millions of full-time and part-time workers in the private sector, and in Federal, State, and local Governments. Excepted Service National Guard positions are covered by The Technicians Act as opposed to the Fair Labor Standards Act.

Suspension
Placement of an employee into a temporary non-pay status and non-duty status (or absence from duty) for disciplinary reason or other reasons pending an inquiry or investigation.

Guide to Preparing SF 52B*, Request for Personnel Action

PART A - Requesting Office:

1. ACTIONS REQUESTED – *See Overview for Types and Definitions*
Fill in the kind of position and/or personnel action desired (i.e. establish, review, cancel, fill, promote, etc.)

2. REQUEST NUMBER
The individual's organization SF 52 tracking/suspense system.

3. FOR ADDITIONAL INFORMATION CALL
Enter the name and telephone number of the immediate supervisor (or requesting official).

4. PROPOSED EFFECTIVE DATE
Date on which action is desired. For resignations, enter date employee selects.
NOTE: No personnel action can be made effective prior to the date an appointing officer approves the action. The proposed effective date may be delayed due to such factors as recruitment time, HRO or Higher HQ coordination time, etc.

5. ACTION REQUESTED BY
Enter name, title, date and signature of requestor. Often it is the same as Block 3.
NOTE: LEAVE BLANK on employee-requested actions.

6. ACTION AUTHORIZED BY
Enter name, title, date, and signature of person authorized to approve the personnel or position action requested.

See Figure I at the end of this section for a sample SF 52B

PART B - For Preparation of SF 50:

1. - 3. NAME/SSN/DATE OF BIRTH
If it is a personnel action, enter this data as shown on the official documents in the supervisor's employee record (i.e., SF 50). Complete all actions affecting employee.
For name change, employee should show present name under this item; show former name under Part D (Remarks).
NOTE: An employee may either use an SF 52 or letter to submit name change.

4. - 6. LEAVE BLANK *(FOR HRO USE)*

7. & 15. POSITION TITLE & NUMBER
Obtain from the Official Position Description (Titles may also be found on the Full-Time Support Personnel Manning Document - SPMD or Full-Time Unit Manning Document - UMD).
NOTE: Complete left portion (FROM) of SF 52 when requested action moves the employee from the position (i.e., separation, reassignment, promotion, etc.) to another position. Complete right portion (TO) on all other actions.

8. & 16. PAY PLAN
Obtain from the Official Position Description.

9. & 17. OCC. CODE
This is the classification series and can be obtained from the Official Position Description.

10. & 18. GRADE OR LEVEL
Obtain from the Official Position Description.

11. - 13. & 19. - 21. LEAVE BLANK *(FOR HRO USE).*

14. & 22. NAME & LOCATION OF POSITION'S ORGANIZATION
Enter MACOM installation or comparable level and lower levels as needed to identify the organization. (Abbreviations and symbols may be used if readily understood by all concerned).
NOTE: Complete left portion (FROM) of the SF 52 when requested action moves the employee from the position (i.e., separation, reassignment, promotion, etc.) to another position. Complete right portion (TO) on all other actions.

23. - 31. LEAVE BLANK *(FOR HRO USE)*.

32. WORK SCHEDULE
Use the appropriate work schedule code for this position and/or employee (i.e., "F" – Full-time (40 hrs/wk); "P" - Part-time (less than 40 hrs/wk-scheduled); "I" - Intermittent (less than 40 hrs/wk-not scheduled, etc.).

33. - 35. LEAVE BLANK *(FOR HRO USE).*

36. APPROPRIATION CODE
Enter Functional Account Code (FAC) and Program Element Code (PEC) or Paragraph and Line Number (Para/Line). These data elements are on the Full-Time Support Personnel Manning Document (SPMD), Full-Time Unit Manning Document (UMD) or Table of Distribution and Allowances (TDA) for the work center where position/employee is assigned.

37. & 38. LEAVE BLANK *(FOR HRO USE)*.

39. DUTY STATION
Enter Installation or Activity/city.

40. - 45. LEAVE BLANK *(FOR HRO USE)*.

PART C - Reviews & Approval:

LEAVE BLANK *(FOR HRO USE)*.

PART D - Remarks by Requesting Office: *ON REVERSE*

Position Sensitivity must be annotated on all SF 52s. Enter sensitivity of the position (Nonsensitive, Noncritical Sensitive, or Critical Sensitive) as shown on the Position Description Cover Page (OF-8). If requesting a change in position sensitivity, indicate "Changes sensitivity from _____ to _____."
NOTE: If establishing a new position, indicate the sensitivity required. Position sensitivity is determined by management and HRO.

If action requested is a detail or a temporary promotion, extension of detail or temporary promotion, establishment of a temporary position, or appointment of a temporary employee to a permanent or temporary position, or when a position is cancelled and a new position is established (cancel and establish), the reason for the action (justification) must be stated in this block.

PART E - Employee Resignation/Retirement: *ON REVERSE*

1. EMPLOYEE'S REASON FOR RESIGNING/RETIRING
Be specific and avoid generalizations. Remember that the reason provided will, in most cases, appear word for word on the official SF 50 Personnel Action.
NOTE: Employee uses this section to request Leave Without Pay (LWOP).

2. EFFECTIVE DATE
Effective date of a resignation, retirement, or LWOP will be at the end of the day - midnight - unless specified otherwise.

3. & 4. SIGNATURE & DATE
Self explanatory.

5. FORWARDING ADDRESS
Enter the address where the last personnel action and other documentation will be forwarded.

PART 5 - Remarks for SF 50: *ON REVERSE*

LEAVE BLANK *(FOR HRO USE)* – Except in the case of a temporary not to exceed (NTE) appointment where the employee must sign a statement of understanding (time limited).

Standard Form 52-B
Rev. 7/91
U.S. Office of Personnel Management
FPM Supp. 296-33, Subch. 3

REQUEST FOR PERSONNEL ACTION

PART A – Requesting Office *(Also complete Part B, Items 1, 7-22, 32, 33, 36 and 39.)*

1. Actions Requested	2. Request Number
3. For Additional Information Call *(Name and Telephone Number)*	4. Proposed Effective Date
5. Action Requested By *(Typed Name, Title, Signature, and Request Date)*	6. Action Authorized By *(Typed Name, Title, Signature, and Concurrence Date)*

PART B – For Preparation of SF 50 *(Use only codes in FPM Supplement 292-1. Show all dates in month-day-year order.)*

1. Name *(Last, First, Middle)*	2. Social Security Number	3. Date of Birth	4. Effective Date

FIRST ACTION		SECOND ACTION	
5-A. Code	5-B. Nature of Action	6-A. Code	6-B. Nature of Action
5-C. Code	5-D. Legal Authority	6-C. Code	6-D. Legal Authority
5-E. Code	5-F. Legal Authority	6-E. Code	6-F. Legal Authority

7. FROM: Position Title and Number	15. TO: Position Title and Number

8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary	13. Pay Basis	16. Pay Plan	17. Occ. Code	18. Grade or Level	19. Step or Rate	20. Total Salary/Award	21. Pay Basis

12A. Basic Pay	12B. Locality Adj.	12C. Adj. Basic Pay	12D. Other Pay	20A. Basic Pay	20B. Locality Adj.	20C. Adj. Basic Pay	20D. Other Pay

14. Name and Location of Position's Organization	22. Name and Location of Position's Organization

EMPLOYEE DATA

23. Veterans Preference
1 - None
2 - 5-Point
3 - 10-Point/Disability
4 - 10-Point/Compensable
5 - 10-Point/Other
6 - 10-Point/Compensable/30%

24. Tenure
0 - None
1 - Permanent
2 - Conditional
3 - Indefinite

25. Agency Use

26. Veterans Preference for RIF
YES
NO

27. FEGLI

28. Annuitant Indicator

29. Pay Rate Determinant

30. Retirement Plan

31. Service Comp. Date (Leave)

32. Work Schedule

33. Part Time Hours Per Biweekly Pay Period

POSITION DATA

34. Position Occupied
1 - Competitive Service
2 - Excepted Service
3 - SES General
4 - SES Career Reserved

35. FLSA Category
E - Exempt
N - Nonexempt

36. Appropriation Code

37. Bargaining Unit Status

38. Duty Station Code

39. Duty Station *(City – County – State or Overseas Location)*

40. Agency Data	41.	42.	43.	44.

45. Educational Level	46. Year Degree Attained	47. Academic Discipline	48. Functional Class	49. Citizenship (1 - USA 8 - Other)	50. Veterans Status	51. Supervisory Status

PART C - Reviews and Approvals *(Not to be used by requesting office.)*

1. Office/Function	Initials/Signature	Date	Office/Function	Initials/Signature	Date
A.			D.		
B.			E.		
C.			F.		

2. Approval: I certify that the information entered on this form is accurate and that the proposed action is in compliance with statutory and regulatory requirements.	Signature	Approval Date

CONTINUED ON REVERSE SIDE
52-118

OVER

Editions Prior to 7/91 Are Not Usable After 6/30/93
NSN 7540-01-333-6239
USAPPCV2.00

Figure 1 – SF-52B (Page 1-Front)

SF 52 (Reverse)

PART D – Remarks by Requesting Office

(Note to Supervisors: Do you know of additional or conflicting reasons for the employee's resignation/retirement? If "YES", please state these facts on a seperate sheet and attach to SF 52.) ☐ Yes ☐ No

PART E – Employee Resignation/Retirement

PRIVACY ACT STATEMENT

You are requested to furnish a specific reason for your resignation or retirement and a forwarding address. Your reason may be considered in any future decision regarding your re-employment in the Federal service and may also be used to determine your eligibility for unemployment compensation benefits. Your forwarding address will be used primarily to mail you copies of any documents you should have or any pay or compensation to which you are entitled.

This information is requested under authority of sections 301, 3301, and 8506 of title 5, U.S. Code. Sections 301 and 3301 authorize OPM and agencies to issue regulations with regard to employment of individuals in the Federal service and their records, while section 8506 requires agencies to furnish the specific reason for termination of Federal service to the Secretary or Labor or a State agency in connection with administration of unemployment compensation programs.

The furnishing of this information is voluntary; however, failure to provide it may result in your not receiving: (1) your copies of those documents you should have; (2) pay or other compensation due you; and (3) any unemployment compensation benefits to which you may be entitled.

1. Reason for Resignation/Retirement (NOTE: Your reasons are used in determining possible unemployment benefits. Please be specific and avoid generalizations. Your resignation/retirement is effective at the end of the day -- midnight -- unless you specify otherwise.)

2. Effective Date	3. Your Signature	4. Date Signed	5. Forwarding Address *(Number, Street, City, State, Zip Code)*

PART 5 – Remarks for SF 50

USAPPCV2.00

Figure 1 – SF-52B (Page 2-Reverse Side)

Frequently Asked Questions (FAQ's)

Q: What is meant by the term "civil service"?

A: Civil service refers to all appointive positions in the executive, judicial and legislative branches of the Federal Government, except for positions in the uniformed services. The U.S. Civil Service consists of the competitive service, **the excepted service**, and the Senior Executive Service. National Guard positions are excepted service positions under Title 32 U.S.C.

Q: How long can a supervisor detail an employee before announcing a position?

A: A supervisor may announce a vacant position at any time. While the position is vacant, it may remain unfilled or be filled on a temporary basis by either a detail or a temporary promotion. Employees may be detailed to positions at their same or lower grade in 120-day increments for as long as it is necessary (up to one year without OPM approval). Normally, when an employee is detailed to a higher graded position, the employee is temporarily promoted. When details to higher grades exceed 120-days, the detail must be announced competitively.

Q: How is it determined whether a vacancy is recruited internally or externally?

A: The HRO Staffing Specialist with the Selecting Official reviews the position recruitment historical data, the program's special or unique needs, the availability of qualified in-house candidates as opposed to other qualified candidates in a wider outside labor market, the nature and level of the position being filled, etc., and makes the determination.

Q: What is adequate public notice?

A:, OPM suggest the normal minimum open period to meet the adequate public notice requirement for an external announcement should be 5 workdays. For most positions, a 21-calendar day open period is sufficient to satisfy recruiting efforts and highly qualified applicants. It is recommended that hard-to-fill positions be advertised nationwide and on the Internet for a minimum of 30 days.

Q: How long does it take to receive an external certificate of eligibles?

A: There are a variety of factors impacting this process, such as public notice requirements, the number of series and grades being recruited, the number of applications received, ensuring public notice requirements are met, ensuring union contract requirements are met, reviewing the priority placement program and ensuring the merit promotion and placement program regulations have been met, approval of specific KSAs, assessment of the KSAs against job-related criteria, approval examining tools such as rating and ranking criteria, the rating and ranking of applications against qualification standards, and the scheduling of subject-matter-experts for qualification review boards, if applicable, etc. The rules and regulations that govern the process are quite complex. However, the goal to issue a certificate of eligibles should be no later than 30 days after the position closes.

Q: How are applicants evaluated?

A: The applications/resumes of persons applying for positions are first rated for minimum/basic qualifications. This means the applicant is evaluated in terms of whether he/she meets the criteria set forth in the NGB Qualifications Handbook for all GS and Wage Grade positions. The HRO Staffing Specialist must be satisfied the applicant has the basic or general background to perform the work of the grade level of the position described for the occupational series. If the applicant is determined not to be

basically qualified, based on the content of the application, he/she will not be considered any further. If the applicant is found to be basically qualified his or her application is then rated against the KSAs for the position. The KSAs are specific to the job itself and designated as mandatory or desirable. If an applicant is determined not to possess any of the mandatory KSAs, his/her application will not be considered any further. Applicants who do meet the mandatory KSAs may be referred to the selecting official for conduct of a qualifications review board (QRB) and/or interview. In general, the most highly qualified candidates will be referred to the selecting official for further consideration. Usage of mandatory and desirable KSAs may vary upon the recommendation received by each Selecting Official.

Q: What is veteran's preference and how does it apply to the excepted civil service?

A: Veterans preference does not apply to Title 32 excepted and competitive civil service positions. The awarding of veteran's preference points only applies to the external hiring process in the Title 5 competitive civil service.

Q: What is the role of a Subject Matter Expert (SME) in the rating process?

A: A subject matter expert (SME) is someone who is considered to be an authority/expert in a particular field. An SME's function is to assign ratings for applications during a QRB. After accepting the responsibility as an SME and performing the functions mentioned above, the SME will disassociate him/herself from further involvement in the selection process.

Q: What documents are considered confidential in the staffing process?

A: Any examining document that contains information which would not be releasable under the Freedom of Information Act or the Privacy Act. This would include, (1) rating schedules and crediting plans, (2) certificates of eligibles, (3) correspondence files, and (4) applications. Care must be taken to ensure that confidential documents and automated records are secured at all times and the access is restricted to designated employees only.

Q: What is the normal time frame to make selections on external certificates?

A: A certificate of eligibles may remain in effect sixty days from the date it is issued. No selection may be made from the certificate after the sixty days have passed. However, before the expiration date, the selecting official may request an extension for an additional 30 days. Normally, no other extensions will be granted after 90 days have elapsed from the receipt of the certificate of eligibles.

Q: Are external certificates and related applications confidential?

A: Yes. The certificates of eligibles and related documents/applications are considered confidential information. They must be maintained in a secured location and only made available to persons who are directly involved with the staffing and hiring process.

Q: What are the restrictions on employing relatives?

A: If employment of relatives is proposed, HRO will determine the options available and advise the supervisor appropriately.

Q: What should be included with the certificate of eligibles and how should selections/non-selections be annotated before the certificate is returned to HRO?

A: The names of all eligibles must be annotated with the appropriate action codes (e.g.; NS [not selected], S [selected], and BU [bargaining unit – if applicable]). Applications of all eligibles must accompany and be returned with the certificate. The certificate must be signed and dated at the bottom of the page by the Selecting Official or designee.

Pay Setting

Q: Is the pay for a first-time civil service employee always set at step 1 of the position's grade?

A: Normally, pay for an initial civil service appointment is set at step 1. However, a supervisor has the flexibility to recommend to the HRO, who is the final approval authority, a higher step through an Above the Minimum request for consideration.

Q: Are Federal Wage System (WG) employees eligible for retention allowances?

A: Yes, retention allowances may be paid to General Schedule and Federal Wage System employees.

Special Recruitment and Retention Incentives

Q: Who is responsible for initiating a request for additional compensation?

A: This is a responsibility shared by the selectee and the selecting official. The selectee is responsible for making his/her salary requirements known during the selection process or immediately thereafter, but definitely before entering on duty. The selecting official is responsible for determining the salary requirements of the selectee, assessing the relative value of the selectee in the context of the organization's requirements, and, if justified, pursuing with HRO any requisite additional compensation—**before entry on duty**.

Q: What governs the amount of salary that I can make in a given grade?

A: For positions in the General Schedule (GS), salary tables are published annually by OPM. Some Federal salaries are adjusted according to duty location and others are occupation specific. For example, an Aircraft Mechanic, WG-8852-10, in Atlanta will make more than an Aircraft Mechanic at the same grade and step will make while employed in Savannah because of location.

Q: When should a manager consider using some form of compensation enhancement?

A: The quick answer is…only when necessary. However, more specifically, you should consider some form of compensation enhancement whenever it is apparent that recruitment and/or retention will be negatively affected if such financial incentives are not used. When you know you need to consider using a financial incentive you should consult with your HRO to review your options and initiate the appropriate paper work.

Q: What is the maximum compensation an employee can receive as an enhancement?

A: Generally, up to 25% of base pay may be granted as a recruitment bonus or retention allowance for individuals and up to 10% for classes of employees. The HRO provides the final determination for the amount of retention allowance granted in each case.

Contact:

For more information on **recruitment and staffing, or special recruitment or retention incentives**, contact your HRO Staffing Specialist.

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Compensation and Benefits

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References:

TPRs 430, 451, etc., and 5 CFR part 530, 531, 532, 536, 550, etc., and The National Guard Technician Handbook.

Compensation Management

Purpose

Compensation management is a key aspect of human resources management. Knowledge of the basic rules and flexibilities will assist in the recruitment and retention of personnel.

Supervisor's Role

A supervisor may recommend to the HRO compensation levels using the various flexibilities allowed by statute and regulation.

National Security Personnel System (NSPS)

It should be noted the Fiscal Year 2004 National Defense Authorization Act provided the Department of Defense (DoD) authority to design, establish, and implement a new human resources management system for DoD civilians, known as the National Security Personnel System (NSPS). Included in this authority is the possibility of converting to a Pay-for-Performance System. The specifics of the above have not been determined. This may require substantive changes in the guidance provided herein and will result from a DoD-wide effort currently underway.

Employee Benefits

Purpose

To provide assistance to your employees, it is important to understand the various benefits offered to employees based on the type of appointment held. This section guides you regarding the different benefits available to employees.

Supervisor's Role

The availability of employee benefits is very important in both the recruitment and retention of highly qualified employees. As a supervisor, you should be aware of the various benefits offered to employees, be able to answer questions during interviews regarding the benefits available, and direct new employees to the Technician Handbook and HRO/ERS regarding benefit questions.

Health and Life Insurance

Purpose

In general, all permanent employees and employees whose appointments exceed one year are eligible for health and life insurance benefits. Both programs provide group rates and the Agency contributes a certain portion of the premium.

Supervisor's Role

As a supervisor, you should be aware the Federal Government offers health and life insurance benefits and direct any specific questions to the Human Resources Office (HRO).

Health Plans

The **Federal Employees Health Benefits Program (FEHB)** is one of the most valuable benefits of Federal employment. Over 100 heath plans are available for you to choose from. The rates of all plans have been determined by OPM, not the States, and are not negotiable. Coverage is ***not*** automatic, therefore, you must select a health plan in order to be covered.

Types of Plans

Below are examples of the types of plan offered:

Fee-for-Service (FFS) Plans (non-PPO) - A traditional type of insurance in which the health plan will either pay the medical provider directly or reimburse you after you have filed an insurance claim for each covered medical expense. When you need medical attention, you visit the doctor or hospital of your choice. This approach may be more expensive for you and require extra documentation.

Fee-for-Service (FFS) Plans with a Preferred Provider Organization (PPO) - A FFS option that allows you to see medical providers who reduce their charges to the plan; you pay less money out-of-pocket when you use a PPO provider. When you visit a PPO you usually won't have to file claims or paperwork. However, going to a PPO hospital does not guarantee PPO benefits for all services received within that hospital. For instance, lab work and radiology services from independent practitioners within the hospital may not be covered by the PPO agreement. Most networks are quite wide, but they may not have all the doctors or hospitals you want. This approach usually will save you money.

Generally enrolling in a FFS plan does not guarantee a PPO will be available in your area. PPOs have a stronger presence in some regions than others, and *in areas where there are regional PPOs, the non-PPO benefit is the standard benefit. In "PPO-only" options, you must use PPO providers to obtain benefits.*

Health Maintenance Organization (HMO) - A health plan that provides care through a network of physicians and hospitals in particular geographic or service areas. HMOs coordinate the health care service you receive and free you from completing insurance claims or being billed for covered services. Your eligibility to enroll in an HMO is determined by where you live or, for some plans, where you work. Some HMOs are affiliated with or have arrangements with HMOs in other service areas for non-emergency care if you travel or are away from home for extended periods. Plans that offer reciprocity discuss it in their brochure. HMOs limit your out-of-pocket costs to the relatively low amounts shown in the benefit brochures.

- The HMO provides a comprehensive set of services - as long as you use the doctors and hospitals affiliated with the HMO. HMOs charge a co-payment for primary physician and specialist visits and generally no deductible or coinsurance for in hospital care.

- Most HMOs ask you to choose a doctor or medical group to be your primary care physician (PCP). Your PCP provides your general medical care. In many HMOs, you must obtain authorization or a "referral" from your PCP to see other providers. The referral is a recommendation by your physician for you to be evaluated and/or treated by a different physician or medical professional. The referral ensures you see the right provider for the care most appropriate to your condition.

- Care received from a provider not in the plan's network is not covered unless its emergency care or the plan has a reciprocity arrangement.

HMO Plans Offering a Point of Service (POS) Product - In an HMO, the POS product lets you use providers who are not part of the HMO network. However, you pay more for using these non-network providers. You usually pay higher deductibles and coinsurances than you pay with a plan provider. You will also need to file a claim for reimbursement, like in a FFS plan. The HMO plan wants you to use its network of providers, but recognizes that sometimes enrollees want to choose their own provider.

Some plans are Point Of Service (POS) plans and have features similar to both FFS plans and HMOs.

Consumer-Driven Plans — Describes a wide range of approaches to provide you with more incentive to control the cost of either your health benefits or health care. You have greater freedom in spending health care dollars up to a designated amount, and you receive full coverage for in-network preventive care. In return, you assume significantly higher cost sharing expenses after you have used up the designated amount. The catastrophic limit is usually higher than those common in other plans.

Contact your HRO for additional questions regarding physicians, specialists, and hospitals with which your health plan contracts.

Leave Without Pay (LWOP) *affects employee benefits in the following manner:*

1. **Employees covered under life insurance can be on LWOP for up to one year without being liable for the premiums.**
2. **Employees covered under health insurance are liable for their premiums and are responsible for notifying the HRO of how they plan to pay their premiums while on LWOP. They can choose to pay their premiums while they are on LWOP or in a lump sum, or on a graduated scale through payroll deduction when they return to duty.**

Flexible Spending Accounts (FSA)

Purpose

Flexible Spending Accounts are tax-qualified program based on the guidelines in sections 105,125, and 129 of the Internal Revenue Code. There are two types of qualified plans under FSA; Health Care and Dependent Care.

- A **Health Care FSA (HCFSA)**, through which you may use pre-tax allotments to pay for certain health care expenses that are not reimbursed by FEHB or any other source and not claimed on your income tax return. The maximum amount you may set aside in any tax year is $3,000 and the minimum is $250.

- A **Dependent Care FSA (DCFSA)**, through which you may use pre-tax allotments to pay for eligible dependent care expenses. The maximum amount you may set aside in any tax year is $5,000 ($2,500 if you are married and filing a separate income tax return) and the minimum amount is $250.

All employee contributions to FSAs are made from pre-tax earnings, thereby increasing disposable income. There are no government contributions to the program.

Supervisor's Role

As a supervisor, you should be aware that the Federal Government offers FSA benefits and inform employees that they can reduce their taxes while paying for services they have to allocate expenses toward anyway. Inform employees that FSAs allow employees to set money aside for eligible expenses before the agency payroll deducts taxes from the paycheck. Additional questions of a technical nature should be addressed directly to the Human Resources Office (HRO).

Long-Term Care Insurance

Purpose

Long Term Care Insurance provides an important benefit that can help pay long term care expenses you may incur in the future. Long term care insurance is available for Federal employees and their parents, parents-in-law, stepparents, spouses, and adult children. In general, Long term care services are necessary diagnostic, preventative, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance and personal care services, and are required by a chronically ill individual and provided pursuant to a plan of care prescribed by a licensed health care practitioner.

Supervisor's Role

As a supervisor, you should be aware of FLTCIP, and inform employees that LTC insurance provided under the Federal Program provides reimbursement for cost of care. This reimbursement is provided when there is an inability to perform at least two Activities of Daily Living for an expected period of at least 90 days, or when there is a constant need for supervision due to a Severe Cognitive Impairment. Insurers of the Federal Program are either John Hancock Life Insurance Company or Metropolitan Life Insurance Company. The Federal Program will provide reimbursement based on the benefit portions the insured is approved for. Additional questions of a technical nature should be addressed directly to the Human Resources Office (HRO).

Retirement

Purpose

In general, all permanent employees and employees whose appointments exceed one year are eligible for retirement coverage. The Federal retirement programs provide for retirement, disability retirement, and survivor benefits. LWOP could affect these benefits.

Supervisor's Role

The importance of a good retirement system cannot be overstated. An awareness of the retirement programs can be used by the supervisor in both recruitment and retention of highly qualified employees.

When questions regarding retirement benefits arise, employees/applicants should be referred to the Technician Handbook and HRO/ERS for information.

Employee Separations

Purpose

When an employee separates from The National Guard, a Personnel Action (SF 52) request must be submitted to HRO. If the employee is resigning, he/she should submit a letter of resignation to accompany the personnel action or fill in the reverse side of the SF-52. When an employee transfers to another Agency, a personnel action must also be submitted to HRO in order to terminate the employee. ***If the SF 52 is not submitted on time to HRO, there may be a delay in the employee receiving their lump sum payment for leave and forms necessary to obtain/continue their benefits.***

When technicians are discharged from the National Guard and are then terminated from their technician position due to loss of military membership, the HRO will determine if they are eligible to retire. If not, the technician is entitled to severance pay and must be mandatory enrolled in the DoD Priority Placement Program (PPP). On the other hand, if the technician is eligible to retire, enrollment in the PPP is optional. Technical questions should be directed to the Human Resources Office (HRO),

Supervisor's Role

Supervisors should refer all employees who are leaving the Agency for any reason to the HRO Employee Relations Section to complete any necessary clearance documentation. This should be completed at least two weeks prior to separation. Questions regarding benefits should be referred to HRO/ERS.

Health and life insurance coverage . . . terminates on the last day of the pay period in which an employee separates, or the first day in non-pay status when terminated because of entering military duty. The employee is then entitled to a 31 day free extension of coverage during which time they can convert to an individual policy. Employees may apply for a refund of their retirement contributions after they have been separated for 31 days. There are other options available to employees regarding their retirement depending on the years of service and type of retirement coverage. A separation package is provided to the employee by HRO/ERS after they are notified of the separation.

Benefits for Temporary Employees

Purpose

Temporary appointments are usually made for one year or less. Generally, temporary employees are not entitled to benefits. If a temporary employee completes one year of temporary employment and is then converted to another temporary appointment, the employee is then eligible to enroll in the Federal Employee's Health Benefits program within 60 days. The employee must pay the full cost of the insurance. If the temporary employee is subsequently converted to a permanent appointment, benefits would then become available with Agency contributions toward the premium. Temporary employees will accrue annual and sick leave upon completion of 90 calendar days.

Supervisor's Role

Supervisors must be aware of any benefit options (or lack thereof) available to temporary employees. Refer any questions to HRO/ERS for clarification.

Performance Management Systems

Purpose

Performance management systems are used as tools to define expected performance and to evaluate and appraise employee and organizational performance. They are also used to make decisions concerning training, within-grade increases, promotions, and other performance-related actions.

Supervisor's Role

You have several performance management responsibilities for employees whom you directly supervise. You should work with employees to develop, implement, and update performance plans on TPR Form 430 (see "How To" section at the end of this chapter); monitor employee performance; conduct progress reviews as well as annual appraisals; and reward, recognize, or take corrective actions as appropriate.

The Performance Management System – Defined by TPR 430 – Covers:

- **Technician performance management – developing elements and standards**
- **Technician performance appraisal process – levels of performance**
- **Performance feedback sessions**
- **Performance appraisal appeals**
- **Performance Improvement Plans (PIP's)**
- **Personnel decisions based on performance**

Performance management comprises several factors. To provide accurate and fair performance appraisals, you should . . .

- **Involve employees in creating their performance plans. This includes the identification of critical and non-critical elements and performance standards. Plans should be effective during the first 30 days of the appraisal year or within the first 30 days an employee starts a new job.**
- **Identify individual job elements. A job element is a key function of a job.**
- **Identify the elements of the job that are critical. A critical element is a job function that is so important that failure to perform it successfully results in an overall unacceptable performance rating. At least 60% of the job elements must be critical.**
- **Specify measurable performance standards. They should measure quality, quantity, timeliness, and/or manner of performance.**
- **Observe and document the employee's performance throughout the year. Formal semi-annual progress reviews and annual performance appraisals are required.**
- **Complete the performance appraisal by comparing the employee's performance with the standards identified in the performance plan.**
- **Recommend and take action based on the employee's performance. Recognize good performance or develop improvement strategies for poor performance.**

Additional Considerations for Conducting Performance Feedback Sessions and Appraisals…

Conducting the Appraisal

Performance Feedback

Supervisors should frequently praise and encourage technicians who are meeting objectives, and assist technicians who are not. Supervisors should never wait until the formal performance appraisal (end of rating period) to advise a technician that performance was not acceptable. The technician should be advised of a problem as soon as the supervisor is aware of one. A supervisor may not render an unacceptable appraisal unless the technician has been provided prior notification and opportunities to improve. Performance feedback sessions may be rendered at any time and are mandatory on a semiannual basis. If a supervisor is contemplating an unacceptable rating, contact HRO/ERS.

General rules for performance feedback sessions:

- **Discuss Behavior rather than the Person**
- **Discuss Observations rather than Opinions**
- **Discuss What was Done rather than Why it was Done**
- **Discuss Behavior Related to a Specific Situation, rather than the "Here and Now"**
- **Discuss the Sharing of Ideas and Information**
- **Have or Conduct Performance Appraisal Discussions at the Appropriate Time**

Performance Appraisal Discussion

The goal of the performance appraisal discussion is a mutual understanding of actual performance results by the technician (in comparison with the supervisor's expectations as stated in the established standards) and actions for future improvement. These include specific efforts to improve performance in areas of identified weakness; to identify training and developmental activities, both short-term and long-term; to remedy deficiencies and/or expand skills and knowledge for career growth; and review job elements and performance standards to ensure currency and establish performance goals for the next year. There are four basic requirements for a successful performance appraisal discussion:

1. **Adequate Preparation**
2. **Adequate Time**
3. **Privacy**
4. **Objectivity**

Accomplishing the Official Annual Performance Appraisal

The first step for the technician's supervisor in accomplishing the official annual performance appraisal (rating) is to draft the information that will appear on the appraisal form (TPR Form 430). Next, it is a good idea for the supervisor to discuss the appraisal with the reviewer (next level supervisor) before discussing it with the technician. This will give the supervisor an opportunity to obtain input from the reviewer, who may have a different and broader perspective. This will provide a chance to settle any differences of opinion that may exist. Lastly, the supervisor should discuss the formal rating with the technician with the goals of arriving at a mutual understanding of supervisory expectations, the level of accomplishment attained by the employee, and future actions for improvement.

At this point, the supervisor should have sufficient information to provide the finishing touches to the appraisal by completing TPR Form 430. Any comments listed on the appraisal form should accurately reflect the results of the technician's performance and will be used to attain the final performance rating.

Performance Awards

Purpose

Performance awards are cash payments used to recognize an employee's successful performance measured against their performance standards. These awards are based on the employee's rating of record on their performance evaluation. Performance must be at the Excellent level or above to qualify for consideration for a performance award.

Supervisor's Role

When completing a performance appraisal for an employee, you must evaluate the employee's performance on each of the elements. In addition, you must specify a proposed rating of record, which is an overall summary rating of the employee's performance.

When you rate an employee on his/her performance plan . . .

- **you propose a rating of record;**
- **your proposed rating is then examined by the reviewing official. Upon agreement, the rating is forwarded to HRO/ERS for input; and**
- **becomes the final rating of record.**

Employees are eligible for performance awards if . . .

- **they have served at least 120 days under a performance plan for the current appraisal year; and**
- **they receive a rating of record of at least Excellent.**

Incentive Awards

Purpose

Incentive awards are used to recognize outstanding service and superior accomplishments and motivate employees and encourage good performance. Awards are granted when they are merited, regardless of an employee's grade level, level of responsibility, or type of responsibility. They may be monetary or non-monetary.

Supervisor's Role

As a supervisor, you evaluate an employee's performance both formally and informally; therefore, you are the best person to recommend an employee or group of employees for an award. Because there are a number of different forms, procedures, and time lines for the different awards, you should consult awards guidance materials and/or awards contacts (ERS) when nominating employees.

Incentive awards are . . .

- **given to recognize the achievements and contributions of employees.**
- **can be monetary or non-monetary.**
- **awards are given annually, or at any time, depending on the type of award.**

When nominating employees . . .

- **keep in mind that, although rare, it is possible for an employee to receive a monetary and a non-monetary award for different aspects of the same achievement, but they may not receive more than one monetary award for the same achievement.**

Monetary Awards

The Quality Step Increase (QSI) Award . . .

- **may be granted to an individual for outstanding performance during a rating period.**
- **available only to GS Technicians.**
- **must perform in the same job and grade level for a minimum of twelve months.**
- **is not appropriate when the technician is about to receive a promotion or has received a promotion within the past twelve months.**

The Sustained Superior Performance (SSP) Award . . .

- **may be granted to an individual for excellent or higher performance during a rating period.**
- **is a monetary award in recognition of significant superior performance which clearly exceeds the technician's normal duties.**
- **may be granted in amounts ranging up to 10% depending on the performance rating of record.**
- **the supervisor may recommend an amount, however, the State Incentive Awards Committee determines the final amount.**

The Special Act or Service Award . . .

- **is granted to an individual or group of individuals for a special accomplishment.**
- **may also be for an act of heroism or one time special act or service.**
- **recognizes performance that differs from or exceeds normal duties.**
- **amount is based on the benefits to the Government.**

The On-the-Spot (OTS) Cash Award . . .

- **is a type of Special Act or Service Award designed to promote productivity and creativity and to provide immediate recognition to employees who have made a notable contribution on individual tasks or assignments.**
- **OTS cash awards may range from $50 to $250 for a single award. There is no limit to the number of OTS granted as long as the total does not exceed $1,000 in a calendar year.**
- **Each OTS granted must be for unique acts and/or special accomplishments.**
- **should be initiated within 14 days after the accomplishment.**
- **should not be given when awards of greater value are merited.**

The Time Off (TO) Award . . .

- **is given to individual employees or groups in recognition of special accomplishments that might otherwise go unrewarded, without loss of pay or charge to leave.**
- **up to 40 hours may be approved by the selecting official; awards in excess of 40 hours must be forwarded to the State Incentive Awards Committee.**
- **is limited to 80 hours per leave year per employee.**
- **should not be given when awards of greater value are merited.**

The Suggestion Award . . .

- **may be given when an employee's suggestion is adopted and results in tangible or intangible benefits to the Government.**

⇨ **<u>Suggestions must meet several criteria such as</u> . . .**

- **the suggestion normally should be outside the suggester's job responsibilities.**
- **generally must be submitted in writing within 90 days after the date the suggestion form is signed. See TPR 451 and HRO/ERS for guidance**
- **involves a proposal that is original to the National Guard as a whole.**

The Invention Award . . .

- **may be given for each patent application filed and each patent issued.**
- **is in the amount of $100 for each application filed.**
- **is in the amount of $300 for each patent issued.**

Non-monetary Awards

Length of Service Awards . . .

- **Technicians are awarded certificates and emblems as they reach milestones of Federal Service (5-year increments after 10-years creditable service up to and including 50 years).**
- **this award should be presented as soon as the technician attains eligibility.**

Other Honorary Awards and Methods of Recognition . . .

- **The Presidents Award for Distinguished Federal Civilian Service**
- **Department of Defense Distinguished Civilian Service Award**
- **Decoration for Exceptional Civilian Service**
- **Meritorious Civilian Service Award**
- **Presidential Recognition Program**
- **Certificates of Achievement**
- **Memoranda of Appreciation, etc.**

Contact:

This Incentive Awards list is inconclusive and there may be supplementary awards that are special military and/or State specific in nature. For more information on **awards,** contact your HRO Incentive Award Manager.

Workers' Compensation

Purpose

The Federal Employees' Compensation Act (FECA) provides monetary compensation to employees for lost time due to diseases or injuries that result from employment with the Federal Government. The Office of Workers' Compensation Programs (OWCP), Department of Labor, is the organization that adjudicates Workers' Compensation claims.

Supervisor's Role

As a supervisor, you are responsible for electronically completing the supervisor's portion of the CA-1 or CA-2 claim form in a timely manner. You should also review the employee's statements for accuracy and provide a complete response to the claim to assist the Department of Labor to determine the Government's liability and appropriate action on the claim. Supervisors should contact their OWCP Specialist in the Human Resources Office (HRO) for information on workers' compensation claims and guidance on the automated version of submitting and tracking OWCP claims.

Traumatic Injury

Purpose

All instances of traumatic injury must be documented. A traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable as to the time and place it occurred and the function of the body it affects. It must be caused by a specific event or incident or series of events or incidents within a single day or work shift. Examples are cuts, sprains, or broken bones suffered as a result of an on-the-job accident or injury.

Supervisor's Role

Form CA-1, "Federal Employees' Notice of Traumatic Injury and Claim for Continuation of pay/Compensation", should be used when a traumatic injury occurs. The completed CA-1 must be completed immediately upon injury or immediately after report by the employee and submitted to the HRO OWCP as soon as possible. If you have any reason to think that the injury in question is not work-related or did not happen as the employee stated, you should contact the **OWCP Specialist** as soon as you receive the form from the employee.

If an employee's disability extends beyond 45 days . . .

- **The employee is entitled to file for compensation for wage loss. After the 30th day of Continuation Of Pay (COP), you should provide the employee with Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease." The employee then submits the CA-7, along with medical documentation that substantiates all of the time off from work, to the HRO OWCP Specialist.**
- **The CA-7 should be submitted no later that the 40th day of COP to avoid an interruption between the end of the COP period and the beginning of compensation. Employees who have no dependents are paid compensation at the rate of 66 2/3% of their regular pay, and employees who have dependents are paid compensation at the rate of 75% of their regular pay. Please see the next section for a detailed discussion of COP.**

Continuation of Pay

Purpose

When an employee experiences a traumatic injury on the job, he/she could be entitled to Continuation of Pay (COP), which continues regular salary for up to 45 calendar days (including weekends and holidays). COP is provided to eliminate any interruption of an employee's income as the result of a traumatic injury. Employees claiming an occupational disease are not eligible for COP.

Supervisor's Role

As a supervisor, you must ensure the employee submits the proper medical documentation to support approval of COP. You should also monitor your employee's use of COP to ensure each day of COP is medically documented.

Special Note!

Fraudulent claims are investigated by Federal Police from the Department of Labor and prosecuted in Federal courts by the U.S. Attorney's Office.

To be eligible for COP . . .

The employee must file Form CA-1 within 30 days of the injury. When an employee uses COP, you should:

- **The CA-1 should be electronically filed with OWCP within 14 days to ensure benefit consideration.**
- **Charge COP in one-day increments even when the absence from work (due to the injury) is less than eight hours.**
- **Charge COP on the day following the date of injury when there is immediate time loss. The date of injury is not charged to COP.**
- **Charge excused absence administrative leave on the day of the injury if the injury occurred during the official work day and immediate time loss occurred.**
- **Ensure a leave correction is submitted if the employee uses COP and the claim is denied. The employee may use sick leave, annual leave, leave without pay, etc., to replace the time charged to COP.**
- **Ensure medical documentation is provided to justify each day that the employee is absent from work, regardless of whether the employee has chosen to take annual leave, sick leave, COP, etc. You should also ensure that the medical documentation is adequate to justify each time the employee is absent.**
- **Be aware COP may be used up to 45 days. If after 45 days the employee is still unable to resume normal work, he/she may use annual or sick leave or file a claim of Compensation for Wage Loss.**

Light Duty

Purpose

When possible, assigning an employee to light duty is a modification of the injured employee's regular duties. Light duty is assigned to accommodate the employee's physical limitations. By assigning light duty, you can return the employee to work as soon as possible without causing a safety threat to the employee, to others who may be working with the employee, or to Government equipment or property. You also save the Government the expense of paying an employee who is not at work.

Supervisor's Role

It is your responsibility to offer the employee light duty if it is appropriate. Based on the medical documentation, the mission, the employee's assignments and work conditions may be restructured and light duty may be offered.

You should offer light duty to an employee when . . .

The nature of the disability and the assigned mission allows the employee to continue to perform some of their duties. The following are some brief guidelines for offering light duty:

1. **Complete the front of Form CA-17, stating the usual physical requirements of the position. Attach a copy of the employee's position description.**
2. **Forward this form to the employee's attending physician.**
3. **The physician must complete the reverse of the form, stating which of the duties and/or tasks the employee can or cannot perform. The physician must then return the form to you.**
4. **An offer of light duty work may be made by telephone but must be confirmed in writing in order to be valid. It should include a description of the duties and requirements of the offered position.**
5. **If a personnel action is involved, the employee must be furnished with a copy before the effective date.**

Medical Documentation

Purpose

When an employee seeks compensation for a traumatic injury or occupational disease, medical documentation must be provided to substantiate the claim. Employees may see the doctor of their choice, but the documentation provided must be "prima fascia" or absolute, without any doubt. The medical documentation must show an injury or illness is directly related to employment.

Supervisor's Role

It is your responsibility to ensure the injured or ill employee provides medical documentation within 10 days of an injury**. Make it clear to the employee it is the employee's responsibility to provide all written medical documentation to process his or her claims.** Any questions concerning the validity of claims for compensation are adjudicated by OWCP. For an occupational disease or illness, give the employee two copies of the appropriate checklist, Form CA-35 A-G, for the disease or injuries claimed and explain the need for detailed information. Advise the employee to furnish supporting medical and factual information requested on the checklist.

Occupational Disease

Purpose

All instances of occupational disease must be documented. An occupational disease is defined as a condition produced in the work environment over a period longer than one workday or shift. It can result from systemic infection, repeated stress or strain, or exposure to toxins, fumes, or other continuing conditions in the work environment. Examples are carpal tunnel syndrome or asbestosis caused by the duties or work environment.

Supervisor's Role

The CA-2, "Federal Employee's Notice of Occupational Disease and Claim for Compensation," should be used when an occupational disease occurs. The CA-2 must be completed by both the employee and you, and submitted to the OWCP Specialist within three weeks from the date you receive the claim from the employee.

An employee claiming an occupational disease . . .

- ⇨ **Is not entitled to COP. However, the employee is entitled to receive the same compensation benefits as an employee who sustains a traumatic injury and can file for compensation for wage loss.**
- ⇨ **You should give the employee a Form CA-7, "Claim for Compensation on Account of Traumatic Injury or Occupational Disease." The employee then submits the CA-7, along with medical documentation that substantiates all of the time off from work, to the HRO OWCP Specialist.**
- ⇨ **The CA-7 should be submitted as soon as possible to ensure the employee's pay is not interrupted. Employees who have no dependents are paid compensation at the rate of 66 2/3% of their regular pay, and employees who have dependents are paid compensation at the rate of 75% of their regular pay.**

Sample Memoranda – Awards

NARRATIVE
FOR
QUALITY STEP INCREASE (QSI)

[Employee Name], Employee Development Specialist is nominated for a Quality Step Increase (QSI) award for outstanding service administering and advancing employee training and development programs for the [State] Department of Defense for the period [begin date] to [end date].

[Employee Name] has used his extensive employee development experience to perform in an outstanding manner over the past year as Employee Development Specialist with the [State] Department of Defense. Specifically, by and in addition to his job elements, [Employee Name] has:

- **Critical Element One – [Employee Name] developed a training management plan that was outstanding and ensured that statewide training needs were achieved. [Employee Name] supervisory and retirement course administration were outstanding as evidenced by the course critiques received. The training surveys and reports accomplished by [Employee Name] were above those required and provided timely, relevant data to NGB. The National Guard Bureau recognized [Employee Name] outstanding work by nominating him to serve on a national study team for employee development programs.**

- **Critical Element Two – [Employee Name] outstanding relationship with training sources, hotels, and conference centers has allowed for extremely smooth course administrations. Course attendees have provided laudatory comments concerning facilities that are extremely conducive to learning, user friendly, and stimulating. [Employee Name] goes above and beyond the call of duty in customer service and satisfaction.**

- **Critical Element Three – Training budgets are critical to the success of state training programs. [Employee Name] has developed budgeting systems that have allowed full utilization of training dollars and extremely accurate processing of training and travel requests. All suspense items, to include budget obligations and adjustments, are satisfied prior to the suspense date, which is noted and appreciated by USP&FO finance and NGB.**

- **Critical Element Four – [Employee Name] well-rounded human resource experience has resulted in outstanding consultation to supervisors and managers. [Employee Name] background has proven to be a great asset not only as Employee Development Specialist, but also in the areas of classification and staffing.**

[Employee Name] is an outstanding employee with a great deal to offer the National Guard in the area of Human Resources, and his high level of performance is projected to continue in the future.

I'M V. GENEROUS
COLONEL, [State] ANG
Human Resources Officer

NARRATIVE

FOR

SUSTAINED SUPERIOR PERFORMANCE

[Employee Name], HRO Labor Relations Specialist, is nominated for a Sustained Superior Performance (SSP) award in the amount of 10% for outstanding service administering and advancing labor and employee relations programs for the [State] Department of Defense for the period [begin date] to [end date].

[Employee Name] has used his extensive labor relations experience to perform in an outstanding manner during the past year he has been with the [State] Department of Defense. Specifically, by his job elements, [Employee Name] has:

- **Critical Element One – [Employee Name] drafted and gained approval for a contract extension and modification to the Merit Promotion and Placement article of the contract in an outstanding, consensus building manner, thereby preserving management's rights and avoiding further grievances over this very contentious article.**

- **Critical Element Two – [Employee Name] represented the Agency in an outstanding manner during a major Federal Labor Relations Authority (FLRA) ACT consolidation hearing in Washington D.C. [Employee Name]'s knowledge of Title 32 and its impact on Title 5 laws proved critical to the case presented by the State of (State) and was contributory to the favorable decision recently received from the Regional Director of the FLRA who ruled in favor of the State's position. The recently filed strong opposition to an ACT request for review is further evidence of [Employee Name]'s labor relations expertise and his ability to react quickly to labor relations issues affecting the DOD. [Employee Name] also represented the Agency during one arbitration during this rating period, successfully settling the complaint at no cost to the State or person affected.**

- **Critical Element Three – [Employee Name]'s expert advice and knowledge has proven to be without error during this rating period as substantiated by very positive comments to the HRO from both members of management and labor. [Employee Name]'s analysis of the contract and labor/management climate has resulted in many recommendations for improvement and advancement in labor and employee relations, most notably of which has resulted in a new contract negotiating team to enhance buy-in and support from the field. [Employee Name]'s tenure as advisor and member to the Labor/Management State Partnership Council has resulted in the completion of two regulations concerning Performance Management and Reduction-in-Force and one draft regulation covering Merit Promotion and Placement.**

- **Critical Element Four – The advisory service, outstanding briefings, and new training programs developed by [Employee Name] has been outstanding over this past year. [Employee Name] has been selected to be the Region C representative on the National Guard Labor Relations Advisory Council (LRAC) and is consulted regularly by other states in labor and employee relations matters. Some of the programs [Employee Name] developed or assisted with during this rating period have been a new Labor Relations 101, Enhanced Supervisory Training Course, Performance Management Course, Violence in the Workplace/Stress Course, to name a few. All programs of instruction given by [Employee Name] have received either excellent or outstanding critiques. [Employee Name]'s willingness to go well beyond his duties to provide assistance to other HRO staff has proven to be a great asset to the overall operation. [Employee Name]'s knowledge of and assistance with computer support and networks has been indispensable to HRO and allowed for a smooth transition when the bomb wing migrated to Windows NT.**

- **Element 5 – [Employee Name]'s knowledge of and consistent application of regulations concerning discipline and adverse actions has resulted in no challenged adverse action decisions during this rating period. Seeing the need for increased guidance in this area, [Employee Name] produced supervisory guidance and sample discipline/adverse action memoranda, which has assisted supervisors immeasurably with employee conduct issues.**

- **Element 6 – [Employee Name]'s participation and support to the Human Relations Team, drawing on his experience as a former State Equal Employment Manager (SEEM), is proof of his outstanding commitment to equal employment opportunity and diversity. [Employee Name] was instrumental in the development of the Diversity Strategic Plan and, on short notice, [Employee Name] taught the SEEM's portion of the most recent supervisors course and received outstanding critiques for his instruction.**

[Employee Name] is an outstanding employee with a great deal to offer the [State] National Guard in the area of human resources and his high level of performance is expected to continue in the future.

I'm V. Generous
COLONEL, [State] ANG
Human Resources Officer

Narrative To Accompany

Special Service Award

[Employee Name]

During the period [begin date] through [end date], to include a six-month period prior to this, [Employee Name] of the National Guard Human Resources Office (HRO) contributed substantially and immeasurably to the success of the nationwide National Guard Technician Personnel Workshop conducted in [location of event].

Specifically, [Employee Name], while maintaining his/her full-time duties in HRO, served as the NCOIC overall workshop coordinator. In addition to this overwhelming duty, [Employee Name] coordinated the banquets, evening meals, and communications support that helped to make the workshop a resounding success. [Employee Name] was called upon constantly to tackle difficult issues, which he resolved with consummate professionalism.

The final consensus and feedback at the workshop, attended by over 250 persons, found this to be the finest, most professional, well-coordinated, informative, and enjoyable National Guard Technician Personnel workshop ever presented. As result of the work of the volunteers from [volunteer's state], the National Guard Technician Personnel Office received a standing ovation from conference attendees and a special award from the National Guard Bureau Director of Technician Personnel, Col Jimmy L. Davis, Jr. The nationwide acclaim received as a result of this highly successful Technician Resources Workshop will pay dividends to NGB for many years to come.

Without a doubt, the success of this high-profile workshop, attended by dignitaries such as General Davis, Director of the National Guard Bureau, may be attributed to the high performance of volunteers such as [Employee Name]. It is an honor to present this recommendation for a Special Service Award in the amount of $1,500. [Employee Name]' substantial contributions bring great credit upon him/herself, the [Employee's State], and the National Guard Bureau.

I'm V. Generous
Colonel, [State] ARNG
Director of Technician Personnel

Narrative to Accompany 40-Hour Time-Off Award

For

[Employee Name]

During the period [begin date] through [end date], [Employee Name] demonstrated extreme selfless service and professionalism in the overall preparation of technicians for the SFOR 9 deployment to Bosnia. Her contributions included working extra hours, developing a tracking database, deployment identification and follow-up, and actual processing at remote locations throughout the state.

[Employee Name] volunteered to work on her off days to ensure the HRO/ERS section was prepared to process technicians for deployment. This seemingly simple act contributed greatly to the smooth process we have enjoyed during the actual processing.

[Employee Name], on her own initiative, developed a tracking database for deploying technicians when it was identified that several members were not showing up on any deployment list. This tracking system proved invaluable during the actual processing of the technicians.

During the period leading up to the actual processing, [Employee Name] was relentless in tracking and verifying the individuals called for mobilization. This ensured all persons identified to deploy would have accurate records and accurate processing of their Federal benefit elections.

The actual processing occurred on [specific dates] in remote locations and [Employee Name] was instrumental on the processing line. [Employee Name] used her expertise in HRO/ERS to process over 30 technicians herself with excellent comments for her customer service.

The accurate processing of over 120 technicians could not have been accomplished in such a smooth and expedient manner without the contributions of [Employee Name] and therefore, I am recommending her for a 40-hour time-off award.

I'm V. Generous
Major, [State] ARNG
Chief-Labor & Employee Relations

Sample Memoranda –
Deployment / redeployment Checklist

TECHNICIAN ELECTION CHECKLIST
(FOR TECHNICIANS ENTERING EXTENDED MILITARY ACTIVE DUTY)

*** I WANT TO BE: (Please initial your election/acknowledgement**

_____ Placed on LWOP-US, beginning _____.

_____ Separated, effective _____.

* **ANNUAL LEAVE:**

_____I have a balance of annual leave for which I would like to be paid in a lump sum.

_____I want to leave my annual leave to my credit.

_____I have annual leave that I want to use.

*** HEALTH BENEFITS:**

_____I want to terminate my FEHB effective _____.

_____I want to continue my FEHB. I understand that I can cancel at any time but it will be considered a break in coverage for retirement purposes.

_____I am entering AD in support of an authorized contingency operation, and a copy of Orders supporting the contingency operation is attached.

_____I want to pay for my FEHB on a continuing basis during my absence.

5

_____I want to incur a debt to be paid upon my return.

I understand if I continue my FEHB after the first 12 months, I will pay 102% of the cost, and it must be paid currently.

* **FEGLI:**

_____I understand if I am placed in a LWOP-US status, my FEGLI coverage will continue for 12 months with no cost to me. If I wish to carry life insurance after 12 months, I can convert to a non-group policy.

* **RETIREMENT:**

_____I understand if I am placed in a LWOP-US status, disability and death benefits continue under my retirement system.

_____I understand the military service is potentially creditable service, but I must make a deposit for that service to avoid Catch-62 (for CSRS technicians hired before 30 September 1982)
CSRS technicians hired after 1 October 1982 and FERS technicians must make the deposit in order for the service to be creditable.

If you are restored (return to the technician program within 5 years) you will have the deposit calculated in two ways. For CSRS employees, it is calculated using 7% of military base pay or 7.25% of civilian pay you would have earned, paying the lesser amount. If you are FERS, the deposit would be 3% of your military base pay or 1.05% of the civilian pay you would have earned. If you are not restored, and return to the technician program, the Title 10 active duty service is potentially creditable; however, the military deposit calculation would be made against your military base pay.

***** **THRIFT SAVINGS PLAN:**

_____I understand I will need to contact my human resource office (HRO) to make retroactive TSP contributions and elections.

_____I understand if I have a TSP loan outstanding, I should notify (HRO) in order that proper notification is forwarded to TSP.

I understand my elections

_____ _____
Signature Date

CHECKLIST FOR RETURNING FROM EXTENDED MILITARY DUTY

If you are a technician and returning from extended active duty orders in excess of 30 days, complete the following information and return this checklist to your administrative support personnel who will be responsible for ensuring the SF 52 to Return to Duty is complete.

NAME (Please Print): _____

My elections are as follows:

Initial only one option:

_____ I elect to Return to Duty and restore to my technician position effective_____.
(SF 52 Return to Duty is attached)

_____ I elect to Resign from my technician position, effective _____.
(SF 52 Resignation is attached)

Health Benefits:

_____I have been serving on a contingency operation for less than 18 months and wish to remain with my current carrier.

_____ I want to reinstate my FEHB (HRO to process SF 2810).

_____ I want to elect a different plan. I understand that I must complete a SF 2809 within 60 days of my Return to Duty Effective Date.

_____ ***I want to utilize my Tricare Transitional. I understand that it is my responsibility to complete a SF 2809 to reinstate my FEHB prior to the expiration of Tricare to avoid lapse in coverage.***

FEGLI:

_____ I understand if I have been in a LWOP status for less than 12 months, my FEGLI will continue with no cost to me for the period of LWOP.

_____ I understand if I have been in a LWOP status for more than 12 months, my FEGLI was terminated after 12 months but will be reinstated upon my Return to Duty.

Retirement:

_____ I understand the military (LWOP-US) service is potentially creditable service, but I must make an appropriate deposit for the service credit.

_____ I also understand there is a limited time during which the amount of the deposit will not be subject to interest accrual.

Thrift Savings Plan:

_____ I am unsure at this time if I want to make retroactive contributions, but understand I have **60 days** from my return to duty effective date to elect TSP/TSP retroactive contributions.

_____ Yes, I want to make retroactive contributions (Military LESs covering the period of active duty are attached).

_____ No, I do not wish to make retroactive contributions.

_____ Yes, I have a TSP Loan outstanding and wish the TSP be notified of my return to duty.

I understand my elections.

_____ _____

Signature **Date**

Home Address:

_____

Technician Performance Standards / Appraisal Sample Form

NGB HRR Form Technician Performance Elements and Standards / Performance Appraisal			
1. Form Usage: Standards (430) ☐ Appraisal (430-1) ☐ **For 430-1 - Appraisal Type = Annual ☐ Special ☐ Close-Out ☐ Detail ☐**	**2. Name:**	**3. SSN:**	
4. Job Title:	**5. Pay Plan, Occupational Series & Grade:**	**6. Organization:**	**7. Appraisal Period:** **From:** **To:**

***** Denotes a Critical Element - *Reminder: 60% or More of The Job Elements Must be Designated as Critical*

8. Element Number	**9. Element Percent**	**10. Job Elements And Task/Duty Statements** (Use * for Critical Elements)	**11. Expected Performance Standards**	**12. For Appraisal Use Only - Check Applicable Block:**		
				Does Not Meet	**Meets**	**Exceeds**

NGB HRR Form 430 **1 January 2000**

NGB HRR Form 430 – Technician Performance Elements and Standards / Performance Appraisal		
Final Page: **Page of**	**Name:**	**SSN:**

***** Denotes a Critical Element - *Reminder: 60% or More of The Job Elements Must be Designated as Critical*

Element Number	**Element Percent**	**Job Elements And Task/Duty Statements** (Use * for Critical Elements)	**Expected Performance Standards**	**For Appraisal Use Only- Check Applicable Block:**		
				Does Not Meet	**Meets**	**Exceeds**

3. Trial / Probationary Period Retention Decision: **Recommend Retention** ☐ **Do Not Recommend** ☐

14. Overall Score:	**Unacceptable – 1** ☐	**Marginal – 2** ☐	**Satisfactory – 3** ☐	**Excellent – 4** ☐	**Outstanding – 5** ☐

15. Appraiser's Comments: (*Required for any "do not recommend retention," does not meet standards or overall rating of 1,2 or 5*)

16. Technician's Comments:

17. Received semi-annual feedback? Yes _____ *No _____ (Technician must initial appropriate line)

***IF "NO" provide brief explanation (attach letter if necessary):**

18. Typed Name / Signature:	**19: Title**	**20: Date**
Appraiser:		
Technician:		
Reviewer:		

NGB HRR Form 430 - Final Page **1 January 2000**

Official Personnel Files

Purpose

Official personnel files (OPF's) contain the personnel actions and miscellaneous data associated with each employees employment history. The main types of files are the Official Personnel Folder (OPF) and, the Employee Performance File (EPF) maintained in HRO, and the Supervisors Work Folder (SWF) maintained by the supervisor.

Supervisor's Role

It is your responsibility to maintain the integrity of official personnel records under your control. A supervisor may be held personally liable for violating the confidentiality of or not safeguarding the contents of the Supervisor's Work Folder. Employees have the right to copies of any documentation contained in their personnel files or Supervisor's Work Folder. The supervisor should allow employees the opportunity to review the contents of their personnel files upon request. Employee representatives (i.e. union officials, attorneys, etc.) may not view official personnel files without the express written consent of the employee.

File/Folder Contents

Official Personnel Folder (OPF)

- **The right side of the OPF contains official documents related to the individual's employment history; these include permanent personnel actions, insurance information, and all other official documents.**
- **The left side of the OPF contains temporary and supporting documentation such as temporary promotions, name changes, disciplinary and adverse actions, and any injury records that did not result in medical care or lost time.**
- **This folder is maintained in the HRO/ERS and is property of the Office of Personnel Management.**

Employee Performance File (EPF)

This file is maintained by HRO/ERS and contains at a minimum:

- **Employee performance standards**
- **Last three performance ratings of record**
- **Any mandatory educational certification (auditors, contracting specialists, etc.). No other training certificates are authorized in the EPF.**

Supervisor's Work Folder (SWF):

The supervisor's individual work folders SHOULD contain:

- **Computer generated automated supervisor's brief and/or NGB Form 904-1 (Supervisor's record of technician employment)**
- **Current, signed/certified position description with cover sheet (OF-8)**
- **Current, signed performance standards (HRO Form 430)**
- **Last three signed performance appraisals (HRO Form 430-1)**
- **Copies of current OWCP actions (i.e. Copies of CA-1, CA-17, etc.)**
- **Letters of commendation, counseling, or reprimand covering the last appraisal period or the disposition date of the letter**
- **Optional – Performance Feedback Sheets Relating to last two appraisal periods (HRO Form 430-2)**
- **Optional – Copy of most recent SF-52 assigning person to the position**
- **Optional – Consider a leave tracking log for each individual to monitor leave balances**

The supervisor's individual work folders SHOULD NOT contain:

- **SF-50's (original should be recorded on 904-1 and given to the employee)**
- **Employee Assistance Program (EAP) documentation (private and confidential)**
- **Supervisor's personal notes – These are notes maintained by the supervisor as a separate file which has not been disclosed to any other individual (once notes are disclosed, they become a matter of record). Items in the SWF are a matter of record which the employee has a right to copy or review).**

Important Reminders:

- **It is very important the supervisor's work folders are maintained currently with emergency locator information, and all SF-50 actions are posted, up to date, with the original distributed to the employee.**
- **Documentation on performance and conduct counseling must be timely and recorded on the supervisor's brief or 904-1 and initialed/dated by the employee and the employee's representative (if applicable). The 904-1 notations may be supported with letters for the file or addendum pages if necessary.**

Frequently Asked Questions (FAQ's)

Health Insurance

Q: When and how often is Open Season conducted for health insurance?

A: Open Season for health insurance is conducted annually and announced by OPM. It is usually conducted from the middle of November through the first week of December. The effective date of an open season election is the first pay period in January.

Q: I am a new employee -- when does my health insurance become effective?

A: New employees have 60 days during which to enroll in health benefits. The effective date of the election is the first pay period following the date the election form is received in the HRO/ERS.

Q: When will I get my health insurance ID card?

A: Each insurance carrier responds differently, but usually you should receive a card within 30 days from the effective date of your enrollment…contact HRO/ERS immediately if you do not receive a card. It is highly advisable to maintain copies of the enrollment applications to provide proof of insurance during the ID card waiting period and show proof of insurance period.

Q: What if I need to go to the doctor before I get my ID card?

A: You should receive a signed copy of the SF 2809 (Enrollment Form for Health Benefits) immediately upon electing to enroll in a health benefit plan. You may use this form as proof of insurance before receiving your insurance cards.

Q: Do I have to wait until Open Season to enroll if I am not currently enrolled?

A: There are many reasons that would permit an employee to enroll in health benefits outside of an open season period; however, if your reason does not meet one of the criteria, you must wait until the Open Season. Please contact HRO/ERS for a list of reasons.

Q: When can I add my spouse to my health insurance when I get married?

A: An employee can add his/her spouse to health insurance coverage from 31 days before the marriage through 60 days after the marriage.

Q: Can my mother or father be covered under my health insurance?

A: Family members eligible for coverage under the Self and Family option include your spouse and your unmarried children, step children, and foster children under the age of 22. Other relatives, such as parents are not eligible for coverage even though they may live with you and are dependent upon you.

Life Insurance

Q: I waived my life insurance -- how can I start it now?

A: Once you have waived your life insurance, you can only enroll for the following reasons: (1) After one year has passed since your waiver, you can request the Office of Federal Employee Group Life Insurance (OFEGLI) to approve life insurance coverage, but you must complete a physical at your own expense and

submit an SF 2822, completed by the physician, to the HRO/ERS, (2) have a break in service of at least 180 days, or (3) participate in an open enrollment period which is conducted infrequently.

Q: How do I figure my basic life insurance amount?

A: Your basic insurance amount is your annual salary rounded up to the next higher thousand plus $2,000. For employees under the age of 35, this figure is multiplied by two.

Q: How often is Open Season on Life Insurance?

A: OPM determines when and if an open season will be conducted for life insurance, and they are not conducted annually like health insurance.

Retirement

Q: How does a person apply for retirement?

A: To apply for retirement, an employee should be directed to the HRO/ERS. They will provide retirement estimates, forms, and other information the employee will need for the retirement process.

Q: When is the best time to retire?

A: Voluntary Retirements: For **CSRS or CSRS-Offset** employees, the last day of the month or within the first three days of the month. For **FERS** employees, the last day of the month. **Involuntary Separations and Disability:** any day of the month.

Q: What does the supervisor need to do?

A: Generally, the supervisor is responsible for providing information for any letters/awards that will given to employees. The supervisor must also ensure a Request for Personnel Action, SF-52, is forwarded to the HRO/ERS. The supervisor should also consult with the HRO Classification Specialist concerning the procedure for filling the vacant position.

Q: How does a person apply for disability retirement?

A: To apply for disability retirement, the employee should be directed to the HRO/ERS. The Employee Relations Specialist will provide benefit information concerning eligibility and process.

Q: When is an employee eligible for disability retirement?

A: Generally, an employee must meet certain service requirements for CSRS (5 years) or FERS (18 months). The employee's physician must certify the employee is unable to perform the main functions of his/her position and the disability is expected to last at least one year.

Q: What should the supervisor do to assist the employee applying for disability retirement?

A: 1. The supervisor is responsible for ensuring the employee has submitted the necessary request and documentation to support an approved leave status while the application for disability is pending.

2. The supervisor is responsible for completing the supervisory form provided once the employee has decided to apply for disability and providing documentation concerning performance, leave use, conduct, and accommodation efforts.

3. The supervisor is responsible for ensuring that all efforts to accommodate the employee are made within the immediate work area.

Questions commonly received when recruiting NEW employees:

Q1: The prospective employee is currently participating in a 401K-Retirement Program with current employer -- can he/she transfer this fund to the Thrift Savings Plan?

A1: Under the current Thrift Savings Plan law, there is no provision to rollover a lump sum amount.

Q2: What will be deducted from the salary for retirement purposes?

A2: FERS/CSRS Offset .8% for mandatory basic retirement; 7.75% for Social Security (OASDI = 6.2% + Medicare = 1.45%). CSRS is 7% for mandatory basic retirement.

Q3: Where can the supervisor receive more detailed information concerning retirement and other benefits?

A3: The supervisor should contact the HRO/ERS for retirement information.

Performance Management Systems

Q: What is a performance plan?

A: A performance plan is the aggregation of all of an employee's written critical and non-critical elements and performance standard(s).

Q: What is a job element?

A: A job element is a distinguishable task or unit of work required by an employee's position. Job elements state the individual is major responsibilities assigned to an employee.

Q: What percentage of the assigned job elements must be designated critical?

A: At least 60% of the assigned job elements must be designated as critical (identified by percent and **"*"** on NGB forms 430, 430-1 and 430-2).

Q: What is a rating of record?

A: A rating of record is a summary rating required closing the last day of birth month following the completion of the appraisal period or at other times for special circumstances. Ordinarily, there is only one rating of record in an appraisal year. A rating of record will ordinarily reflect as many summary ratings as were made during the appraisal year.

Incentive Awards

Q: Who can initiate a Special Act or Service Award?

A: This award is normally initiated by the first level supervisor. Sometimes an official in another location will submit an award nomination. When this occurs, the nominating official must obtain concurrence from the organization where the employee works.

Q: Who can approve a Special Act or Service Award?

A: This award is generally approved by the State Incentive Awards Committee. You should consult GA HRR 451 for up-to-date guidance on incentive awards.

Workers' Compensation

Q: Can an employee who is dissatisfied with his or her medical care change physicians?

A: The employee must contact the Office of Workers' Compensation Programs (OWCP) and request authorization to change to another physician. Otherwise, OWCP will not be liable for the expenses of treatment. The employee should request any such change in writing with an explanation of the reasons for the request and forward informational copies to HRO/ERS for the OWCP file.

Q: Will an employee's health benefit plan pay medical expenses resulting from work-related injury or disease?

A: Health benefit plans have an exclusion clause regarding workers' compensation injuries, and a plan will not pay medical expenses if the insurance carrier is aware that a workers' compensation injury is involved. If the insurance carrier pays for medical expenses that are later determined to be employment related, OWCP will reimburse the insurance carrier upon submission of copies of the medical bills.

Q: What happens to my technician Federal benefits when I am called to active duty?

A: If you are on LWOP, FEGLI will continue for 12 months free. FEHB may be continued 18 months at no cost – DoD will pay both members and agency's portion provided the member is in support of the contingency operation. Employees are still covered by the retirement system and survivor benefits. Contact HRO/ERS for details.

Contact:

For more information on **compensation and benefits**, contact your HRO Employee Relations Specialist (ERS).

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QUALITY OF WORK LIFE

Checklist of Topic(s) Covered		
	Topic	**Page**
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✓	**Family Readiness Program**	**4-10**
✓	**Frequently Asked Questions (FAQ's)**	**4-11**
References:		
TPR 630, 792-2, and 5 CFR Part 610, 630, 792, The National Guard Bureau Technician Handbook, and the National Guard Family Readiness Program.		

Leave Administration Program

Purpose

Many types of leave are available to employees. Different types of leave are used for different purposes, and you must understand the similarities and differences in types of leave so that you can properly approve leave requests and time records.

Supervisor's Role

As a leave-approving official, you have the following responsibilities: ensuring your employees are informed of procedural requirements for requesting and using leave; regularly reviewing the leave records of your employees; advising your timekeeper of what type of leave to charge; and establishing leave schedules that meet operational demands and allow employees the opportunity to use leave they would otherwise forfeit.

Types of Leave – Refer to TPR 630

Annual Leave - Annual leave is earned by employees based on length of service with the Government, and is usually requested in advance. Employees carry over accrued leave from year to year up to 240 hours (for most employees). Part-time employees earn a prorated amount of annual leave. (Intermittent employees earn no sick or annual leave).

Advanced Annual Leave - Advanced annual leave may be granted for the amount of annual leave the employee will accrue from the time it is requested through the end of the current leave year.

Sick Leave - Sick leave is used for sickness; injury; pregnancy; medical, dental, or optical examinations/treatments; and for taking care of family members who are ill. Employees may use 40 hours of sick leave (plus 64 additional hours if an 80-hour balance is maintained) to care for a family member or to make arrangements for or attend the funeral of a family member. See HRO/ERS for the current definition of "Family Member." Sick leave is accumulated and can be carried over from year to year. Part-time employees earn a prorated amount of sick leave.

Advanced Sick Leave - Advanced sick leave may be granted for a period not exceeding 240 hours in cases of serious disability or illness. Advanced sick leave cannot be approved by the immediate supervisor. See HRO/ERS for details.

Absent Without Leave (AWOL) - AWOL is any absence from duty not authorized by the proper leave-approving official and may be the basis for disciplinary action. All instances of AWOL should be documented and that documentation shared with the employee involved.

Court Leave - Court leave is an excused absence that may be authorized for either jury duty or for testifying in a nonofficial capacity as a witness in certain circumstances in a State or Federal court.

Military Leave – 120 hours military leave is an authorized absence to perform active military duty, active duty for training, or law enforcement. Military leave is authorized for inactive duty training.

45 Days Military Leave – Technicians are not eligible for 44 days additional military leave for support of military duty outside of the continental United States (OCONUS – Title 10 status only, since there are no geographical limits declared on the Global War on Terrorism).

Leave Without Pay (LWOP) - LWOP is an approved absence from duty without pay. LWOP can affect an employee's waiting period for within-grade increases, in addition to health benefits, life insurance, and accrual of annual and sick leave.

In the event of LWOP-Mil on a trial-period extension, upon return or restoration, an employee is entitled to be treated as though he/she never left for the purposes of rights and responsibilities based upon the length of service. The technician must be considered for career ladder promotions. The time spent in military service will be credited for seniority, successive within-grad increases, probation, and career tenure, annual leave accrual rate and severance pay. Technicians on temporary appointments may serve out the remaining time, if any, left on the appointment. The military activation period does not extend the temporary appointment with a not to exceed date.

Excused Absence - An excused absence is absence from duty without loss of pay or charge to leave. Excused absence is often referred to as "**administrative leave**."

Compensatory Time – In lieu of overtime pay, you may be granted compensatory time. The amount of time given is equal to the amount of time worked in an overtime or irregularly scheduled work status.

Funeral Leave – Under certain conditions, to make arrangements for an immediate relative who died while serving as a member of the armed forces in a combat zone, or to participate as a pall bearer or member of a firing squad or honor guard under certain conditions. Contact HRO/ERS.

22-Days Military Leave – 22-Days military leave in a calendar year is available to technicians for the purpose of providing military aid to enforce the law or assist civil authorities (see HRO/ERS).

Special Leave Programs for Employees

Family and Medical Leave Act - Entitles an employee to 12 work weeks of LWOP (can substitute paid leave as appropriate) for a serious health condition of the employee, spouse, child, or parent, or to care for a newborn, adopted, or foster child.

Voluntary Leave Transfer Program - Allows the transfer of unused accrued annual leave to employees who need leave because of a medical emergency of either the employee or a family member once approved for participation in the leave transfer program. A qualifying medical emergency is one in which it is expected the employee will be absent from duty without available leave for at least 24 hours. Certain criteria must be met to participate as a leave recipient.

Sick Leave for Adoption - Allows the use of sick leave to cover absences related to adopting a child. Also allows the use of sick leave to cover appointments with adoption agencies, court proceedings, required related travel, and medical appointments for the child.

Leave for Bone Marrow/Organ Donor - Allows the use of up to seven days of paid excused leave (in addition to annual or sick leave) in a calendar year to cover activities related to bone marrow or organ donation.

Maternity Leave – Female technicians may charge absence for maternity reasons to a combination of sick leave, annual leave, compensatory leave, and LWOP. Employees may use sick leave when they are actually unable to perform the duties of their job as a result of their pregnancy, and while they are recovering from childbirth.

Timekeeping — Approving Time Records

Purpose

Before a time record can be processed by payroll, it must be approved by the leave-approving official. Time records that are incorrectly approved can cause errors in an employee's pay and leave. Errors in pay and/or leave always cause employee problems and should be avoided.

Supervisor's Role

As a supervisor, you, **NOT** the timekeeper, are responsible for the accuracy of the information recorded on each employee's time card. The timekeeper records the information you have indicated as being correct by your signature on the completed time record. See the box below for information on what to look for when approving a time record.

When approving a time record . . . you must verify all pay and leave hours recorded are correct and comply with all rules, regulations, and policies. You can be held accountable for any incorrect payments or leave charges. The following are some tips to consider when approving Time records:

- **A typical pay period is 80 hours. Unless the employee has begun work or separated from his/her position within the pay period, pay periods are generally 80 hours for full-time employees.**
- **If any leave was taken during the pay period, there must be an approved SF-71 on file.**
- **If any compensatory time is accrued during a pay period, there must be an approved comp time request recorded with the timekeeper.**
- **If there were any paid holidays during the pay period, they must be designated as such.**
- **Any changes to a time record should be made by the TIMEKEEPER only when approved and initialed by you.**

Timekeeping — Resolving Problems

Purpose

Because pay and leave problems can directly affect an employee's performance, errors in pay and leave must be corrected as quickly as possible. The Payroll Offices at each Wing FM and USPFO and HRO/ERS are points of contact to provide assistance and guidance in the procedures for requesting adjustments or corrections.

Supervisor's Role

As a supervisor, you will need to review the corrections to ensure the adjustments/amendments comply with OPM, NGB, DCPS and other regulations. You must be familiar with the required forms and regulations in order to provide guidance to the timekeeper on proper procedures to request corrections or adjustments.

Balancing Work and Family Programs

Purpose

The DoD places a high value on its human resources. The ability to attract and retain highly qualified and productive employees is critical to achieving our mission. That value is reflected in the many programs offered to employees that focus on balancing work and family. The following are a sample of the programs that are designed to help employees better balance work and family responsibilities:

- **Work Schedule Flexibility under certain conditions with Agency approval**
- **Employee Assistance Program**
- **DoD Family Readiness Program**
- **Leave Programs such as, Family and Medical Leave Act, Voluntary Leave Transfer Program, Sick Leave for Adoption, and Excused Leave for Bone Marrow/Organ Donor.**

Supervisor's Role

In some situations, employees may require special consideration or implementation of one of the above Programs. It is your responsibility to consider approving the usage of these programs, while complying with the policies set by the National Guard Bureau.

Employee Assistance Program (EAP)

Purpose

At one time or another, employees experience personal problems that may interfere with work performance and/or conduct, and which lower productivity and workforce morale. The Employee Assistance Program (EAP) is a voluntary, confidential program that provides access to professional counselors who can assist troubled employees return to normal work productivity and/or acceptable levels of conduct.

Supervisor's Role

As a supervisor, you should become involved when an employee's problem becomes severe enough to affect his/her work performance and/or conduct. You play a critical role in early detection of developing problems by observing and documenting deficient performance and unacceptable conduct and referring the employee to the EAP when you recognize a pattern of deterioration. You are not required, nor is it appropriate for you, to diagnose an employee's problem. Your most significant contribution is to recognize the indicators of developing problems and then encourage the employee to seek assistance through EAP.

For more detailed information on recognizing employee problems, EAP services, referring an employee to the EAP, and supervisor's do's and don'ts, see the following pages.

EAP Services

The EAP can provide employees with . . . assist for a number of problems, including financial hardship, difficult marital/family relationships, stress-related issues, alcohol or drug dependency/abuse, depression, grief, legal concerns, or medical/emotional issues.

- **Counseling** EAP counseling can take place in either an individual or a group setting. Counseling is free, and a skilled professional will provide a confidential assessment of the problem as well as on-site, short-term professional counseling. If necessary, the EAP counselor will refer the employee to a local Agency or professional for treatment. The EAP counselor will also follow up with the employee as to the treatment program and progress.
- **Consultation** An EAP counselor can consult with you, Employee Relations, EEO, the Health Unit, or the Drug Testing Program. You may also consult with an EAP counselor about an employee problem before you discuss the situation with the employee.
- **Education** The EAP can provide you and your employees with educational services, such as programs and services on stress management, managing different types of people, coping with change, weight management, and assertiveness skills. The EAP also periodically distributes information for employees.
- **Training** The EAP provides training to supervisors on how to use the program as a management tool. An orientation that explains the purpose of the program and how to use it is also provided to new employees.

Recognizing Employee Problems

Employees may experience a number of different personal problems . . . all of which may affect performance or conduct. Examples of such programs are financial difficulties, troubled marital/family relationships, stress-related issues, alcohol or drug dependency/abuse, depression, grief, legal concerns, elder- or child-care issues, and/or medical/emotional issues. The following are some warning signs an employee may be experiencing a problem.

- **Behavior**
  - Physical or verbal threats or assault
  - Inability to cooperate with others
  - Disrespectful or insubordinate conduct
  - Sleeping on the job
  - Falsification of reports, time records, etc.
  - Using/possessing alcohol or drugs at work
  - Frequent work-related injuries
  - Change in character, attitude, or appearance
  - Isolation/withdrawal from coworkers
  - Increased physical complaints/health problems
  - Theft or misuse of Government property

- **Attendance**
  - Tardiness
  - Extended lunch breaks
  - Patterns of absenteeism (i.e., Mondays or Fridays)
  - Absences from the work site
  - Frequent unscheduled leave

- **Performance**
  - Missing deadlines or needing excessive time for assignments
  - Inconsistent work quality
  - Work quality below supervisory expectations or peer average
  - Difficulty in following instructions, procedures, etc.
  - Forgetfulness, absent-mindedness, and difficulty in concentration

EAP Referrals

Employees may seek assistance from the EAP . . . on their own without you knowing contact has been made. Although employees are encouraged to take advantage of the program on their own, you may find it necessary to seek the services of the EAP when an employee exhibits deteriorating performance an/or conduct. If this occurs, a referral to the EAP is encouraged. However, it is not mandatory employees participate in the EAP after having been referred.

Whether or not the employee participates in the EAP . . . work performance and/or conduct is expected to improve. Often it will. If it does not, you may choose to seek advice from the Employee Relations staff regarding disciplinary measures available to remedy the situation. The following steps are a guide to EAP referrals:

1. **Observe** the work performance and/or conduct.

2. **Identify** problem areas.

3. **Document** your observations.

4. **Consult** with the EAP. The EAP counselor may refer you to the Employee Relations, EEO, the Health Unit, etc., for more information.

5. **Conduct** a supervisory counseling session with the employee. During this session you should:
   a. ***Describe the performance and/or conduct problem,***
   b. ***Explain the desired change,***
   c. ***Establish a time frame for changes,***
   d. ***Discuss the consequences of failure to change,***
   e. ***Explain and recommend the EAP, and***
   f. ***Offer to schedule an EAP meeting.***

6. **Provide sick leave** from work for the employee to attend EAP sessions.

Supervisory Do's and Don'ts

You should take care when . . . addressing EAP-related problems. Although you may be nervous about discussing the issue, your employee may be even more uncomfortable. Keep these **Do's and Don'ts** in mind when talking to employees about the EAP:

- ✓ **Do** Take action and address the problem.
- ✓ **Do** Emphasize you are only concerned with work performance, leave, and conduct, as appropriate.
- ✓ **Do** Have documentation of work performance, leave use, or conduct in front of you. Your memory may not be reliable.
- ✓ **Do** Remember certain personal problems get worse, never better, without treatment or assistance.
- ✓ **Do** Alert the EAP counselor you are making a referral.
- ✓ **Do** Explain that the EAP is a voluntary program.
- ✓ **Do** Emphasize all aspects of the program are confidential.
- ✓ **Do** Remember problem drinking, misuse of drugs, and emotional disorders are progressive, treatable illnesses.

- **X** **Don't** Try to diagnose the problem.
- **X** **Don't** Moralize. Limit comments to the symptoms of the problem (i.e., deficient work performance, difficult interpersonal relationships with other employees or tardiness)
- **X** **Don't** Be misled by sympathy-evoking tactics. You may be facing an expert "con-artist."
- **X** **Don't** Hesitate, cover-up, or enable the behavior. Remember addiction and/or emotional disorders are progressive illnesses that can be fatal.
- **X** **Don't** Make meaningless threats about disciplinary action. If there is a threat, there must be a commitment to follow through.

Contact: For more information on the Employee Assistance Program (EAP), contact your State Employee Assistance Program Coordinator.

Family Readiness Program

Purpose

Family Readiness Programs are a tool for developing strong, self-reliant families that can withstand the rigors of deployments and support continued participation in the NG. Family readiness is not the product of a one-time effort. Throughout ***training and unit mission*** activities, the Family Readiness Team must continually work to maintain the flow of information and provide support services. Commanders use Family Readiness Group meetings, newsletters, telephone calls, e-mail, and even the Internet to disseminate information. The Family Readiness Group (FRG) plays a significant role in linking the commander, service member, and family member in the unit. The FRG is an organization of officers, enlisted service members, civilians, and family members that uses staff and volunteers to provide social and emotional support, outreach services, and information to family members. The FRG gives moral support to family members, service members, civilians, and military units during periods of normal military life and military deployments and crisis. As deployments near, the need for family readiness oriented activities increases. Effective commanders use the ***predeployment*** briefing as a means of demonstrating the unit's commitment to support families during the sponsor's absence. Commands also increase their outreach to spouses and work with unit members to review family care plans and financial issues to ensure deployability is maintained. Family support activities are fully operational during ***deployments*** as the Family Readiness Program staff assists families to meet their informational and service needs. After deployment, the command uses ***reunion*** activities to ease the return of Reservists not only to their families but also to their employers. Units can capitalize on technology to link members, family members, commanders, and Family Readiness Program staff. Email, video teleconferencing (VTC), Internet sites, Family Readiness Group meetings, and command information newsletters all contribute to maintaining the flow of information and reducing the stress of family separation. Ultimately, the goal of Family Readiness Programs is the development and sustainment of self-reliant families that are prepared for and capable of surviving the stress of deployment. Successful Family Readiness Programs are the product of four key factors: command emphasis; effective staff support; dynamic Family Readiness Program leadership; and proactive, communicating members and spouses. The objectives of the Family Readiness Program for the National Guard Bureau (NGB) are:

- **To establish a means of opening communication between the families of NGB personnel;**
- **To improve family awareness of the organization of the local NG unit, its missions, and activities;**
- **To develop family support networks through which families can mutually support the unit and each other;**
- **To make families aware of the existence and nature of benefits and entitlements both in inactive status and upon State and Federal active duty mobilization;**
- **To provide essential services to military families upon mobilization in designated Family Assistance Centers; and**
- **To develop programs that improve the quality of life for the Guard member and his/her family.**

Supervisor's Role

As a supervisor, you are responsible for making the information concerning the Family Readiness Program available to all of your employees.

Frequently Asked Questions (FAQ's)

Leave Programs

Q: If an employee is absent without approved leave, when should the supervisor place him or her on LWOP?

A: If management has determined after considering all relevant facts, an employee's absence should not be approved, the employee should be charged AWOL (absent without official leave) for the appropriate time. Frequently, supervisors confuse LWOP with AWOL. AWOL and LWOP are similar in they both indicate a non-pay, non-work status. LWOP is considered an "approved" absence and should only be charged to an employee at the discretion of the supervisor after reviewing all relevant facts if the employee requests it. On the other hand, AWOL is considered misconduct and can lead to disciplinary action, up to and including removal.

Q: Under what conditions can/should an employee be disciplined for abusing annual leave?

A: Technically, employees cannot abuse annual leave. Employees are free to use annual leave for whatever purpose they choose. However, employees are required to follow Agency procedures for requesting annual leave. If an employee fails to follow such procedures, the employee risks having their request for annual leave disapproved.

Q: Under what conditions should I disapprove annual leave?

A: The disapproval of annual leave should be based on a business reason (i.e., a mission needs to have the employee at work performing official duties).

Q: When may a supervisor require documentation for sick leave requests?

A: Whenever a supervisor suspects sick leave abuse, they may require that the employee provide a doctor's excuse (medical documentation) for any future use of sick leave. In any case, a doctor's excuse is generally required for sick leave in excess of five work days. Review TPR 630 and the current labor-management agreement for further guidance.

Family and Medical Leave Act (FMLA)

Q: What justification is required to use the FMLA?

A: The employee is generally required to provide advance leave notice and medical certification. The employee ordinarily must provide 30 days advance notice when the need for FMLA leave is foreseeable. If the need for leave is not foreseeable (i.e., a medical emergency), the employee must provide notice within a reasonable period of time appropriate to the circumstances involved. HRO/ERS may require medical certification to support a request for Family and Medical leave. (Medical evidence should be required before granting leave under FMLA).

Q: Can paid leave be substituted for FMLA leave?

A: The Agency may not require an employee to substitute accrued or accumulated annual and/or sick leave or other paid time off for the unpaid FMLA leave in accordance with current law and regulations. However, an employee may elect to do so. An employee may not retroactively substitute paid time off for unpaid FMLA leave. FMLA leave is in addition to other paid time off available to an employee.

Voluntary Leave Transfer Program – Reference TPR 630

Q: What is the voluntary leave transfer program?

A: The voluntary leave transfer program allows an employee to transfer annual leave to another employee who has a medical emergency in his or her family. To be eligible to become a leave recipient, an employee must be experiencing a "medical emergency" and be an approved recipient under TPR 630.

Q: What is a "medical emergency" under the voluntary leave transfer program?

A: A qualifying medical emergency is a medical condition of either an employee or a family member that would most likely require a prolonged absence from work and would result in a substantial loss of income because of the unavailability of paid leave. Examples of situations that do not constitute medical emergencies include care of a newborn or adopted child, unless extenuating medical circumstances exist, and time off for elective surgery.

Q: What constitutes a "substantial loss of income?"

A: A substantial loss of income is an absence from duty without available paid leave (excluding any advanced leave) because of a medical emergency when the absence is (or is expected to be):

1. At least 24 hours in duration for a full-time employee, or
2. At least 30 percent of the average number of hours of work in the biweekly tour for a part-time employee or an employee with an uncommon tour of duty.

Q: When does a "medical emergency" end?

A: A medical emergency ends when the leave recipient leaves the Federal service; when the Agency receives written notice from the leave recipient that he or she is no longer affected by a medical emergency; when the Agency determines, after written notice and opportunity for the leave recipient to reply, the medical emergency has ended; or when OPM has approved an application for disability retirement for the leave recipient.

Q: Do agencies accept donations of annual leave from employees of other agencies under the voluntary leave transfer program?

A: Yes. Interagency leave transfer is mandatory if a family member of a leave recipient is employed by another Agency and requests the transfer of annual leave to the leave recipient. Also, an Agency may accept leave from donors in other agencies if, in the judgment of the leave recipient's employing Agency, the amount of annual leave donated from that Agency's leave donors may not be sufficient to meet the needs of the leave recipient.

Q: Are there any limitations on the amount of leave an employee may donate?

A: Yes. Generally, an employee may not donate more than one-half of the amount of annual leave he or she would be entitled to accrue in the leave year.

Q: How do employees find out who has applied for the voluntary leave transfer program?

A: Donations are actively solicited for approved participants in the program. Individual announcements are forwarded to all ANG or ARNG E-mail users and approved participants are recorded in the Human Resources Office, Employee Relations Section.

Sick Leave for Adoption

Q: What types of adoption-related activities are covered?

A: The purposes for which an adoptive parent may request sick leave include appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

Q: Is the amount of sick leave an employee may use for adoption-related purposes limited as it is for other family-care purposes?

A: No. The amount of sick leave taken for adoption-related activities is not limited to a specific number of hours.

Timekeeping

Q: What happens if I am not available to approve time records?

A: All supervisors should ensure alternates are available for approving time records in their absence.

Q: When are time records due?

A: All time records must be transmitted/faxed to the appropriate payroll office by the timekeeper no later than 12:00 noon on Friday at the end of the pay period. Occasionally, there is a need to have an earlier cut-off.

Q: Why is it important to track leave balances?

A: Tracking leave balances is important to ensure an employee does not request more leave than they have available and ensure sick leave is not being abused (repeating patterns, etc).

Q: How is leave reported after the submission of the time records?

A: Any leave not reported on the original time record must be charged using an amended time card in the pay system. The only hours that may be reported retroactively are hours for premium pay (i.e., night differential, environmental differential, etc.) and should be reported within two pay periods. Otherwise, the timekeeper must process an amended record for the hours excluded from the original submission

Contact: For procedures and general information regarding timekeeping, payroll rules, regulations, and procedures, contact your Payroll Office at Each Wing FM or the USPFO.

Balancing Work and Family Programs

Work Schedules

Q: What are typical work schedules?

A: Commanders are authorized to use a combination of 5x8, 4x10, or 5/4/9 to accomplish the mission in accordance with TAG policy. Contact your State HRO for details.

Q: What are compressed work schedules?

A: Compressed work schedules require employees to complete the basic work requirement (80 hours biweekly) in less than 10 workdays (i.e. 5/4/9 or 4x10).

Q: What types of compressed work schedules are available?

A: 4-10 -- Employees work 10 hours per day, 4 days per week, with 1 non-workday each week of the pay period. Commanders/Supervisors preselect fixed arrival and departure times and two fixed non-workdays. Starting and ending times may be scheduled between certain hours.
5-4/9 -- Employees work 9 hours for 8 workdays and 8 hours for 1 workday during a biweekly pay period with 1 non-workday each pay period supervisors will approve. Employees preselect fixed arrival and departure times and a fixed non-workday. Starting times may be scheduled between certain hours.

Family Readiness Program

Q: When should employees be referred to the family readiness program?

A: Prior to deployment, many employees and their families have questions and concerns that can readily be addressed by the Family Readiness Program coordinator. The Family Readiness Program can be a great network for support during the long deployment of a loved one.

Employee Assistance Program (EAP)

Q: What type counseling does EAP offer?

A: The program offers assessment and referral services and problem solving counseling for all employees who are experiencing problems such as:

- ✓ problems with alcohol,
- ✓ emotional/psychological problems,
- ✓ eating disorders,
- ✓ stress-of-life crisis,
- ✓ family or marriage problems,
- ✓ grief/loss of a loved one,
- ✓ financial or legal problems,
- ✓ job-related stress,
- ✓ unexplained declining job performance, etc.

An EAP coordinator in HRO is available to talk with employees, help them assess their needs, and make appropriate referrals when necessary to counseling resources in the local community.

Q: Is use of the EAP counseling service confidential?

A: Contacts with EAP counselors are conducted in strict confidence. EAP contacts do not become part of an employee's personnel file. An employee using the counseling service can be certain no information shared (as long as it is not illegal, etc.) with the counselor will be divulged to anyone else.

Q: Is there a cost to the employee for use of EAP?

A: There is no cost to the employee for the services of the EAP coordinator. Fees charged by outside referral sources will be covered by the employee and/or the employee's health insurance. The EAP coordinator works closely with the employee to choose a referral resource that is within the employee's means.

Q: What will a counseling session be like?

A: It will usually be a session in which the employee and counselor talk in person or by phone about the problem at hand and possible steps toward resolution.

Contact: For more information on the EAP, and Quality of Work Life Issues contact your HRO Employee Relations Specialist.

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Conduct, Performance, and Discipline

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References: DoD Joint Ethics Regulation 5500.7-R, Technician Standards of Conduct, TPR 752, TPR 715, 18 U.S.C.A, TPR 430 and The National Guard Bureau Technician Handbook.

General Ethics

Purpose

Public service is a public trust, and each Federal employee has a responsibility to the U. S. Government and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gain. To ensure every citizen can have complete confidence in the integrity of the Federal Government, each employee must respect and adhere to the fundamental principles of ethical standards.

Supervisor's Role

As a supervisor, you are responsible for modeling ethical behavior and providing appropriate referral, advice and guidance to employees regarding ethics, thus ensuring compliance with the regulations outlined in the various standards of conduct regulations that govern DoD employees. The Agency ethics official is the Judge Advocate. Contact the JAG directly or HRO for details.

Gifts from Outside Sources

Purpose

At various times during the year, employees may receive gifts from a number of sources, both inside and outside the Government. Sometimes these gifts are acceptable; at other times, they are not. To determine whether a gift is acceptable, employees may need to discuss the matter with their supervisors.

Supervisor's Role

Employees may request advice in determining whether a gift is acceptable, and you should be familiar with the Standards of Conduct in order to provide the proper guidance. You have only one specific responsibility regarding gifts from outside sources: if an employee receives a gift that he/she may not accept and the gift is perishable, it is your responsibility to determine how the gift will be disposed of, (i.e., either given to an appropriate charity, shared with the office, or destroyed).

General Standards . . . of ethical conduct **prohibit** an employee from either soliciting or accepting, directly or indirectly, a gift:

- From a prohibited source (see definition below), or
- Given because of the employee's official position.

A Prohibited Source . . . is:

- A person seeking official action by the DoD,
- A person doing business or seeking to do business with DoD,
- A person who conducts activities regulated by DoD,
- A person having interests that may be substantially affected by performance or non-performance of the employee's official duties, or
- An organization, a majority whose members are described as any of the four sources above.

Because there are several provisions as well as exceptions to the policy on accepting gifts from outside sources, you should always check with the agency ethics official (JAG).

Gifts Between Employees

Purpose

Employees often wish to give a gift to their supervisor or other employees on special occasions. In general, it is not acceptable to give a gift to a supervisor or another employee who receives higher pay. For the general standards, see the box in this section.

Supervisor's Role

As a supervisor, it is your responsibility to know when it is permissible for you to accept a gift from a subordinate. You are obligated to follow the rules stated in the Standards of Conduct Regulations.

General Standards . . . of ethical conduct prohibit employees from giving gifts to their supervisors. Unless provided for as an exception to the Standards of Conduct, an employee may not:

- **Directly or indirectly give a gift to or make a donation toward a gift for an official superior or**
- **Solicit a contribution from another employee for a gift to either his/her own or the other employee's official superior.**

Because there are several provisions as well as exceptions to the policy on gifts between employees, you should always check the Standards of Conduct and consult the agency ethics official (JAG).

Conflicting Financial Interests

Purpose

At times, employees will acquire financial interests that are prohibited by regulations. Employees are not allowed, in accordance with the Standards of Conduct, to participate in matters that would place them in a situation of conflicting financial interest.

Supervisor's Role

You play a pivotal role in conflicting financial interest situations. Though an employee must inform you of any potential conflict of interest, it is your responsibility to ensure your employees are not given an assignment that would place them in a position to violate the Standards of Conduct or Title 18, United States Code, Section 208, which is a criminal statute.

Statutory prohibition . . . prevents employees, by criminal statute, Title 18, United States Code, Section 208(a) as shown in this box, from participating personally and substantially in an official capacity in any particular matter in which, to their knowledge, they or any person whose interests are imputed to them under this statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

Impartiality in Performing Official Duties

Purpose

Sometimes employees are requested to participate in an assignment they know is likely to affect the financial interest of either a member of their household or a person with whom they have a covered relationship (see definition below). If an employee determines a reasonable person with all of the relevant facts would question his/her impartiality, the employee should use the process described in the Standards of Conduct to determine whether to participate.

Supervisor's Role

If an employee requests assistance, you should assist him/her in determining whether a reasonable person with all the relevant facts would question his/her impartiality in performing an assignment related to a personal or business relationship. After you have made the determination, you must ensure all measures are taken to ensure impartiality by providing written analysis to the agency ethics official (JAG), requesting a waiver, or disqualifying the employee from participating in the specific matter.

Covered relationships are . . . relationships **between the employee** and:

- **A person, other than a prospective employer described in Section 2635.603(c) of the Standards of Conduct, with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;**
- **A person who is a member of the employee's household or who is a relative with whom the employee has a close personal relationship;**
- **A person for whom the employee's spouse, parent, or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee;**
- **Any person for whom the employee has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or**
- **An organization, other than a political party described in 26 USC 527(e), in which the employee is an active participant.**

When evaluating situations involving personal and business relationships . . . considered:

- **The nature of the relationship involved;**
- **The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;**
- **The nature and importance of the employee's role in the matter, including the `extent to which the employee is called to exercise discretion in the matter;**
- **The sensitivity of the matter;**
- **The difficulty of reassigning the matter to another employee; and**
- **Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.**

Seeking Other Employment

Purpose

At any given time, employees may consider non-Federal employment. However Federal employees shall not engage in outside employment or activities that conflict with official duties and responsibilities. To avoid potential conflicts of interest or appearances of conflict, employees are required to follow the guidelines found in the Standards of Conduct.

Supervisor's Role

Employees must make you aware of a potential conflict of interest situation if they are seeking other employment. As a supervisor, it is your role to ensure employees who negotiate for prospective employment are not assigned work that may directly affect the prospective employer. If all conditions in the regulations are met for a waiver (request for approval), you should work with the employee to ensure all necessary approvals are received.

If you are seeking a waiver . . . you should consult the Standards of Conduct. There are a number of types of waivers and many inclusions and exclusions. The agency ethics official (JAG) can give you guidance and assistance and will provide you with the standard waiver letter format.

Employee Outside Activities

Purpose

Employees may be involved in activities and/or employment outside of their official position, such as teaching, writing, serving on Boards, or part-time employment. Participation in some activities may create a conflict of interest, so employees are required to have all outside activities that require the use of their Guard specific qualifications readily identified with DoD employment approved before they may participate in them.

Supervisor's Role

Employees are required to bring all outside activities to the attention of their supervisor. As a supervisor, you must ensure they complete a "Request for Approval of Outside Activity." You should closely review this request with the agency ethics official (JAG) and recommend approval or disapproval, and forward it to your supervisor for a final decision. You also should monitor your employees to ensure there are no violations of the regulations.

Outside activities that require advance approval include the following:

- **Writing, editing, and publishing;**
- **Teaching, lecturing, and speech making;**
- **All professional and consultative services, including outside private practice;**
- **Other activities that specifically employ the general professional expertise related to the employee's DoD responsibilities.**

Memberships in certain charitable, religious, social, fraternal, recreational, public service, civic, or similar non-business organizations need not be approved. For guidance on approving and disapproving activities, consult the **Standards of Conduct** or any of the references or contacts listed in this entry.

Even though an outside activity may not be **prohibited** in the Standards of Conduct, you and the employee should be aware that. It may **violate** other principles or standards set forth or require employees to disqualify themselves from participating in certain activities under the principles of conflict of interest or impartiality.

Employee Official Duty Participation in Outside Organizations

Purpose

DoD encourages its employees to participate in professional activities that increase military and professional knowledge, enhance technical proficiency, and expand awareness of National Guard issues. Such participation includes maintaining membership in professional and military associations and societies, serving as a liaison to an outside organization, serving on advisory or standard-setting committees of non-Federal organizations, and holding office in professional organizations. Although this type of professional activity is generally encouraged and fostered, participation beyond ordinary membership must be approved in advance. The agency ethics official (JAG) and HRO may review and evaluate participation in outside organizations to ensure the service furthers the Agency's mission and prevent an actual or apparent conflict of interest. The level of participation and the employee's duties at DoD will determine the potential for conflict-of-interest concerns.

Supervisor's Role

Supervisors must be aware of employees' official duty roles in outside organizations and ensure approval is received for roles beyond ordinary membership, because participation must not be or appear to be inconsistent with the policies, programs, or operations of DoD, NGB, DOD, and the Executive Branch.

Because service as an officer, director, or trustee of an outside organization violates the conflict of interest statute, 18 U.S.C., § 208 (which prohibits any Federal employee from participating in an official matter that affects the financial interest of an outside organization in which the individual serves as an officer, director, or trustee), it will be approved only in exceptional circumstances. Such service requires a conflict-of-interest waiver approved by the Agency. Before requesting such participation, you should consult the agency ethics official (JAG).

Confidential Financial Disclosure Reports

Purpose

Certain employees in grades at or below GS-15, 0-6, or comparable pay rates, are required to report their financial holdings to avoid instances of conflict of interest. Examples include contracting, procurement, administering licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement. This reporting is to ensure DoD is in compliance with the rules established by the Office of Government Ethics. Designated employees must file a Form OGE-450, Confidential Financial Disclosure Report, or OGE 450-A, Confidential Certificate of No New Interests.

Supervisor's Role

When you are informed one or more of your employees must complete the OGE-450, you must ensure that they do so. The OGE-450 is confidential, so you may not review this form. Employees should return the form directly to the agency ethics official (JAG).

Public Financial Disclosure Reports

Purpose

DoD Officers 07 and above are required to report their financial holdings on Form SF-278, Public Financial Disclosure Report, to avoid instances of conflict of interest. This practice is to ensure that DoD is in compliance with the rules established by the Office of Government Ethics as well as Federal law.

Supervisor's Role

When you are informed one or more of your employees must complete the SF-278, you must ensure they do so. You are not required to review or sign the report. Employees should return the form to the agency ethics official (JAG).

Employees required to file the SF-278 . . . must do so within 30 days of entering a position, no later than May 15 annually, and within 30 days of termination from employment.

Political Activity

Purpose

The Hatch Act Reform Amendments of 1993 authorize covered Federal employees to participate actively in partisan political activities on their own time and away from the Federal workplace. Significant restrictions, principally in the area of fundraising and the solicitation of political service, remain for these covered employees even during non-duty hours. The reform provisions do not extend to military members. These employees remain subject to additional severe restrictions as under prior law.

Supervisor's Role

As a supervisor, you are responsible for providing advice, guidance and appropriate referral to employees regarding political activity restrictions. Any questions concerning this activity should be referred to the agency ethics official and/or HRO for guidance. See also Political Activity – The Hatch Act in Section 8.

Post-Employment

Purpose

Employees should be aware several restrictions are imposed on Federal employees once they leave the Government. None of these post-employment restrictions prohibit a Federal employee from going to work for any non-Federal employer after leaving the Government. The only restriction is on what the Federal employee can do for that employer. The main post-employment restriction that applies to all employees is a permanent ban on "Switching Sides," i.e., communicating or appearing before the Government on behalf of their new employer or anyone else regarding specific party matters in which they participated personally and substantially during their Government service. Another restriction that applies to supervisors is a 2-year ban on matters which were under their official responsibility.

Supervisor's Role

As a supervisor, you should be familiar with the post-employment restrictions and ensure the agency ethics official (JAG) appropriately counsels employees if necessary.

Misuse of Position

Purpose

All employees are required to adhere to the ethical standards that relate to the use of public office for private gain, the use of nonpublic information, the use of Government property, and the use of official time. If a breach of any of these occurs, disciplinary action may be taken.

Supervisor's Role

As a supervisor, your role is **threefold**: **(1) you may not** misuse Government resources or information yourself, **(2) you may not** ask an employee to misuse Government resources or property, and **(3) you must report** all occurrences of misuse of Government resources or information among your employees.

If misuse of a position occurs . . . you must report it. Misuse of position may fall into any of these four categories:

1. **Use of public office for private gain;**
2. **Use of nonpublic information;**
3. **Use of Government property; or**
4. **Use of official time.**

To ensure proper handling of these violations, report all instances of misuse of position to your supervisor, and then work with your HRO Specialist to administer appropriate corrective or disciplinary action.

Use of Government Property

Purpose

All employees have the responsibility to protect and conserve Government property. They may not use it or allow it to be used for purposes other than those that are job-related. Applicable property includes but is not limited to computers and computer networks, communication devices, motor vehicles, office supplies, telephones, fax machines, and maintenance equipment and facilities.

Supervisor's Role

As a supervisor, you have a primary responsibility to ensure Government property is used only for official Government purposes. If a breach occurs by of your employees, you must take appropriate corrective or disciplinary action (See Conduct-Based Actions). If a breach occurs from someone other than your employees, you are responsible for reporting it to the appropriate management official so action can be taken.

Disciplinary Action

Purpose

When an employee engages in misconduct or violates the Standards of Conduct, appropriate corrective action should be taken. Examples of unacceptable conduct include absence without approved leave, failure to follow supervisory instructions/orders, misuse of Government property, falsifying travel voucher, etc. (for more information on Standards of Conduct, see the **Ethics Section** of this guide).

Supervisor's Role

As a supervisor, it is your duty to take steps to correct an employee's misconduct, and you should do so as soon as possible. In addition to maintaining documentation of the inappropriate behavior, you must work with your Labor and Employee Relations Specialist to decide on and administer the appropriate action. The action taken depends on the severity of the misconduct and the penalties issued for similar offenses. In most situations, you will pursue a "progressive" course of action (see **"When you take corrective measures"** in this section).

When you take corrective measures for a conduct problem . . . you will normally pursue what is called a progressive course of action (i.e., progressive discipline). Progressive discipline begins with relatively minor actions such as documented counseling, but can go so far as to remove the employee from Federal service. There are some acts of misconduct that are so serious that immediate removal or demotion is initiated without first issuing documented counseling or reprimand. Examples of such offenses include but are not limited to: acceptance of an illegal gratuity (bribe); making threats of physical harm; excessive AWOL; sexual harassment; theft or misuse of Government property; or making false entries on reports, vouchers, or applications. Progressive actions ensure that the employee is given adequate notice of the problem, identify what the employee must do to rectify it, and state the consequences if they do not correct or cease the inappropriate conduct.

Also review the tips on communicating and managing conflict in Section Six!

Progressive actions are as follows:

1. **Counseling (recorded on NGB Form 904-1 or Supervisor's Employee Brief)**
2. **Oral Admonishment/Warning (recorded in the 904-1 or Employee Brief)**
3. **Official Letter of Reprimand (filed in the employee's Official Personnel Folder)**
4. **Suspension of 14 days or less**
5. **Suspension of 15 days or more**
6. **Reduction in grade or pay**
7. **Removal of the employee from Federal service**

Performance-Based Actions

Purpose

Performance-based actions are taken when an employee's performance is rated on the Employee Appraisal at the unacceptable level. When an employee's overall performance is unacceptable or is unacceptable in any one critical element, the employee must be given a reasonable opportunity to Performance Based Actions – *cont'd*

improve through a Performance Improvement Plan (PIP). The employee must be informed in writing of the performance problems and of the level of performance he/she must meet to be retained in the position. If the employee's performance remains unacceptable, his/her grade may be reduced or the employee may be removed from the Federal service.

Supervisor's Role

Early intervention is critical to resolving performance problems, and your Labor and/or Employee Relations Specialist is the best person to assist you. As a supervisor, you must discuss the performance problem with the employee and follow specific procedures to give the employee an opportunity to improve. Your Employee Relations Specialist can assist you with guidelines and timeframes.

Handling Unacceptable Performance

An employee is given an opportunity to improve when his/her performance in one or more critical elements is rated at the unacceptable level (though an employee must be performing under the assigned standards for at least 120 days). Although it is critical you contact your Labor and Employee Relations Specialist when you see a potential need to take a Performance-Based Action, the following provides an overview of the process (follow TPR 430 for specific guidance):

1. **You must notify the employee, in writing, of the critical element(s) in the job standards that have become unacceptable.**
2. **Clearly describe the improvement(s) in a Performance Improvement Plan (PIP) the employee must make in order to be retained (i.e., to achieve the Marginally Successful level).**
3. **Establish a reasonable period of time for the employee to demonstrate improvement (generally 30 to 90 days). The period allowed must be commensurate with the duties and responsibilities of the employee's position and conform to the provisions of the applicable collective bargaining agreement, where appropriate.**
4. **Inform the employee that unless the performance of the critical element(s) is improved and sustained at an acceptable level, he/she may be reduced in grade or removed.**
5. **When an employee has been given an opportunity to improve his/her performance, reduction in grade or removal may be proposed if performance is at the unacceptable level at the conclusion of the PIP.**

The Douglas Factors

Purpose

In general, the Douglas Factors are a reference to a decision by the Merit Systems Protection Board that list 12 factors that might be taken into consideration when deciding on the appropriate penalty in any adverse action.

Supervisor's Role

Labor case law has created additional criterion test for determining an appropriate penalty for a disciplinary offense: reasonableness. This means any actions that you as a supervisor take against an employee must be "reasonable." Your actions must pass certain tests to ensure they are fair, consistent, and equitable. These tests, known as the 12 Douglas Factors were first adjudicated in the Merit Systems Protection Board case, *Douglas v. Veterans Administration*.

Douglas v. Veterans Administration established 12 tests to determine reasonableness of any penalty imposed on an employee. Regardless of any action you take as a supervisor, you should be able to defend your decision (based upon the criterion of reasonableness) upon final review by an outside arbiter or agency.

The Douglas Factors Reasonableness Checklist

When preparing any formal or informal action, use the following 12 checklist as a way to assess whether a penalty is appropriate to the offense and to the individual committing the offense.

1) Offense: What is the nature of the offense and its relation to the employee's job? Was the offense intentional? Was it recurring?

2) Job: What is the employee's job? Is it safety related? Is the employee in contact with the public? Is the employee a supervisor? Does the employee's job involve handling money?

3) Past Conduct: Does the employee's past record warrant disciplinary action?

4) Past Job: Performance: Does the employee's past job performance record warrant disciplinary action?

5) Trust: What is the effect of the offense on the employee's future job performance and your confidence in that employee?

6) Consistent Application: Is the penalty consistent compared with penalties imposed on other employees for similar offenses?

7) Consistent Severity: Is the penalty consistent with the FAA Table of Penalties published in FAPM 2635, Conduct and Discipline?

8) Disrepute: Did the offense damage the reputation of the employee's workgroup or the FAA?

9) Notice: Was the employee aware his/her actions violated the misconduct laws, rules, and regulations?
Had the employee been warned about this behavior before?
Was this the first offense?

10) Rehabilitation: Does the employee possess a likely potential for rehabilitation

11) Mitigation: Are there any mitigating circumstances like mental impairment, harassment by others, or unusual job tension?

12) Deterrence: Would some lesser penalty be as effective in deterring a reoccurrence of the offense?

It is sufficient to understand these factors force a deciding official to examine any issues that might support a more severe penalty as well as those circumstances that would convince the deciding official to lower the penalty. Your commentary included in the documentary record of this action should specifically address your findings related to these 12 questions. In doing so, you will have established written proof you have considered mitigating factors in deciding on an appropriate penalty for any formal action.

Denial of Within Grade Increases

Purpose

If an employee's performance rating of record at the end of the required waiting period is at or above the Fully Satisfactory level, the employee is eligible to receive a Within Grade Increase (WIGI). If the employee's performance rating is below Fully Satisfactory, the WIGI must be denied. This applies to employees in GS positions only.

Supervisor's Role

As a supervisor, you are responsible for informing employees if they will receive a WIGI or if their WIGI will be denied. If an employee's summary rating on his/her most recent "rating of record" (i.e., annual rating) is below "Fully Successful", the WIGI must be denied. Because denial of a WIGI is a performance - based action, you must document all information that supports the denial of the WIGI. You must consult with your HRO Employee Relations Specialist to ensure the decision notice denying the WIGI is consistent with regulatory requirements and applicable collective bargaining agreements.

When a WIGI is denied . . .

1. **Inform the employee orally and in writing about the determination of an unacceptable level of competence because of his/her rating on the critical element(s). This action should be taken prior to the WIGI due date. Describe to the employee how the performance on the critical element(s) must improve to receive the WIGI.**
2. **Inform the employee of his/her right to appeal and identify the appeal process.**
3. **Explain that if during the next 52 weeks the employee demonstrates Fully Satisfactory performance over at least 120 calendar days, the WIGI will be granted effective the first pay period after these conditions are met.**
4. **When a negative determination is sustained after reconsideration, the employee will be informed in writing of the reasons and of the right to appeal the decision to the State Performance Appraisal Appeals Board.**

In a WIGI denial letter, you should . . .

1. **State the employee's performance is not at an acceptable level of performance to receive the WIGI. Include the date of the most recent performance rating and the date the WIGI was due.**
2. **Include examples of performance that support the WIGI denial.**
3. **Describe the requirements that must be met (in a PIP) to receive a WIGI.**
4. **State the WIGI is withheld and cite 5 CFR 531/532 supporting the denial action.**
5. **State the employee's rights. These rights include the right to request an appeal of the denial of the WIGI, the right to be represented in the matter by someone of the employee's choosing (with some restrictions), and the right to be granted official time to review the performance rating(s) on which the negative determination was based.**
6. **State the time limit for requesting reconsideration of the WIGI denial. State that in order for the WIGI to be granted, the employee must perform at an overall Fully Acceptable level on all critical elements of the performance standards.**
7. **Provide the name and telephone number of the HRO Employee Relations Specialist who can assist the employee if they have questions or concerns you cannot address.**
8. **Contact your HRO Employee Relations Specialist for a sample of a WIGI denial letter.**

Technician Trial Period

Purpose

When technicians are hired, they are placed on a 1-year trial period. During this time, employees are evaluated to see if they are suitable for continued Federal service and capable of meeting the needs of the position for which they were hired (If an employee is terminated because of misconduct or work performance problems during this probationary period, the employee has very restricted appeal rights).

Supervisor's Role

It is your job as a supervisor to maintain complete documentation of the employee's performance and conduct during the trial-period because only employees who are performing at least at the Fully Satisfactory level and who demonstrate acceptable conduct and leave usage should be retained. If any performance, conduct, or leave-abuse problems develop, you should notify your HRO/ERS.

During the employee's probationary period, you should . . .

1. **Discuss performance or conduct problems with the employee as they occur.**

2. **Keep thorough and accurate documentation of all discussions.**
3. **Follow up all conversations between you and the employee with a written record of discussion with the employee, including a statement of the problem, proposed solution, and time lines. The employee should receive the original document and you should retain a copy for your records.**
4. **Contact your HRO Employee Relations Specialist for assistance with performance, leave, or conduct problems as soon as possible but no later than 90 days before the end of the trial period.**

Administrative Grievances

Purpose

All Federal agencies are required by law to establish an administrative grievance system for all employees not covered by a collective bargaining agreement. This grievance system provides employees with the opportunity to receive an objective review of individual or group complaints regarding work conditions, employment decisions, etc.

Supervisor's Role

If you receive a grievance, you should ensure you are the appropriate official to answer the grievance, the grievance is timely, and the grievance describes the issues and the remedies sought.
See "If a grievance is filed . . ." on the following pages for more information.

Grievance rights and procedures . . . ensure an objective review of employees' complaints. Employees who believe they have been unfairly treated have the right to present their written grievances for consideration and decision. Employees may file grievances on their own behalf and can be advised by and/or represented by a representative of their own choosing.

If a grievance is filed . . . to seek review of an action you took, you should make a good-faith effort to resolve it within appropriate time frames. The following are some guidelines to follow if you receive a grievance (consult your HRO Labor Relations Specialist for advice/assistance on grievance handling):

1. **Check to see that the grievance seeks review of an action you took. If not, the grievance must be promptly returned to the grievant or transmitted to the supervisor who took or failed to take the action about which the employee is dissatisfied. In most cases, that person is the employee's first-level supervisor. For grievances about either a vacancy selection under the merit promotion procedures or a decision made in the HRO, the official is the Human Resources Officer.**
2. **Check to see the grievance is timely. It should be filed within 30 calendar days following the action being grieved or the date the employee became aware of the act being grieved.**
3. **Check to see if the grievance contains a sufficiently detailed description of the issue(s) being grieved and the basis for the grievance.**
4. **Check to see the grievance states the specific relief being sought. The remedy requested must directly and personally benefit the grieving employee. A grievant may not request the action be taken against another person.**
5. **If all of this information is present, you must issue a written decision on the matter generally within 15 calendar days. Grievance responses should be timely unless an extension is sought.**
6. **In your written decision, you must inform the employee they may present the grievance to a higher-level supervisor if the employee wants to seek review of the supervisor's decision. Review by The Adjutant General exhausts the grievant's administrative remedies under the grievance procedure.**

Negotiated Grievances

Purpose

Employees who are covered by a collective bargaining agreement may exercise their right to file a negotiated grievance. A grievance is usually defined as a complaint of an employee concerning a claimed violation or misapplication of the collective bargaining agreement or any law, rule, or regulation affecting the employee's conditions of employment.

Supervisor's Role

If you are presented with a grievance, you must adhere to the specifications of the collective bargaining agreement. In general, you must acknowledge, investigate, and respond to the grievance. You should also immediately contact the HRO Labor Relations Specialist to obtain information and guidance.

"How To" – Tips and Sample Memoranda

Conduct Management – Disciplinary and Adverse Actions – Quick Tips

The LRS/ERS must ensure supervisor's know and perform their role…

SUPERVISOR'S ROLE (with LRS/ERS assistance)

- **Ensure workers know expected behavior.**
- **Ensure they know consequences of unacceptable behavior.**
- **Respond to ALL cases; bring to technician's attention immediately.**
- **Remove names/personalities to minimize bias; focus on problems - not the person!**
- **Initiates all disciplinary and adverse actions!**

SUPERVISORS MUST (with LRS/ERS assistance)

- **Contact HRO/ERS or LRS prior to issuing proposed disciplinary or adverse actions.**
- **Become familiar with NGB TPR 752 – Disciplinary and Averse Action Regulation.**
- **Receive HRO/ERS or LRS approval prior to issuing original decisions on disciplinary or adverse actions.**
- **Review proposed penalty with the deciding official.**
- **Use the templates provided as guidelines for disciplinary or adverse actions.**
- **Review the union contract articles on discipline and adverse actions.**
- **Involve the Union – if the employee declines union representation… OBTAIN THE DECLINATION IN WRITING!**

"Do not forget Weingarten Rights"

"Specificity is the key to progressive discipline and will prevail under appeal"

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SAMPLE LETTER OF REPRIMAND (ANG LETTERHEAD FORMAT)

27 November 2000

MEMORANDUM FOR: MSG *<Person's Name>*
<Person's Title>
<Office Symbol or Address>

USE TPR 752 for Guidance in discipline and adverse actions and **ALWAYS** seek HRO/ERS/LRS assistance when contemplating disciplinary actions.

FROM: MSgt *<Supervisor's Name>*
<Branch> Supervisor
<Office Symbol or Address>

SUBJECT: Official Letter of Reprimand

Tell what this is and why, citing TPR 752.

1. I deem it necessary to take formal disciplinary action by officially reprimanding you in accordance with NGB Technician Personnel Regulation (TPR) 752. This letter of reprimand is warranted because of your *<example: "failure to observe written rules and regulations resulting in serious safety violations">*. Specifically, the reason for this disciplinary action is:

Explain the details of the incident, be chronological and be specific!

On 21 Nov 00, you performed maintenance on aircraft XX-XXXX (C-17) leaving the item you replaced inside the nose wheel well of the aircraft. This item was found on 22 Nov 00 while the aircraft was taxiing. The aircraft was radioed in and a thorough FOD inspection inside the nose was completed. **On 27 Nov 00, I notified you, *<Person's Name>*, of the severity of this violation, and that it could have resulted in a catastrophic accident**. I informed you of the penalties for safety violations, and it was at this time that you admitted your carelessness. I also reinforced to you the necessity of following all safety procedures including, but not limited to, Local Operating Instruction XX-X and Air Force Instruction 21-101 par 7.1.2 on Foreign Object Damage (FOD).

Include an EAP paragraph

2. Should personal problems be contributing to your misconduct, the Employee Assistance Program is available to you for appropriate consultation or referral. If you desire assistance with your problem, you should contact the State DOD Federal Employee Assistance Program Coordinator, MSgt Vera Helpful at DSN: 888-#### or commercial: 888-624-####.

Explain what may happen if the offense continues, how long the letter will remain on file (normally one year), grievance procedures and HRO POC.

3. This letter of reprimand constitutes the first offense for failure to observe written rules and regulations. Continued offenses of this type may result in a suspension or removal. At the discretion of the supervisor, this reprimand will remain on file as a temporary document in your personnel folder for a period of up to two years from the date of this memorandum. If you so desire, this letter of reprimand may be grievable through the state or negotiated grievance procedure*<for bargaining unit members>*. The HRO point of contact for procedural assistance in disciplinary actions is Maj Payne Fisher at (888) 624-#### or DSN: 888-####.

<SUPERVISOR'S NAME>
<Rank and Branch>
<Title>

I HEREBY ACKNOWLEDGE RECEIPT OF THIS OFFICIAL LETTER OF REPRIMAND.

TIPS/GOOD ADVICE for Counseling Employees
Make sure the employee acknowledges receipt of the counseling, and it is highly recommended to offer union representation and also document their presence at the counseling.
All counseling should also be documented on the automated supervisor's brief and/or on the NGB Form 904-1.
DOCUMENT! – DOCUMENT! – DOCUMENT!

Signed: _____ Date: _____

<Person's Name>

Sample Proposed Adverse Action Letter – (ARNG Letterhead Format)

MATES 27 November 2000

USE TPR 752 for Guidance in discipline and adverse actions and **ALWAYS** seek HRO/LRS assistance when contemplating disciplinary actions.

MEMORANDUM FOR SSG Imn B. Trouble, MATES

SUBJECT: Notice of Proposed Adverse Action

Tell what, and approximately when the action will be effective and why it is being taken.

1. This memorandum is official notification that I propose to suspend for a period of 40 hours (4 workdays) from your employment as a Heavy Mobile Equipment Repairer, WG-5803-08, Mobilization and Training Equipment Site (MATES), Ft. (name), (state) in accordance with Technician Personnel Regulation 752. The effective dates of this proposed suspension will be issued in the original decision. This suspension is for your second offense of AWOL. I have reviewed and considered all relevant factors associated with your case, and as a result I consider this suspension action warranted due to your continued failure to follow established leave procedures resulting in unexcused absences.

Explain in detail the events leading up to the proposed adverse action - be chronological and very specific.

2. Specifically, The background and specific circumstances, which precipitated this proposed adverse action are as follows:

A) On 5 October 2000, you did not report for work and did not call to request leave; you were counseled on the 904-1 (second offense) and issued a letter of reprimand on 6 May for failure to follow established leave procedures. You explained you were sick and went to the doctor. Your leave balance showed zero sick leave balance, zero annual leave balance and 50 hours of leave without pay used this year. In previous counseling sessions recorded on the 904-1, you were advised to bring a doctor's excuse for any further use of sick leave, and you have not complied with that directive.

B) On 11 October 2000, you again did not report for work and claimed you were sick the next day but did not produce a doctor's excuse. You were listed as AWOL and suspended for a period of 10 hours (one workday). After repeated verbal and written warnings recorded in your work folder concerning abuse of leave, failure to follow established leave procedures, and not being ready, willing and able to work upon arrival, a more progressive form of discipline must be used.

C) On 15 November 2000, you did not report for work and called in asking for sick leave (LWOP) well after the call-in time frame. You were advised you were in violation of leave/call-in procedures and you would have to produce a doctor's excuse for the requested sick leave. You could not produce a doctor's excuse; therefore you were placed in AWOL status for the period of absence. This second offense of AWOL has resulted in your proposed suspension for a period of 40 hours as explained in paragraph one.

Include a paragraph explaining efficiency and further penalties.

3. Both the Shop Foreman and myself have repeatedly counseled you on your leave and attendance related abuses and provided you with the steps necessary to correct these abuses. This suspension action will contribute to the efficiency of the service by enforcing regulatory compliance and ensuring the availability of personnel at the worksite. Continued conduct related abuses of this type will result in more severe adverse actions up to and including termination from your technician position.

Include a paragraph for EAP.

4. Should personal problems be contributing to your conduct or performance problems, the Employee Assistance Program (EAP) is available to you for consultation and appropriate referral. If you desire assistance with your problems, you should contact the State Program Coordinator, MSgt Vera Helpful, Human Resource Office, COMM: (888) 624-####, DSN: 888-####. HRR 735, Employee Assistance Program, is the governing regulation for the EAP.

5. For your information and guidance, I have attached a copy of HRO Form 752-1, which explains in detail your reply rights regarding this Notice of Adverse Action.

TIPS/GOOD ADVICE!
Make sure the employee acknowledges receipt of the adverse action and it is highly recommended to offer union representation and also document their presence at the meeting.
All adverse actions should also be documented on the automated supervisor's brief and/or on the NGB Form 904-1.
DOCUMENT! – DOCUMENT! – DOCUMENT!

ITREATM V. NICE
MSG, ARNG
MATES Supervisor

Attachment: HRO Form 752-1

I acknowledge receipt of this proposed Notice of Adverse Action:

_____ _____

Technician Signature – SSG Imn B. Trouble Date

REPLY RIGHTS - PROPOSED NOTICE OF ADVERSE ACTION

You have the right to reply to this proposed adverse action orally, in writing, or both. Should you elect to reply to this proposal, you have the right to be represented by an attorney or other representative of your choice. Your written reply must be submitted to the **Deciding Official** whose name, address and telephone number appear below:

Name: _____

Address: _____

_____

_____

Telephone: **Comm: (___)_____-_____ DSN: ____-_____**

You may make arrangements for an oral reply by contacting the Deciding Official at the telephone numbers listed above. The Deciding Official must receive your written and/or oral reply **NOT LATER THAN _____20____.**

You may request an extension of this deadline by providing your reasons, in writing (prior to the above date), to the Deciding Official who will either grant or deny your request. Full consideration will be given to any reply you submit.

You will be allowed eight (8) hours of official time to review the material relied on to support the reasons for the proposed adverse action, secure affidavits, and prepare a reply to this notice. You should arrange with your supervisor for the use of official time. This official time may be extended if you submit a written request to your immediate supervisor stating your reason for the extension. You will be issued a written original decision from the Deciding Official as soon as possible after: a) Your reply is received by the Deciding Official; or b) you do not reply by the date indicated above.

You may review the material relied upon to support the proposed adverse action by contacting the Deciding Official or the State Human Resource Office. You may contact (POC) in the State HRO for procedural assistance, alternatives available, and reply rights. You may telephone him/her at Comm: (888) 624-6440 or DSN: 888-6440. The address of the State DOD Human Resource Office is (State HR Office address).

HRO Form 752-1
August 2000

Sample Original Decision To Proposed Adverse Action Letter – ARNG Letter Format

USE TPR 752 for Guidance in discipline and adverse actions and **ALWAYS** seek HRO/ERS/LRS assistance when contemplating disciplinary actions.

MATES

11 December 2000

MEMORANDUM FOR SSG Imn B. Trouble, MATES

SUBJECT: Original Decision Letter of Proposed Adverse Action

Reference the proposed adverse action.

1. On 27 November 2000, your first line supervisor, MSG Itreatm V. Nice, proposed you be suspended from your technician employment as a Heavy Mobile Equipment Repairer, WG-5308-08, Mobilization and Training Equipment Site (MATES), Ft. (name), (state).

Reference TPR 752, your position and time-frame for replies

2. In accordance with National Guard Bureau Technician Personnel Regulation 752, I am the deciding official for this adverse action. As deciding official, I am required to issue an original decision on the Proposed Adverse Action. HRO Form 752-1, Reply Rights, was an attachment to the proposed adverse action. This form stated your written and /or oral replies to the proposed adverse action must be received by me (the deciding official) not later than 15 December 2000.

Reference replies and issue original decision. It could be a lesser penalty or remain the same.

3. On 8 December 2000, you came to my office and verbally provided an explanation for your actions. You did not supply any written justification or doctor's excuses for your absences and failure to follow established leave procedures resulting in your second offense of AWOL. After a careful review of all documentation, testimony, and facts surrounding this matter, I find there is sufficient evidence you did in fact commit the offenses outlined in the proposed adverse action. I have decided your suspension is for just cause and will promote the efficiency of the service. <u>Therefore, I sustain the proposed suspension action.</u>

Restate the effective dates of the action and reference 30 day period if removal action (see TPR 752).

4. You will be suspended from your technician employment for a period of 40 hours (4 workdays), effective January 16th, 18th, 23rd, and 25th, 2000.

5. For your information and guidance, I have attached a copy of HRO Form 752-2, which explains in detail your reply rights for an original decision.

TIPS/GOOD ADVICE!

Make sure the employee acknowledges receipt of the original decision, and it is highly recommended to offer union representation and also document their presence at the issuance.

All adverse actions should also be documented on the automated supervisor's brief and/or on the NGB Form 904-1.

DOCUMENT! – DOCUMENT! – DOCUMENT!

IM V. TOUGH
MAJ, ARNG
MATES Superintendent

Atch
HRO Form 752-2

I acknowledge receipt of this adverse action original decision:

_____ _____

Technician Signature – SSG Imn B. Trouble Date

APPEAL RIGHTS – ORIGINAL DECISION OF ADVERSE ACTION

If you consider this adverse action improper, you may appeal the decision by requesting an Appellate Review by The Adjutant General or an Administrative Hearing, but not both.

The Appellate Review involves an overall review of the official adverse action case file maintained in the Human Resources Office (HRO), together with any additional information you may wish to provide.

An Administrative Hearing affords you the opportunity to have a National Guard Hearing Examiner gather all available facts through an administrative hearing and then provide findings and recommendations to The Adjutant General who will then issue the appellate decision.

Should you elect to appeal the decision, you have the right to be represented by an attorney or other representative of your choosing.

Your appeal must be in writing stating your reasons for contesting this action together with such proof and pertinent documents as you may desire to submit. The appeal should be addressed as follows:

The Adjutant General
ATTN: Human Resources Office
(State address)

Your appeal must be received by (dd--mmm--yyyy): _____. Consideration will be given to extending this date if you submit a written request prior to the above date to The Adjutant General stating your reasons for desiring the additional time.

The Adjutant General will render the final decision as soon as possible after the appellate review has concluded or after review of the hearing examiner's report and recommendation. A final decision by The Adjutant General will cancel the adverse action, sustain it, or substitute a less severe penalty. The right to appeal extends no further than The Adjutant General of (state name).

(POC name), HRO Labor Relations Specialist, can provide information regarding procedural assistance and appeal rights. He/she may be contacted at commercial (888) 624-6440 or in person at (location address).

HRO Form 752-2
August 2000

Frequently Asked Questions (FAQ's)

General Ethics and Related Topics

Q: May I accept a gift from someone outside the Government that I do business with?

A: Unless it is an exception, you may not ask for or accept a gift from anyone who is giving it because of your Government job. However, you may accept a cup of coffee (which is not considered a gift) or an occasional lunch. Even though acceptance may be permissible under an exception, it is always appropriate and frequently prudent to decline a gift offered because of your job.

Q: May I accept a gift from or give a gift to my boss?

A: You may accept a gift from your boss, but the general rule is that you cannot give, make a donation to, or ask for contributions for a gift to your boss or other superior. There are exceptional circumstances for special, infrequent occasions such as a birthday, marriage, illness, or an occasion that ends the employee-boss relationship, such as retirement, resignation, or transfer.

Q. May I collect money for a group gift for my boss?

A: You may if it is for one of the special, infrequent occasions; however, the contributions should be nominal and on a strictly voluntary basis. And it can never be a cash gift.

Q: May I give or receive a gift from a fellow employee?

A: Yes, unless the fellow employee earns less pay, and/or the person giving the gift is not a subordinate, and/or the gift is based on a strictly personal relationship.

Q: What creates a conflict of interest?

A: Circumstances in which your Government work may benefit you or your family personally or may affect individuals or organizations that you have some connection with outside your Government job.

Q: How is a conflict of interest resolved?

A: The Agency can often reassign the job to another employee; however, if it means you cannot do the job the Government hired you to do, you may have to get rid of the interest that is causing the conflict.

Q: Must I obtain approval for work outside the Federal Government?

A: It depends on what you do and for whom you do it. Generally, activities such as teaching, speaking, writing, professional and consultative services, outside private practice, service on boards or committees, or other activities that specifically employ the general professional expertise related to your responsibilities require advance approval.

Q: What types of outside work or activities don't require approval?

A: Memberships in charitable, religious, social, fraternal, recreational, certain public service, civic, or similar non-business organizations need not be approved.

Q: I gave a speech last week, and the organization I spoke to sent me an honorarium. May I keep it?

A: If you spoke as part of your official duties, you may not keep the honorarium, and you may not donate it to a charity. However, if you received advance approval for the activity as outside work, you may keep the honorarium.

Q: I am a member of a professional society. Do I need approval?

A: You are encouraged to participate in professional societies, but participation beyond ordinary membership must be approved in advance.

Q: Why am I required to file a Confidential Financial Disclosure Report, OGE 450?

A: Your agency ethics official (JAG) or U.S Property and Fiscal Officer has determined the nature of duties of your position may involve a potential conflict of interest. Examples include contracting, procurement, regulating/auditing non-Federal entities, and other activities having a substantial economic effect on non-Federal entities.

Q: Am I allowed to participate in political activities?

A: The Hatch Act Reform Amendments of 1993 authorize certain covered Federal employees to participate actively in partisan political activities on their own time and away from the Federal workplace. These activities include assisting in voter registration drives; attending political fundraising functions; serving as an officer of a political party, organization, or club; and campaigning for or against candidates.

Q: I am also a military member. Do the Hatch Act Reform Amendments of 1993 apply to me?

A: No, you may not under any circumstances take an active part in partisan political management or campaigns. You are subject to the standards in the original version of the Hatch Act and the standards set forth in DoD 5500.7-R, Joint Ethics Regulation.

Q: I'm interested in leaving the Government and working for a company my Agency does business with? May I give the company my resume?

A: You may unless the prospective employer could be affected by projects and other matters you work on for the Government. If the project could affect your prospective employer, you may need to stop working on that project.

Q: I'm leaving Federal Service to work for a Federal Government contractor. Is there a problem?

A: There could be a problem. You are generally free to go to work for any employer, but you cannot try to influence the Government on behalf of that contractor if you were involved with the contract while you worked for the Government.

> **Contact:** For more information on ethics in general, outside gifts, gifts between employees, conflicting financial interests, impartiality, seeking other employment, employee outside activities, employee official duty participation, reporting requirements on financial disclosure (public and confidential), political activity restrictions, or post-employment restrictions, contact the agency ethics official (JAG).

Contact: For more information on misuse of position, use of Government property, or disciplinary actions contact the HRO Labor Relations Specialist.

Conduct, Performance, and Discipline

Q: Must a reprimand be issued before a stronger action, such as a suspension, is taken?

A: No. The specific discipline selected will depend upon a variety of factors. In cases of serious misconduct, a reprimand may not be appropriate as a first action.

Q: Can a supervisor "reprimand" an employee but elect not to document anything in writing?

A: A supervisor can (and perhaps should) opt to verbally counsel employees for minor offenses of misconduct that have not been a problem previously. If a supervisor chooses to do this, that action would not, by definition, be considered a "reprimand." The technical definition of a "reprimand" is a written document issued to the employee that places the employee on notice of unacceptable conduct, warns the employee not to repeat the misconduct, and is filed in the Official Personnel Folder (OPF).

Q: When an employee is suspended, who selects the actual days the suspension is served?

A: The immediate supervisor.

Q: What happens if a supervisor does not address misconduct?

A: There is not a "technical" response to this question. In reality, problems related to misconduct rarely correct themselves, and more than likely, an unaddressed problem becomes worse and negatively impacts the efficiency of the organization. A supervisor may be held accountable for failure to address misconduct.

Q: When a supervisor develops documentation on an employee about either a performance or conduct problem, does the supervisor have to share that documentation with the employee?

A: The answer is a question: What is the purpose of the documentation? Generally, the purpose of documentation is to send a message to the employee about a performance or conduct issue that has been brought to management's attention. The most effective approach is to share such documentation unless the supervisor has no intention of using it against the employee in a negative way in the future. Remember, discipline must be timely and any "old notes" may not be useful for disciplinary reasons.

Q: If an employee's performance rating is less than Fully Successful and a within-grade increase is due, may the supervisor "opt" to grant the WIGI anyway?

A: No. If an employee's most current performance rating is not Fully Successful or better, that employee is not entitled to a WIGI. The supervisor must ensure the employee is properly notified of the denial of the WIGI in accordance with Agency procedures. It is not enough to rate the employee and tell the employee verbally.

Q: May a Trial Period employee be terminated even if there is little or no documentation on a conduct or performance problem?

A: Generally, yes. However, supervisors have the responsibility to effectively counsel all employees, including Trial Period employees, when problems regarding performance or conduct occur. Such counseling is typically in writing and provides a useful record for the employee and management to ensure optimal communication. If supervisors follow this strategy, problems resulting from insufficient

documentation should be rare. If documentation about a problem is less than adequate, the nature of the concerns about the employee should be thoroughly examined to determine if termination is the appropriate action.

Contact Before you take a disciplinary action or a performance-based action, you must contact your HRO Labor Relation Specialist. For more information on denying WIGIs, and employee trial periods, contact the Labor Relations Specialist in HRO.

Grievance Procedures

Q: If an employee is still dissatisfied after receipt of a response from the second level supervisor (in an administrative grievance), what further action can be taken?

A: Technically, the administrative grievance procedure is over at the conclusion of The Adjutant General's response, if so desired.

Q: If a supervisor receives a grievance from a subordinate employee, doesn't that reflect negatively on the supervisor?

A: The fact that an individual employee has exercised a right to formally present a grievance should not negatively impact a supervisor, and the supervisor should not view such an act as personal. Supervisors should be concerned about the issues the employee has presented via the grievance process and take an active role in addressing those issues.

Q: If a grievance is "settled," doesn't that mean management did something wrong? Why else would there be a settlement?

A: A settlement is an agreement between management and the grievant in which both parties have agreed to certain actions and, by this agreement they agree the grievance is resolved. A settlement of a grievance should be viewed as positive and effective as both parties voluntarily agree to the provisions. It is not always possible to settle a grievance in this way.

Q: Can a bargaining unit employee "choose" to use the administrative grievance procedure instead of the negotiated grievance procedure?

A: No. Bargaining unit employees must use the grievance procedure in the applicable collective bargaining agreement unless exceptions are otherwise allowed by that agreement.

Contact For more information on administrative grievances or negotiated contract grievances, contact your servicing Labor Relations Specialist in the HRO.

Contact:

For more information on **Conduct, Performance and Discipline**, contact your HRO Labor and Employee Relations Specialist.

EQUAL EMPLOYMENT OPPORTUNITY
LABOR RELATIONS AND PARTNERSHIP

Checklist of Topic(s) Covered		
	Topic	**Page**
✓	**EEO Objectives**	**6-1**
✓	**EEO Special Emphasis Programs**	**6-2**
✓	**EEO Diversity Initiatives**	**6-2**
✓	**Complaints of Discrimination**	**6-3**
✓	**EEO Compliant Issues**	**6-3**
✓	**Compliant Process**	**6-3**
✓	**EEO Counselors**	**6-5**
✓	**Preventing Sexual Harassment**	**6-5**
✓	**Labor Management Relations**	**6-6**
✓	**Labor Organization**	**6-14**
✓	**Labor Management Partnership**	**6-15**
✓	**Supplemental Information** ◆ Tips on Communicating and Managing Conflict ◆ What Causes a Grievance?	 **6-17** **6-21**
✓	**Basic Employee Rights Under 5 USC Chapter 71**	**6-22**
✓	**Frequently Asked Questions (FAQ's)**	**6-43**

References:

29 CFR, Part 1614, NGR (AR) 690-600, NGR (AF) 40-1614, EEO MD-110, Civil Rights Act of 1964 (as amended), 5 U.S.C. 71, Labor Relations, EO 12871 (as amended), Civil Service Reform Act of 1978, (State) DoD ACT Labor-Management Agreement, TPR 335, Sample TAG Policy Ltrs.

EEO Objectives

Purpose

The objectives of the Equal Employment Opportunity (EEO) Program are to provide full and fair employment opportunities for all employees and to provide for the nondiscriminatory treatment of all employees while carrying out their workplace duties. Employees should be offered employment and career advancement opportunities consistent with the DoD Merit Promotions and Placement Program (based on performance and abilities).

Supervisor's Role

As a supervisor, you are involved in virtually all of the decisions that directly affect the success or failure of your component's EEO program. You fill vacant positions and make selections for promotions; you approve training and detail employees to other positions. To comply with EEO goals, you should be familiar with EEO objectives, programs, and complaint issues. For further advice and guidance, see the State Equal Employment Manager (SEEM) in HRO.

EEO Special Emphasis Programs

Purpose

Many different EEO Special Emphasis Programs exist within DoD. These programs assist supervisors by providing resources that support EEO goals. These programs also seek continued progress with respect to the representation of women and minorities in the Agency, as well as increases of both women and minorities in managerial, supervisory, and policy-making positions.

Supervisor's Role

As a supervisor, you should utilize these resources to assist you in maintaining a workplace free of discrimination. EEO programs can assist you in supporting the principles of affirmative employment and equal employment opportunity, specifically in implementing measures to increase the representation of women and minorities in DoD's workforce.

EEO Special Emphasis Programs…

- **Black Employment Program**
- **Federal Women's Program**
- **Hispanic Employment Program**

EEO Diversity Initiatives

Purpose

The objectives of diversity initiatives are to aid in the understanding of the human dynamics that cause problems among people who are different (i.e. race, culture, gender). It goes beyond representation and discrimination or understanding and valuing the differences people bring to the workplace. Managing diversity initiatives is an umbrella for all of these related issues, and it enhances rather than diminishes these efforts.

Supervisor's Role

Managing diversity is a comprehensive managerial process for developing an environment that works for all employees. It is, by necessity, a long-term effort that will impact the entire organization. As a

supervisor, you should develop a clear vision and objectives that are understood and agreed upon by all initially involved. Motivate and support groups to embrace the initiative by emphasizing benefits.

Complaints of Discrimination

Purpose

Federal law prohibits discrimination against employees or applicants because of their race, color, religion, sex (including sexual harassment), national origin, age, non-disqualifying handicap, or reprisal. Employees who want to file a complaint under the Equal Pay Act can now use the same system provided for other complaints of discrimination under title 29 Code of Federal Regulations, part 1614.

Supervisor's Role

As a supervisor, you are involved in virtually all of the decisions that directly affect the success or failure of your State DoD EEO Program. You fill vacant positions and make selections for promotions; you approve training and detail employees to other positions; and you set the tone for dealings among employees in your organization. To comply with EEO goals and minimize the likelihood of a complaint, you should be familiar with EEO objectives and programs. The SEEM in HRO is your POC for all complaints of discrimination.

EEO Complaint Issues

Purpose

An employee who feels he or she has been treated unfairly can file a complaint based on issues such as promotion, reprimand, termination, job training, assignment of duties, awards, reassignment, denied within-grade increases, reprisal, sexual harassment, etc.

Supervisor's Role

As a supervisor, you are involved in virtually all of the decisions that directly affect the success or failure of your component's EEO program. You fill vacant positions and make selections for promotions; you approve training and detail employees to other positions; and you set the tone for dealings among employees in your organization. To comply with EEO goals and minimize the likelihood of a complaint, you should be familiar with EEO objectives and programs.

Complaint Process

Purpose

A Federal employee or applicant who believes he/she has been discriminated against can initiate a complaint of discrimination by contacting either an EEO counselor or the State Equal Employment Manager (SEEM) within 45 days of the discriminatory occurrence. The informal process is managed by the SEEM; the formal process begins once the complainant decides to file a formal complaint. For more information on the formal and informal processes, see the overviews on the following pages.

Supervisor's Role

Federal EEO regulations require you to cooperate fully with EEO counselors and investigators in the performance of their duties throughout the complaint process. As a supervisor, you have the responsibility

to make a good-faith effort to understand the complaint process and resolve complaints of discrimination early in the process.

An Overview of the Informal Complaint Process . . .

1. **Employees who feel they have been discriminated against must contact either an EEO counselor or the SEEM/EEO office within 45 days of the discriminatory occurrence. *Failure to meet time limitations may affect the employee's right to file a complaint.***
2. **The employee will meet with the EEO counselor and discuss the situation. If a complaint is pursued, the counselor will proceed with steps 3-6.**
3. **The counselor will gather information by interviewing witnesses, if any, of the alleged discriminatory occurrence.**
4. **The counselor will fill out a counseling report.**
5. **The counselor will contact the alleged offender and/or responsible management official to discuss the complaint. Attempts to resolve the complaint will be made at this time. The informal process will take from 30 to 60 days if an extension is granted and may be extended up to 90 days if alternative dispute resolution is elected.**
6. **If the complaint is not resolved at the informal stage, the complainant receives a final counseling report and is advised of his/her right to file a formal complaint to TAG representative (SEEM) within 15 days.**

An Overview of the Formal Complaint Process . . .

1. **The complainant files a formal complaint to SEEM within 15 days of receiving a final EEO counseling report.**
2. **SEEM either accepts or rejects the complaint. If accepted, the Agency has 30 days from the date of filing to conduct an investigation.**
3. **SEEM forwards the Report of Investigation (ROI) and Investigative Summary (IS) to the complainant and notifies him/her of the option to request an NGB reconsideration and decision.**
4. **NGB must render a decision within 180 days and notify the complainant of his/her right to file with the Equal Employment Opportunity Commission (EEOC) who will render a final decision.**

For more information on procedures beyond steps 1 through 3, contact the State Equal Employment Manager (SEEM) in the HRO.

EEO Counselors

Purpose

State DoD EEO counselors perform a vital role as a conduit through which employees and supervisors can resolve various EEO problems and issues. EEO counselors are trained to resolve EEO problems informally and in a timely and appropriate manner.

Supervisor's Role

Federal EEO regulations require all supervisors and managers to cooperate with EEO counselors and investigators in the performance of their duties throughout the complaint process. All supervisors and managers have a responsibility to make a good-faith effort to understand the complaint process and to resolve complaints of discrimination early in the process.

Preventing Sexual Harassment

Purpose

The Equal Employment Opportunity Commission defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment is a violation of Federal law.

Supervisor's Role

The importance of dealing with a sexual harassment complaint cannot be overemphasized. Once you become aware of a sexual harassment situation, you must take immediate and appropriate corrective action to ensure that the harassment ends. Every level of management has a responsibility to provide guidance on DoD's policy on the prevention of sexual harassment. This should be done periodically for the benefit of new employees and as a reminder to current employees.

Labor- Management Relations

Purpose

The Federal Labor-Management Relations Program provides a system for reconciling the management needs of agencies with the needs of employees and their elected representative's desire to have a "say" in differences and disputes that arise in the process. The law asserts labor organizations and collective bargaining in the civil service are in the public interest, and has established labor relations procedures to meet the special requirements and needs of the Federal Government.

Supervisor's Role

As supervisors and managers, you are directly involved in dealing with management, union, and employee rights under the law. You make the day-to-day decisions that involve negotiated rules; you communicate directly with employees on a wide range of matters and handle the problems and complaints that arise; and you are often involved in making changes and improvements in operational methods that may impact employees' working conditions. It is essential that you understand how to recognize and deal with labor relations situations effectively.

Basic Rights

The Federal Labor-Management Relations Statute is built on a number of **"rights"** granted to Federal employees, unions, and Agency management. The most fundamental rights are those granted to employees. The law gives employees the right to organize themselves into a group called a **bargaining unit** and to select a particular union to represent them in dealing with Agency management. To deal effectively with employees and their union representatives, you must know their rights and yours. These rights are dictated by law in the collective bargaining agreement and in the Code of Federal Regulations.

Employee/Union Rights - Federal employees have the right to join or not join a union or give money (pay dues) to a union without coercion or fear of reprisal. The exclusive union is the sole spokesperson for the employees it represents regarding conditions of employment. It is especially important that you know and accept the union's role in negotiating and policing the collective bargaining agreement and in representing employees who bring grievances against the Agency under the negotiated grievance and arbitration procedures.

Management Rights - As a member of management, you too, have certain basic rights under the law. In addition to the right of your Agency to set the mission, budget, organization, number of employees, and internal security practices for your operation, you have the right to:

- **Decide whom to hire as well as what other personnel actions are needed to make your operation run efficiently.**
- **Assign work to the employees who report to you.**
- **Determine what performance is required for employees to get the work accomplished, whether employees are measuring up, and, if not, how performance must improve.**
- **Make the selection if filling a position from among candidates for promotion or from another appropriate source.**
- **Take what ever actions are necessary to carry out your operation during emergencies**

The **law** spells out these management rights, but the **procedures and impact** on employees of exercising them must be **negotiated** if the union requests such negotiations. For example, in filling a position, you may select from "among properly ranked and certified candidates for promotion; or any other appropriate source." The collective bargaining agreement may prescribe a procedure for ranking and certifying candidates for promotion. **Know** the **collective bargaining** agreement and know your management rights. Use your rights, but use them considerately and properly. **Beware** of **incorrect** collective bargaining agreement interpretations. They may set harmful and costly precedents that prove difficult, if not impossible, to eliminate over the long term. For **interpretation** of collective bargaining agreement language, **contact the** Labor Relations Specialist in the HRO.

Day-to-Day Operations

At one time or another, you may decide to make **changes** and **improvements** within your organization. Your decision to make a change will bring into play the union's right to become involved only if the change involves what is called the **conditions of employment** of bargaining unit employees. It is important to understand what this term means. Bargaining unit employees' conditions of employment include **two** different general areas: **personnel policies and practices** and other **working conditions**. In general, the rules and procedures that prescribe how employees behave or how they will be managed (i.e. leave policies, and merit promotions policies) are called personnel policies and practices.

As a rule of thumb, **written** rules for managing employees, such as an annual leave arrangement procedure or merit promotion rules, are considered **policies**. **Unwritten** rules, such as an **established pattern** of allowing employees to swap weekend overtime assignments, are usually called **practices**. A **pattern** of doing things one particular way may become an **unwritten rule** (past practice), if allowed consistently for a long period of time with the knowledge and acceptance of union and management. It cannot, however, conflict with any law, regulation, contract provision or management right. Other features and benefits of employees' work environment (i.e. heat, light, air conditioning, parking arrangements, safety conditions, break/rest areas, smoking areas and availability of food) fall under the general heading of working conditions. Taken together, the two categories of personnel policies and practices and working conditions make up the conditions of employment of bargaining unit employees.

The most important thing to remember . . . is that a management decision that changes employees' conditions of employment brings the union's rights into the picture and therefore, requires you to follow certain established procedures before effecting your decision.

Your basic right to make changes **is not** open to negotiation with the union; **however**, if your **change** is likely to produce an **impact on the working conditions of bargaining unit employees,** the **union is entitled** to an opportunity to propose ways to deal with the impact, and Agency **management is required by law** to bargain about such proposals. For example, if you decide to reorganize and relocate part of the organization to a different part of the building to improve efficiency or reduce costs, that decision is up to management. The decision to reorganize is not open to negotiation because it is covered by the protected management right to determine the appropriate organizational structure. But if the reorganization/relocation **significantly** changes employees' working conditions, their union has the right to make proposals to deal with the changes. Working out procedures and arrangements for dealing with the impact a management decision has upon employees is referred to as **impact and implementation bargaining.**

A key point to remember . . . is that if the change you want to make is covered by a protected management right, such as reorganization, only the impact and implementation of the change is open to negotiation. On the other hand, if the intended change is not covered by an absolute management right, the proposed change itself is open to bargaining.

Formal Discussions

In addition, the exclusive union has the right to become involved in certain discussions you may have with your employees. These discussions are called **formal discussions**. ***In these situations, you are required to make sure the union is allowed to have a representative present***.

A formal discussion consists of a meeting between the Agency's representative and one or more employees in the bargaining unit concerning a grievance or conditions of employment. Before having such formal discussions, the union must be provided advance notice and be allowed to attend and participate in the discussion.

The idea behind this requirement is simple. Because the union is responsible for working out and enforcing conditions of employment, it should be allowed to sit in when managers discuss such matters with the employees the union represents. **Conditions of employment** are **negotiated** with the **union, not** with **employees**. Whether the employee wants the union to be present at the meeting is not important. The right to attend such meetings is a right given to the union by the Statute. It is not a right that may be waived by individual employees. **Contact the Labor Relations Officer** in the **HRO**, and/or **consult the collective bargaining agreement** for the appropriate procedures for union notification.

Robust or "Spirited" Discussion

The union representative has a right to comment, speak, and to make statements. However, the union representative cannot take charge of, usurp, or disrupt the meeting. The union representative's conduct must be reasonable; fully understanding there is room for "robust debate" between the parties.

At times, the subject matter of formal discussions may lead both sides to communicate their positions with emotional fervor that is not found in other discussions. If the topic is contentious, it is important for supervisors to state their positions with professional courtesy and respect for their union counterparts. It is hoped union representatives would do the same. But what happens if the discussion becomes heated during a formal discussion? Federal Labor Relations Authority (FLRA) case decisions can give managers insight.

It is in everyone's best interest to create a collaborative atmosphere that will lead to effective Labor-Management relations. Supervisors are encouraged to do their part in creating a positive atmosphere and always conducting themselves in a professional manner.

Weingarten Rights

Another important **provision** of the **law** is the right of the union to be present when an Agency representative **examines** an **employee** in connection with an **investigation** known as the **Weingarten Righ**t. Agencies must annually inform employees of this right. HRO publishes this right every year to comply with this requirement; therefore, it is **not** required you advise employees of this right before an investigation.

Before an investigation becomes a **Weingarten Right** situation, it **must** include **all three** of the following elements:

- **An examination of a bargaining unit employee by an Agency representative in connection with an investigation.**
- **An employee must reasonably believe disciplinary action may result. (It does not apply to the normal day-to-day conversations you have with the employees you supervise involving work techniques or other matters unrelated to discipline.)**
- **An employee must request representation. An employee's silence concerning representation implicitly waives the right.**

What should you do?

The law gives you several **alternatives** when an employee request union representation:

- **You can simply end the meeting and not call in a union representative.**
- **You can offer the employee the alternative of continuing the meeting without a union representative or forego having the meeting to arrange for representation. If the employee declines union representation – OBTAIN IN WRITING!**

- **You can temporarily stop the questioning long enough to obtain a union representative and then continue the questioning after the union representative has arrived.**

It is important to know the right of employees to have a union present **only applies** in situations in which the discussion could **reasonably** be expected to **lead to discipline** (i.e., letter of reprimand, suspension or removal). Discussions concerning an **employee's performance**, even though such discussions could lead to a poor performance rating or performance-based action, **do not** bring the Weingarten Right into play. This also includes other routine conversations that do not involve a reasonable fear of discipline.

When discipline is being considered, it is good practice to offer union representation in the beginning to preclude future problems (do not make the employee request it).

Unfair Labor Practices

The labor relations Statute establishes a procedure by which employees, unions, and agencies can **complain of** and **obtain corrective action** for violations of the law. Such violations are called **unfair labor practices**, or **ULPs** for short.

As a member of management, YOU MAY NOT . . .

- **Interfere with, restrain, or coerce employees who are exercising their rights under the labor relations program.**
- **Encourage or discourage union membership by discriminating with regard to conditions of employment.**
- **Sponsor, control, or assist a labor organization.**
- **Discipline or otherwise discriminate against employees for filing a complaint or petition or for testifying.**
- **Refuse to consult or negotiate in good faith.**
- **Fail or refuse to cooperate in negotiation impasse procedures or decisions.**
- **Enforce a rule that conflicts with the collective bargaining agreement, if the contract was in place before the rule was issued**

If a ULP is discovered, a **remedy** can be ordered to **repair whatever harm** was caused by the violation. In practice, most unfair labor practices are filed by the unions against agencies. This is because Agency management has the authority to take or not take action in the course of managing the organization. If the union or employees feel the employer's actions are improper, one way to deal with them is through the ULP process. If the union believes you have taken an action that violates a right provided by the law (i.e., changing a personnel policy or working condition without first notifying and bargaining with the union), it may file a ULP with the **Federal Labor Relations Authority (FLRA**). Upon receipt of the ULP charge, the FLRA will **investigate.** This investigation normally involves meeting with the person who filed the charge as well as with managers and supervisors who may be involved. You are entitled to representation at any interview with a FLRA agent.

ULPs are sometimes **settled** or in some cases in which there appears to be no basis for finding a violation, the FLRA will suggest the union drop the charge. If the union does not drop the charge as suggested, the FLRA will consider the information developed through its investigation and whether it believes the matter should be taken further. If not, the FLRA will **dismiss** the charge. On the other hand, if the FLRA concludes a ULP charge has merit, that is, if it believes that a violation of the law can be proven, **a formal complaint will be issued**. This action requires the Agency either to settle the matter or to defend itself in a formal hearing before an administrative law judge. If the issue is not resolved, the FLRA will arrange a **hearing** date and will present evidence in an effort to prove the Agency violated the law. Following the ULP hearing, the **administrative law judge** issues a **recommended decision** that may or may not find that a ULP has occurred. If neither side files an **exception** (appeal), the recommended decision becomes final. If either side does choose to appeal, the matter goes to the full FLRA for a final decision. If the **FLRA** decides a **ULP has been committed**, it will order certain **remedial actions** be taken. These can include but are not limited to:

- **Cease and Desist Order and Posting. The Agency must post a notice signed by TAG ordering it to "cease and desist" (stop) the activity that violates the law.**
- **Status Quo Ante Order. The Agency must return to the status quo, that is, to the way things were before the improper change.**
- **Make Whole Order. This could include restoration of an employee to a position, a retroactive promotion, back pay for improperly denied overtime or other differentials, interest on back pay awards, and in some cases even attorney fees for the work performed by the union attorneys in helping to present the ULP case.**
- **Bargaining Order. Order the Agency to negotiate on the matters or proposals involved.**

ULPs are filed against agencies, not individual supervisors. Remedies are not directed at either the manager or the supervisor involved even if a violation of the law is found.

It is an unfair labor practice for **either union or management** to fail or refuse to comply with any provisions of the Federal Labor Relations statute.

Union Officials **MAY NOT:**

1. **Interfere with, restrain, or coerce employees in exercising their rights.**
2. **Cause, or attempt to cause, an Agency to discriminate against employees in exercising their rights.**
3. **Coerce, punish, or attempt to make reprisal against a union member to hinder work performance or productivity.**
4. **Discriminate in regard to membership.**
5. **Refuse to consult or negotiate in good faith.**
6. **Fail or refuse to cooperate in impasse procedures or decisions.**
7. **Call, participate in, or condone a strike, work stoppage, slowdown, or picketing that interferes with Agency's operations.**

Representation

A union that has obtained exclusive recognition is entitled to -- and must -- represent **ALL** employees in the bargaining unit fairly and equally, whether or not they are union members (pay dues). Unions chosen by a majority of the employees in a unit to represent all the employees in the unit are granted "exclusive recognition."

Union Bargaining Unit

The recognized bargaining units in the (State) National Guard are:

a. All General Schedule and Federal Wage System Technicians employed by the (State) Air National Guard.

b. All General Schedule and Federal Wage System Technicians employed by the (State) Army National Guard.

Positions Excluded from the Union Bargaining Unit

The positions excluded from the bargaining unit in the (State) National Guard are:

a. Management officials

b. Supervisors

c. Technicians engaged in personnel work

d. Confidential Technicians as defined in 5 U.S.C. 7103 and 7112

Managing with Cooperation

Our labor-management relationship is important. **Regulations, collective bargaining agreements, and personalities account for the variations.** Your treatment of employees and your dealing with their union representatives can foster an **atmosphere of cooperation.** Keeping the union informed of plans affecting employees in the unit and informing the union early can avoid undue friction. Mutual interests, such as job safety, call for close cooperation. The union stewards occupy positions of trust in the bargaining unit. Give them the respect and cooperation necessary to do an effective job. Be as understanding of their position as you expect them to be of yours.

As a supervisor you should do the following:

- **Familiarize yourself with State DoD and Federal labor-relations policies. Most importantly, be completely familiar with the current collective bargaining agreement.**
- **Maintain a role of strict neutrality -- neither encourage nor discourage union membership or activities.**
- **Inform and/or consult, as appropriate, with the union on matters related to employment policies and working conditions and on matters related to establishing, changing, and implementing personnel policies and practices affecting one or more bargaining unit members.**
- **Ensure the right of the union to be present when an employee raises a complaint relating to the interpretation or application of the collective bargaining agreement. Promptly bring to the attention of the HRO, Labor Relations Office, contacts and dealings with labor organization representatives.**

Good labor relations can make everyone's job easier. As a supervisor, you are not expected to be knowledgeable of all the fine points of labor relations case law. Remember: if in doubt, contact the Labor Relations Specialist in State HRO for assistance.

The Association of Civilian Technicians (ACT), Inc.

The Union that represents the majority of Technicians of the [State] National Guard is the Association of Civilian Technicians (ACT). It was founded in 1960 and was instrumental in the passage of the Technician Act of 1968. It represents bargaining units in 38 states, Washington D. C. and the Virgin Islands.

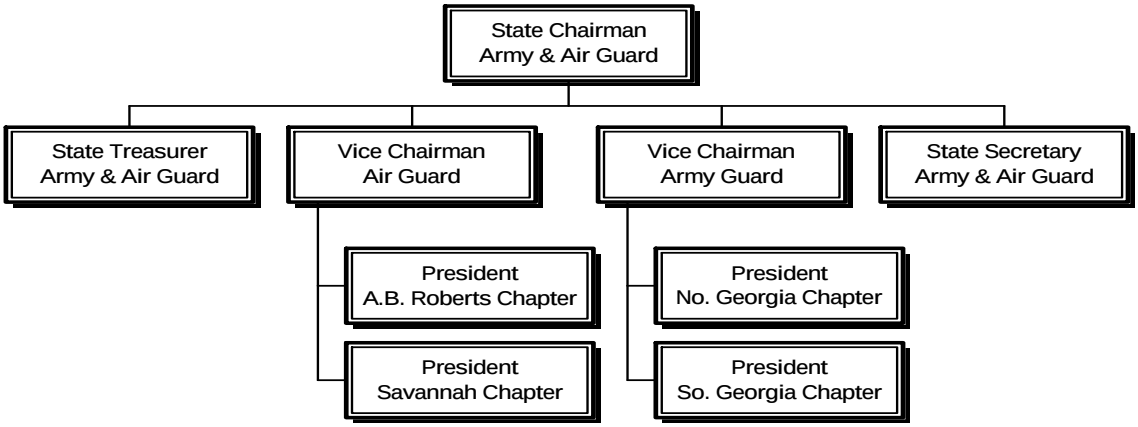
Its headquarters is located in Lake Ridge, VA. The President and other elected officials form a Board of Directors, which governs at the national level. They supervise six National Field Representatives located in five regions. These reps are either current Technicians or have been Technicians. The Association has a National Constitution dated in 1992. State or local chapters within each state recognize chapters.

Each state has a Council which has it own set of By-laws. The state council works with the HRO, Commanders and the TAG.

All Officers are elected by the membership. OFFICERS ARE ELECTED NOT SELECTED – UNIONS ARE VERY DEMOCRATIC ORGANIZATIONS.

The following is a sample organizational structure of an ACT State Chapter:

ACT, Inc. - Georgia Chapter



The role and responsibility of the Unions is to represent and protect all employees in the bargaining unit. The union upholds the contract, Federal laws, Agency regulations and procedures. It strives to promote and maintain a high level of morale and cooperation with management. It ensures its members understand their duties and responsibilities to the [State] National Guard. The union works to have positive communication with managers to resolve issues at the lowest level.

The union is active in promoting positive Labor/Management relations through training, State Safety Council and the Labor Management Agreement (Contract).

ASSOCIATION OF CIVILIAN TECHNICIANS

Labor-Management Relations

Labor-Management Relations – A Spirit of Cooperation

Executive Order (E.O.) 12871-- Labor Management Partnerships was issued on October 1, 1993. This order directed agencies to form alliances with their unions in the form of a "partnership" by; involving employees and union representatives as full partners in identifying and resolving workplace issues; provide training in consensual methods of dispute resolution; negotiate with unions over the subjects set forth in 5 U.S.C. 7106(b)(1); and evaluate bottom-line results achieved through partnership. E.O. 12871 **was rescinded in February of 2001 and amended by Executive Order 13203.** Although E.O. 13203 rescinded E.O. 12871, the government still encourages labor-management cooperation whenever possible. E.O. 13203 **indicates** involvement of employees and their union representatives is essential to achieving the National Performance Review's Government Reform objectives;

- Employees and their union representatives are "full partners" with management in identifying problems and crafting solutions to better serve the agency's customers and mission;
- Management may negotiate over "permissive" subjects set forth in 5 U.S.C. 7106(b)(1) .
- In addition to negotiations using traditional methods, the parties have the option of resolving matters through partnership or team processes that normally involve the use of an interest-based negotiation process.

A partnership or labor-management team agreement should not replace the Labor / Management Agreement (contract), rather it should complement it. It is strongly encouraged to continue to bargain in good faith, as required by law. A successful partnership will increase efficiency by speeding up the traditional labor / management processes with the contract always there as the firm foundation of a good relationship.

Purpose

The purpose of the Labor-Management Partnership is to increase communication and opportunities for cooperation and joint problem-solving that will enable us to continue to deliver the highest quality services to the citizens of [State] and the United States and achieve our ultimate goal of mission accomplishment. The objectives include the following:

a. To foster cooperative, constructive working relationships among all employees, management, and Union representatives.

b. To promote an atmosphere of trust based on fairness, dignity, equity, mutual respect, and value of the individual.

c. To promote the participation of employees in decision-making processes involving working conditions.

d. To communicate to all employees the purposes and objectives of Partnership.

e. To promote the involvement of employees in identifying problems and issues and crafting solutions to better serve The [State] National Guard's customers.

Supervisor's Role

Supervisors, like employees, may bring workplace issues to the Partnership Council. Supervisors and managers should contact one of the management representatives on the council to have an issue presented.

Agency Structure

The structure of the labor-management partnership at the State DoD includes a headquarters level council (State Labor-Management Partnership Council) and local councils in ARNG and ANG units throughout the state.

The councils are made up of **equal representation** from labor and management. Management representatives on the councils are selected by the HRO and Commanders and Union representatives on the councils are selected by the labor union. These councils address policies, practices, and working conditions that impact bargaining unit employees; review and act upon proposals for demonstration or pilot projects; disseminate and share information regarding the proceedings of the councils; and demonstrate leadership in Partnership to all (State) DoD employees. The **local partnership councils** (LPC) address policies, practices, and working conditions that relate primarily to the local organization, identify issues for referral to the State Council, disseminate and share information regarding the proceedings of the LPC, and demonstrate leadership in partnership to all employees at the local level. Partnership councils make decisions by **consensus** using the guiding principles and techniques of Interest-Based Problem Solving.

Tips on Communicating and Managing Conflict

CONFLICT RESOLUTION AND COMMUNICATION BASIC TRAINING

ATTACK THE PROBLEM NOT THE PERSON:

- Define the problem
- Explore each person's perception of the problem
- Try to understand and respect each point of view without judging
- Remember we all come from different backgrounds and different socializations and we must understand and value our diversity – it is our diversity that makes us strong

USE GOOD COMMUNICATION SKILLS INCLUDING:

- ***LISTENING*** – Use "Active Listening" letting the communicator know you are genuinely interested. Do not interrupt. Let them express why their feelings are important to them.
- ***SUMMARIZING*** – Paraphrase to let the communicator know what you think they said
- ***CLARIFYING*** – Ask questions when you are unsure of the communicator's message
- ***BODY LANGUAGE*** – You should be calm, relaxed and attentive. Make eye contact and nod occasionally to signify you are understanding the message.
- ***BE RESPECTFUL*** – Treat everyone with respect. There is not one person who wants to feel judged or personally attacked.

CONCENTRATE ON INTERESTS, NOT POSITIONS:

- The position is the outcome you are interested in understanding
- The interest is why you want that outcome
- Interests that are involved in conflicts are usually related to our basic needs. When we focus on interests instead of positions we can start to find solutions.

THE IDEAL SOLUTION IS A WIN-WIN AMONG THE FIVE PRIMARY WAYS TO SETTLE CONFLICT:

- ***COMPETITION*** as on a playing field is an option that always results in WIN-LOSE
- ***ACCOMMODATION*** where you yield to the other person results in LOSE-WIN
- ***AVOIDANCE*** is one of the most common ways to react and results in LOSE-LOSE
- ***COMPROMISE*** where you obtain some of what you want is like a WIN-LOSE/LOSE-WIN
- ***COLLABORATION*** is the best, most satisfying, and hardest goal to achieve – a WIN-WIN

COLLABORATE TO SOLVE THE PROBLEM FAIRLY STRIVING FOR THE WIN-WIN SOLUTION:

- You should identify areas of agreement, define and explore alternatives, and select solutions
- Both sides must be willing to resolve the issue, get to the root of the problem, and empathize
- Hidden agendas, dishonesty, or lack of trust will derail your efforts to resolve the conflict
- A fair solution respects the interests and positions of both sides

More Tips on – CONFLICT RESOLUTION and COMMUNICATION

"The following tips were paraphrased from various university and public sources freely available for publication"

WORKING IT OUT TOGETHER…

The first step towards harmony in our work and personal life is to learn how to solve our everyday problems.

CONFLICTS HAPPEN – Conflicts are a normal part of life. How we deal with these conflicts can make a big difference. Often when people resolve conflicts, one person is a winner, and one loses out. This may solve the problem for the moment, but resentment and bad feelings can cause more problems later.

EVERYBODY CAN WIN – Another way to look at conflicts is to try to find a WIN-WIN solution, in which both sides can benefit. In this way, conflicts are turned into opportunities to grow and make things better than before. This approach is the cornerstone of "conflict resolution" – one of the most important tools for bringing harmony into our personal lives, our work sections and our organization.

PROBLEM SOLVING TERMS AND TOOLS…

COMMUNICATION – Conflicts are often caused by problems in communication. One person may have misunderstood what the other person has said. Or the other person may not have said what they meant to say. Sometimes when we're angry we don't hear what the other person is saying. Sometimes when there is a conflict, people do not tell each other which causes even more conflict. Good communication skills are an important part of resolving conflicts.

LISTENING – It's important to listen carefully. Your "body talk" sends a message you are listening. Keeping eye contact, leaning closer, nodding your head when you understand a particular point, and ignoring distractions that are going on around you are some of the ways to send the right body messages.

SUMMARIZE – When a person is finished expressing a thought, summarize the facts and emotions behind what they have said so they know you have understood what they've said and how they are feeling.

CLARIFY – Ask questions to clarify or make clearer different parts of the problem to make sure you fully understand the other person's perspective.

GOOD SPEAKING SKILLS – When you speak, try to send a clear message with a specific purpose and with respect to the listener. Speak about how you are affected by the problem.

COMMUNICATION SIDETRACKERS – Don't interrupt, criticize, laugh at the other person, offer advice or bring up your own experiences, or change the subject.

WIN-WIN OPTIONS – An idea or suggestion in which both sides can benefit is called a Win-Win option. The idea should help both sides.

BRAINSTORMING – The first step in problem solving is to come up with as many ideas as possible. This is called brainstorming. During this process, any idea that comes to mind should be expressed and written down. Don't judge whether the ideas are good or bad, or even discuss the ideas. Just try to brainstorm with as many solutions as possible**.**

FIND A FAIR SOLUTION – Then go through the ideas using fair criteria to see which idea might be best. Using fair criteria means to judge each idea with both people's interests in mind. Try to use reason and not emotion to judge an idea, respecting each person's difference in perception**.**

MORE WAYS TO PRACTICE CONFLICT RESOLUTION…

NEGOTIATION – Negotiation is a communication process in which people try to work out their conflicts in a peaceful way using conflict resolution techniques.

MEDIATION – Sometimes people who want to work out a conflict just can't seem to agree on any way to work it out. They may want another person to help them solve their problem. A mediator is a person who helps two sides to work out their problems peacefully. The mediator helps those in conflict to focus on the problem and not blame the other person, to understand and respect each other's views, communicate their feelings and what each is really saying, and cooperate together in solving the problem. Mediators are peacemakers.

GROUP PROBLEM SOLVING – Problems can also be worked out together in a group. Often group problem solvers sit in a circle, so that all members are equals. The same conflict resolution principles are used: they focus on the problem not on assigning blame to any person; they take turns sharing their point of view, and listening (without interrupting) to all of the other points of view; all members must show respect and not criticize other members or their ideas.

10 STEP COMMUNICATION PROCESS…

Try these suggestions to get your message across:

TALK DIRECTLY: If there is no threat of physical violence, talk directly to the person with whom you have the problem.

CHOOSE A GOOD TIME AND PLACE: Discuss the conflict in a quiet place when you and the other person are not busy or rushed.

PLAN AHEAD: Think about what you want to say ahead of time. Be able to state clearly what the problem is and how it affects you.

GIVE INFORMATION: For example, say something like: "When your car blocks my driveway, I get angry because I can't get to work on time." Try not to say things like: "You are blocking my driveway on purpose just to make me mad!"

DON'T BLAME OR NAMECALL: Blaming and name-calling will only antagonize the other person and make it harder for him or her to understand your concerns.

LISTEN: During the discussion, relax. Give the other person a chance to tell his or her side of the story completely, and try to learn how he or she feels about the situation.

SHOW YOU ARE LISTENING: Although you may not agree with what is being said, advise the other person you hear what he or she is saying, and are glad you are discussing the problem together.

TALK IT ALL THROUGH: Once you start, get all of the issues and feelings out into the open. Don't leave out the part that seems too "difficult" to discuss or too "insignificant" to be important. Your solution will work best if all the issues are discussed thoroughly.

WORK ON A SOLUTION: When you have reached this point in the discussion, ***BE SPECIFIC***.

FOLLOW THROUGH: Agree to check with each other at specific times to make sure the agreement is still working. Then really do it.

HINTS AND TIPS FOR DE-ESCALATING A CONFLICT…

- **Take a deep breath to stay relaxed.**
- **Look the other person in the eye with both of you sitting or standing.**
- **Speak softly and slowly.**
- **Keep your legs and arms uncrossed.**
- **Do not clench your fists or purse your lips.**
- **Keep reminding yourself – "We can find a win-win resolution to this," and remind the other person of this too.**
- **If necessary, ask for a break to collect your thoughts or release pent-up tension.**
- **Give "I messages." – Paraphrase what the other person has said, asking for clarification as necessary.**
- **Watch your language – Words that escalate a conflict are: never, always, unless, can't, won't, don't, should, and shouldn't. Words that de-escalate a conflict are: maybe, perhaps, sometimes, what if, it seems like, I feel, I think, and I wonder.**
- **Really listen to what the other person is saying with the goal of truly understanding that person's point of view.**
- **Affirm and acknowledge the other person's position.**
- **Ask questions that encourage the other person to look for a solution. Ask open-ended questions rather than ones that evoke a yes or no response.**
- **Keep looking for alternative ideas to resolve your dispute so that both of you have your needs met.**

What Causes a Grievance?

Can Anyone Cause a Grievance Situation? – YES!

GENERAL CAUSES:

- Labor/Management Relations (reactions between diverse people)
- Self Interest (how will this change affect me)
- Authority Complex (let authority go to the head or conversely reject all authority)
- Communication Barriers (written, spoken and body language)
- Self-Justification (resent having decisions questioned and do everything to justify)
- Gut Reactions (reactions without logic may not address built in biases)
- Union Attitudes (push agendas or have "get management" attitude)

SPECIFIC CAUSES:

How Can an Employee, Supervisor, or Shop Steward Cause a Grievance?

Employee:

- Qualifications do match the job
- Personal problems (refer to EAP)
- Unreliable/Antagonistic employees
- Linguistic/Racial/Cultural barriers
- Union Membership (I am immune to discipline)

Supervisor:

- Wrong attitude toward the Union
- Weak supervisory skills
- Unjust discipline
- Favoritism and inconsistency
- Promises made to employees
- Failure to eliminate sources of irritation
- Unclear orders/instructions
- Failure to keep workforce informed
- Failure to dispel rumors
- Failure to listen and consider employee's viewpoints
- Incomplete knowledge of the labor contract

Shop Steward:

- Incomplete knowledge of the labor contract
- Making unwarranted promises
- Failure to act on complaints
- Showing favoritism
- Failure to set a good example
- Playing union politics (stir it up and solve it)
- Allowing rumors to circulate

An awareness of the root causes of complaints and grievances will assist you as a supervisor, to resolve them at the lowest level or perhaps reduce or eliminate grievances by addressing the root issues. Contact the HRO/LRS for further guidance in dealing with grievance situations.

BASIC EMPLOYEE RIGHTS UNDER 5 USC CHAPTER 71:

An employee has the right to:

- FORM, JOIN, or ASSIST a labor organization;
- ACT AS A REPRESENTATIVE of a labor organization;
- BARGAIN COLLECTIVELY through a labor organization.

THE BARGAINING UNIT:

Certain employees are excluded from bargaining units by 5 USC 7112.
These are the exclusions:

- Supervisors/Management officials;
- Employees engaged in personnel work (other than clerical);
- Employees working in a confidential capacity for officials who formulate general labor relations policy;
- Employees engaged in intelligence or security work affecting national security;
- Employees investigating or auditing work or conduct of other agency employees;
- Professional employees unless a majority of the professionals vote for inclusion.

DEFINITION OF A SUPERVIS0R:

A supervisor under 5 USC 7103 is a person authorized with respect to employees to do at least one of the following:

✓ hire	✓ promote	✓ transfer
✓ assign	✓ direct employees	✓ furlough
✓ recall	✓ discipline	✓ suspend
✓ lay off	✓ reward	✓ remove
✓ adjust grievances		

or effectively recommend any such actions, if the exercise of such authority requires independent judgment. The number of employees supervised is not a relevant factor in this context.

UNION RIGHTS I/A/W EXCLUSIVE RECOGNITION:

5 USC 71114 states that a labor organization that has been accorded exclusive recognition:

- **may negotiate agreements for all employees in the collective bargaining unit;**
- is responsible for representing the interests of all bargaining unit employees whether they are union members or not;
- must be given the opportunity to be represented at all formal discussions between management and employees concerning grievances, personnel policies and practices, or other general conditions of employment;
- must be given the opportunity to be present at any investigative examination of a unit employee, if:

(WEINGARTEN RIGHTS)

- ➔ **the employee reasonably believes the examination may result in disciplinary action; and**
- ➔ the employee requests representation.

FORMAL DISCUSSIONS UNDER 5 USC CHAPTER 71:

Generally, a meeting between management and an employee would be classified as formal discussion when:

- **more than one employee is impacted by the decisions reached or more than one management official is present at the meeting; or**
- the meeting may result in a decision on an employees grievance.
- A meeting would usually not be classified as a formal discussion when:
  - ➔ the meeting is for a "personal counseling" session and does not involve matters affecting general working conditions; or
  - ➔ the discussion is not at a level which could result in settlement of a grievance and there is no potential impact on other bargaining unit employees.
- when a meeting is a formal discussion, the union must be afforded an opportunity to be represented.

MANAGEMENT RIGHTS;

Under the law, certain "management rights" exist which may not be abridged regardless of the contract. 5 USC 7106 reserves the right to:

- determine the mission, budget, organization, number of employees, and internal security practices of the agency;
- hire, direct, layoff, and retain employees;
- suspend, remove, reduce in grade or pay, or discipline employees;
- assign work, determine need to contract out, and determine the personnel by which operations will be conducted;
- select and appoint employees from appropriate sources; and
- take necessary emergency action.

Any decision to act in these areas is a sole prerogative of management.
However, both procedures for exercising that authority and arrangements regarding affected employees are subject to negotiations.

MANAGEMENT UNFAIR LABOR PRACTICES (ULPs):

5 USC 7116(a) states it is an unfair labor practice for management to:

- **interfere with, restrain, or coerce an employee in the exercise of the rights assured by 5 USC Chapter 71;**
- encourage or discourage membership in a labor organization by discrimination with respect to conditions of employment;
- sponsor, control, or otherwise assist a labor organization;
- discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under 5 USC Ch. 71;
- fail to cooperate in impasse procedures;
- enforce rules or regulations in conflict with a prior collective bargaining agreement.

UNION UNFAIR LABOR PRACTICES:

Under 5 USC 7116(b) it is an unfair labor practice for a union to:

- interfere with, restrain or coerce an employee in the exercise of his rights assured by 5 USC Chapter 71;
- attempt to induce management to discriminate against an employee in the exercise of his or her rights under 5 USC Ch. 71;
- coerce or take an economic sanction against a union member as punishment or for the purpose of hindering work performance or productivity of a Federal employee.;

- discriminate against an employee with regard to the terms or
- conditions of membership because of race, color, creed, sex, age, national origin. civil service status, political affiliation, marital status, or handicapping condition;
- refuse to consult, or negotiate with an agency as required by the 5 USC Chapter 71;
- fail to cooperate in impasse procedures;
- call or engage in a strike, work stoppage, or slowdown, or picketing which interferes with an agency's operations.

USE OF OFFICIAL TIME:

Generally, employees representing the bargaining unit are authorized official time to negotiate contracts/MOU's, etc; discuss grievances; training; participate in discussions with management, etc. However, 5 USC 7131 provides the INTERNAL business of a labor organization shall be conducted during the non-duty hours of the employees concerned (i.e.: solicitation of membership. collection of dues, elections, newsletter production. etc.).

For guidance on Employee Rights under* 5 USC CHAPTER 71*Contact the (State) HRO/LRS.

TITLE 5 OF THE UNITED STATES CODE – GOVERNMENT ORGANIZATION AND EMPLOYEES
PART III—EMPLOYEES SUBPART F – LABOR-MANAGEMENT AND EMPLOYEE RELATIONS
CHAPTER 71 LABOR-MANAGEMENT RELATIONS

SUBCHAPTER I--
GENERAL PROVISIONS

§ 7101. Findings and purpose

(a) The Congress finds that--

(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them--

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

§ 7102. Employees' rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right--

(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

§ 7103. Definitions; application

(a) For the purpose of this chapter--

(1) "person" means an individual, labor organization, or agency;

(2) "employee" means an individual--

(A) employed in an agency; or

(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include--

(i) an alien or noncitizen of the United States who occupies a position outside the United States;

(ii) a member of the uniformed services;

(iii) a supervisor or a management official;

(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce; or

(v) any person who participates in a strike in violation of section 7311 of this title;

(3) "agency" means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Department of Veterans Affairs), the Library of Congress, and the Government Printing Office, but does not include--

(A) the General Accounting Office;

(B) the Federal Bureau of Investigation;

(C) the Central Intelligence Agency;

(D) the National Security Agency;
(E) the Tennessee Valley Authority;
(F) the Federal Labor Relations Authority; or
(G) the Federal Service Impasses Panel.
(4) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include--
(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
(B) an organization which advocates the overthrow of the constitutional form of government of the United States;
(C) an organization sponsored by an agency; or
(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;
(5) "dues" means dues, fees, and assessments;
(6) "Authority" means the Federal Labor Relations Authority described in section 7104(a) of this title;
(7) "Panel" means the Federal Service Impasses Panel described in section 7119(c) of this title;
(8) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;
(9) "grievance" means any complaint--
(A) by any employee concerning any matter relating to the employment of the employee;
(B) by any labor organization concerning any matter relating to the employment of any employee; or
(C) by any employee, labor organization, or agency concerning--
(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or
(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;
(10) "supervisor" means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority;
(11) "management official" means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;
(12) "collective bargaining" means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;
(13) "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;
(14) "conditions of employment" means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters--
(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;
(B) relating to the classification of any position; or
(C) to the extent such matters are specifically provided for by Federal statute;
(15) "professional employee" means--
(A) an employee engaged in the performance of work--

(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) requiring the consistent exercise of discretion and judgment in its performance;

(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

(16) "exclusive representative" means any labor organization which--

(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit--

(i) on the basis of an election; or

(ii) on any basis other than an election,

and continues to be so recognized in accordance with the provisions of this chapter;

(17) "firefighter" means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use firefighting apparatus and equipment; and

(18) "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that--

(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

§ 7104. Federal Labor Relations Authority

(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority.

(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of--

(1) the date on which the member's successor takes office, or

(2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and decisions it has rendered.

(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

(2) The General Counsel may--

(A) investigate alleged unfair labor practices under this chapter,

(B) file and prosecute complaints under this chapter, and

(C) exercise such other powers of the Authority as the Authority may prescribe.

(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

§ 7105. Powers and duties of the Authority

(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority--

(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

(E) resolve issues relating to the duty to bargain in good faith under section 7117(c) of this title;

(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

(b) The Authority shall adopt an official seal which shall be judicially noticed.

(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.

(e)(1) The Authority may delegate to any regional director its authority under this chapter--

(A) to determine whether a group of employees is an appropriate unit;

(B) to conduct investigations and to provide for hearings;

(C) to determine whether a question of representation exists and to direct an election; and

(D) to supervise or conduct secret ballot elections and certify the results thereof.

(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of--

(1) the date of the action; or

(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

(g) In order to carry out its functions under this chapter, the Authority may--

(1) hold hearings;

(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and

(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

(i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

§ 7106. Management rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency--

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws--

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from--

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating--

(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

SUBCHAPTER II--
RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

§ 7111. Exclusive recognition of labor organizations

(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

(b) If a petition is filed with the Authority--

(1) by any person alleging--

(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after a reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

(c) A labor organization which--

(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose--

(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization--

(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless--

(A) the collective bargaining agreement has been in effect for more than 3 years, or

(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

§ 7112. Determination of appropriate units for labor organization representation

(a) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of the agency involved.

(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes--

(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;

(2) a confidential employee;

(3) an employee engaged in personnel work in other than a purely clerical capacity;

(4) an employee engaged in administering the provisions of this chapter;

(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization--

(1) which represents other individuals to whom such provision applies; or

(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies?

(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

§ 7113. National consultation rights

(a) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall--

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) be permitted reasonable time to present its views and recommendations regarding the changes.

(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization--

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

§ 7114. Representation rights and duties

(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at--

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if--

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.

(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.

(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from--

(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or

(B) exercising grievance or appellate rights established by law, rule, or regulation;

except in the case of grievance or appeal procedures negotiated under this chapter.

(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation--

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--

(A) which is normally maintained by the agency in the regular course of business?

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

(c)(1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

(4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

§ 7115. Allotments to representatives

(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when--

(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

(2) the employee is suspended or expelled from membership in the exclusive representative.

(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

§ 7116. Unfair labor practices

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency--

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization--

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure--

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7121(e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

(e) The expression of any personal view, argument, opinion or the making of any statement which--

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,

(2) corrects the record with respect to any false or misleading statement made by any person, or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

shall not, if the expression contains no threat or reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

§ 7117. Duty to bargain in good faith; compelling need; duty to consult

(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an

appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if--

(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

(B) the Authority determines that a compelling need for a rule or regulation does not exist.

(3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by--

(A) filing a petition with the Authority; and

(B) furnishing a copy of the petition to the head of the agency.

(3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall--

(A) file with the Authority a statement--

(i) withdrawing the allegation; or

(ii) setting forth in full its reasons supporting the allegation; and

(B) furnish a copy of such statement to the exclusive representative.

(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

(5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefore at the earliest practicable date.

(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall--

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization--

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

§ 7118. Prevention of unfair labor practices

(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

(2) Any complaint under paragraph (1) of this subsection shall contain a notice--

(A) of the charge;

(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the authority and designated for such purpose); and

(C) of the time and place fixed for the hearing.

(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of--

(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(5) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order--

(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

(C) requiring reinstatement of an employee with back pay in accordance with section 5596 of this title; or

(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of any employee with back pay, back pay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

§ 7119. Negotiation impasses; Federal Service Impasses Panel

(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what matter it shall provide services and assistance.

(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse--

(1) either party may request the Federal Service Impasses Panel to consider the matter, or

(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasses, but only if the procedure is approved by the Panel.

(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either--

(i) recommend to the parties procedures for the resolution of the impasse; or

(ii) assist the parties in resolving the impasse through whatever methods and procedures, including fact-finding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may--

(i) hold hearings;

(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and

(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

§ 7120. Standards of conduct for labor organizations

(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of

this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for--

(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that--

(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation--

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

SUBCHAPTER III--
GRIEVANCES, APPEALS, AND REVIEW

§ 7121. Grievance procedures

(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d), (e) and (g) of this section, the procedures shall be the exclusive administrative procedures for resolving grievances which fall within its coverage.

(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

(b)(1) Any negotiated grievance procedure referred to in subsection (a) of this section shall--

(A) be fair and simple,

(B) provide for expeditious processing, and

(C) include procedures that--

(i) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

(ii) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

(iii) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order--

(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.

(c) The preceding subsections of this section shall not apply with respect to any grievance concerning--

(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

(2) retirement, life insurance, or health insurance;

(3) a suspension or removal under section 7532 of this title;

(4) any examination, certification, or appointment; or

(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

(e)(1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

(3) The remedies described in this paragraph are as follows:

(A) An appeal to the Merit Systems Protection Board under section 7701.

(B) A negotiated grievance procedure under this section.

(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

(4) For the purpose of this subsection, a person shall be considered to have elected--

(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).

§ 7122. Exceptions to arbitral awards

(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient--

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of back pay (as provided in section 5596 of this title).

§ 7123. Judicial review; enforcement

(a) Any person aggrieved by any final order of the Authority other than an order under--

(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

(2) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause

notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

SUBCHAPTER IV--
ADMINISTRATIVE AND OTHER PROVISIONS

§ 7131. Official time

(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status.

(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

(d) Except as provided in the preceding subsections of this section--

(1) any employee representing an exclusive representative, or

(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

§ 7132. Subpoenas

(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may--

(1) issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

No subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) In the case of contumacy or failure to obey a subpoena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

§ 7133. Compilation and publication of data

(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

§ 7134. Regulations

The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

§ 7135. Continuation of existing laws, recognitions, agreements, and procedures

(a) Nothing contained in this chapter shall preclude--

(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.

Contact

For more information regarding labor-management relations and/or labor-management partnership, contact the Labor Relations Officer in the (State) HRO.

Frequently Asked Questions (FAQ's)

Equal Employment Opportunity

Q: If EEO is available for employees to complain against supervisors, what is available for supervisors?

A: Employee Relations Specialists in HRO assists supervisors who have employee issues.

Q: Am I entitled to a copy of the counselor's report?

A: No. The report is only provided to the complainant.

Q: Will the EEO counselor let me know what the decision is after counseling is completed?

A: No. EEO counselors do not make a decision on a complaint. They only gather the facts from the complainant, named officials, and witnesses, if any.

Q: If I am named in a complaint, does anything go in my personnel record regarding this matter?

A: No. We never provide information to anyone's personnel record when named in a complaint.

Q: Each time I make a selection to fill a position, should I anticipate an EEO complaint?

A: No. But it is always a good idea to retain all data relative to a selection.

> **Contact** For more information on EEO objectives, Special Emphasis Programs, Complaints of Discrimination, EEO Complaint issues, EEO Counselors, or the Complaints Process, contact the State Equal Employment Manager (SEEM) in HRO.

Sexual Harassment

Q: What is sexual harassment?

A: Sexual harassment is unwanted and unwelcome advances of a sexual nature. It could be a touch, written note, joke, or picture, just to name a few. It is behavior an individual finds offensive.

Q: Who can commit sexual harassment?

A: Anyone -- the offensive behavior can be intentional or unintentional.

Q: Why does sexual harassment persist?

A: One reason is supervisors often consider employees' social or sexual behaviors toward each other as an issue outside their supervisory responsibility. A second reason is mistaken employee attitudes. The third reason may an attitude toward the subject.

Q: How do we recognize sexual harassment?

A: Preventing or stopping sexual harassment requires you recognize it for what it is. The first step is to define more clearly the specific behaviors and situations that are usually considered sexual harassment. There are two types: Quid Pro Quo - a person in a position of power over another offers to trade an employment benefit for a sexual favor. Hostile and intimidating environment - is created by obvious sexually oriented activity by employees or supervisors. Sexual harassment is rarely found as the result of a single incident or event.

Q: How do you deal with sexual harassment?

A: Be aware of your work environment and potential problems within it. Set an example. Provide a clear policy and backup training for employees. Take the allegations seriously. Contact the SEEM for assistance in investigating the incident. Take action when necessary.

Contact For more information on sexual harassment, contact the State Equal Employment Manager (SEEM) in HRO.

Labor-Management Relations and Partnership

Q: When I sit down with an employee to discuss what is expected of him or her, must I invite the union to sit in?

A: No. The union has no right to be present at one-on-one discussions with employees to communicate performance standards for a particular job.

Q: If an employee is abusing paid time for representational functions, what should I do about it?

A: The amount and use of official time for representational functions are governed by the collective bargaining agreement (Contract) and is generally held to be “reasonable official time” as necessary. If an employee is exceeding or otherwise abusing this provision, then whatever action you take must be in accordance with the Contract. First, however, you should discuss the problem with the HRO Labor Relations Specialist to establish whether there is in fact an abuse and, if so, how best to correct it.

Q: Can I belong to the union (pay dues)?

A: Yes. But as a supervisor or manager, you can’t serve as a representative of the union or be represented by the union, nor can you hold office in the union while you are a representative of management. You must pay dues directly to the local -- you cannot be on payroll dues deduction.

Q: What kind of information is the union entitled to, and what kind of information can I withhold?

A: The union is entitled to information normally maintained by the Agency and necessary for informed bargaining or representation. It is NOT entitled to intra-management guidance, advice, counsel, or training.

Q: What are examples of unfair labor practices?

A: Threatening an employee because he/she files a grievance; admonishing or giving an employee a low performance appraisal because of active union involvement; permitting union activities to influence, or give the appearance of influencing, selections for promotion for training opportunities.

Q: Can the union require employees to become or remain members or to pay dues?

A: No. Union membership and dues payment are voluntary. The provisions for revocation of payroll deduction of union dues are spelled out in the collective bargaining agreements.

Contact

For more information regarding labor-management relations contact the Labor Relations Officer in the (State) HRO.

TRAINING MANAGEMENT AND CAREER DEVELOPMENT

Checklist of Topic(s) Covered		
	Topic	**Page**
✓	**Overview of Training**	**7-1**
✓	**Orienting New Employees**	**7-3**
✓	**Training Needs Assessment**	**7-6**
✓	**Individual Development Plans**	**7-7**
✓	**Training Resources**	**7-8**
✓	**Initiating the Request for Training – DD Form 1556**	**7-9**
✓	**Frequently Asked Questions (FAQ's)**	**7-10**
References:		
NGB TPR 400; 5 CFR Part 410; Sample Labor-Management Agreement (ACT); TAG Policy Letters and/or Regulations		

Overview of Training

Purpose

Training means the process of providing for and making available to an employee; and placing or enrolling the employee in a planned, prepared, and coordinated program, course, curriculum, subject, system, or routine of instruction or education in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other field which will improve individual and organizational performance and assist in achieving the Agency's mission and performance goals. The hiring of new employees, the introduction of new technology, organizational changes, and new processes require employees receive ongoing training and development. Enhancing employee knowledge, skills, and abilities will increase both their productivity and ability to successfully complete routine and increasingly complex work assignments. It is in the best interest of your work unit to train and develop your employees to the maximum extent of their capabilities.

Supervisor's Role

Because of your frequent interactions with employees (i.e., making assignments, and monitoring and evaluating performance), you are in the best position to determine individual employee training and developmental needs. You define the nature of the training need, recommend the training source, and initiate the Training Nomination and Authorization (DD Form 1556) or use the automated request for training via the ARNG (AFCOS) or ANG (AETC) training managers, which begins the training authorization process.

Training Resources…

An extensive list of training support resources and tools is provided in **Training Resources** on the following pages.

Training and development programs may be authorized to . . .

- **Provide knowledge and skills that relate to job requirements or Agency mission;**
- **Develop skills needed to cope with reorganizations, changing mission requirements, and technology or equipment changes;**
- **Train scientists, engineers and other professionals to preclude knowledge and skill obsolescence;**
- **Prepare employees with demonstrated potential for increased responsibility in meeting future staffing or organizational requirements;**
- **Provide initial training when there is a lack of qualified personnel; and**
- **Implement Administration initiatives.**

Employee training and development needs may be met by . . .

- **Planned work experiences, special projects, details, etc.,**
- **Self-development (i.e., participation in professional organizations),**
- **Training and education provided through Agency facilities and other Government organizations or commercial sources.**

Orienting New Employees

Keys to your success as a Supervisor or Manager . . .

- **Become familiar with your employees -- identify their strengths and areas for improvement.**
- **Develop a working knowledge of available training resources and options (see the Training Resources entry in this section of the guide).**
- **Orient new employees to their office and work environment.**
- **Learn the process for getting training and development actions initiated, approved, and authorized. (See Initiating the Request for Training and Authorization entry in this section of the guide).**
- **Recognize training is not always the solution: the problem may be equipment-related, the work process, or a communication issue.**
- **Don't forget yourself when identifying training and developmental needs!**

Purpose

Orienting a new employee is a very important activity, which unfortunately, may be overlooked in accomplishing the work of the activity. Orienting new employees assists them in adjusting to their new environment, new tasks, and new co-workers.

Supervisor's Role

Whether or not your organization conducts new employee orientation, you should plan orientation activities for all of your new employees. What you do in the first few days and weeks to assist the employee's transition may serve to establish work habits, relationships with co-workers, and overall contributions of the employee for months to come.

NOTE: A new employee orientation is presented at the beginning of each pay period by your State/Territory HRO specialists. Topics include Benefits, Leave, Thrift Savings Plan, etc.

You are likely to do a better job at orientation . . .

If you plan what to do, and when to do it, before your employee arrives. It is helpful to collect any information you can about the new employee; you can do this by checking the personnel folder or interview notes for any information available. After the employee has been at work a few days, you will probably find that the orientation plan should be revised. The following is a brief checklist of items that should be completed before the employee arrives and during the employee's first day, week, and month.

Before the new employee arrives, you should . . .

- **Announce the new employee to your staff and ask for their support in assisting him/her adjust.**
- **Arrange to set up and equip the new employee's workstation.**
- **Assemble some preliminary assignments or substantive reading materials, such as standard operating procedures.**
- **Develop some job-related tasks the new employee can complete on the first full day. This will provide the employee with a sense of accomplishment.**
- **If appropriate, select co-workers who can assist you in the orientation. Co-workers can help the employee feel comfortable and adapt to the new environment.**

On the employee's first day, you should . . .

- **Welcome and put the employee at ease. Encourage questions.**
- **Show the employee around the work area and other facilities, including the location of telephones, message center, mailboxes, copy machines, fax machines, restrooms, etc.**
- **Review how to operate the telephone system and how to answer the telephone in the work area.**
- **Review work hours and work schedule options; lunch schedules; leave policies, including who can approve leave in advance or unscheduled leave.**
- **Identify the person(s) the new employee can go to for assistance if you are absent.**
- **Introduce the new employee to co-workers, supervisors, and managers, and explain the relationship of their work to the employees. It may be helpful to provide the employee with organizational charts.**
- **Go over safety, accident, and emergency procedures for the work area.**
- **Have the new employee complete job-related tasks that will provide a sense of accomplishment.**

By the end of the first week, you should . . .

- **Review the employee's position description, emphasizing critical duties and responsibilities.**
- **Explain how the employee's work is important to the immediate work center and how the office's work contributes to the mission of DoD.**
- **Communicate your performance expectations, including expectations regarding safe work habits, securing computer files, and safeguarding confidential data.**
- **Point out frequently used internal forms, where they are maintained, and how they are used.**
- **Review policy and procedures for the office and go over guides, instruction manuals, etc. that are available in the work area. Review special words and terms used by the office.**
- **Provide the employee with positive feedback and offer suggestions that will help the employee learn the job and fit in with the group. Ask the employee how the first week went and discuss any areas of concern.**

By the end of the first month, you should . . .

- **Provide a copy of the performance plan and obtain employee's input and signature. Discuss what is involved in a performance rating, specifically: critical elements of the position that will be used to measure performance, how performance is documented, and the time performance reviews and ratings will take place.**
- **Review the employee's work progress to date and discuss any areas of concern that you or the employee identifies.**
- **Provide the employee with general information on personal growth and training opportunities, as well as promotion procedures. Decide together what training and developmental activities are necessary during the next 6 months (see Individual Development Plan).**
- **Confirm the employee has reviewed both the Standards of Ethical Conduct for Employees of the Executive Branch and the Conflict of Interest Regulations. Emphasize it is the employee's responsibility to be aware of the requirements and restrictions of these documents and to comply with them.**

Training Needs Assessment

Purpose

A training needs assessment will assist you, as a supervisor, in identifying the situations in which training is desirable or necessary. The training needs assessment can be accomplished for individuals, by occupations, or for an entire work group, and accomplish formally or informally. The training needs assessment is the best way for the supervisor to make an informed decision about what training should be scheduled.

Supervisor's Role

As an employee's immediate supervisor, you will be able to identify discrepancies between current work performance and desired performance. You should ensure the discrepancy is the result of a skill deficiency before initiating any type of training action. You will want to understand the goals of the training in order to choose the most appropriate type of training and select the vendor whose training most closely meets the identified training needs.

Supervisory Strategy for Training Needs Assessment . . .

Whether you are conducting a training needs assessment for an individual or a group, the strategy is basically the same.

- **You must first determine what performance needs to occur and whether there is a discrepancy between the current work performance and the desired work performance. If there are projected workplace changes that may impact performance, you will want to complete a training needs assessment to determine what training will need to occur to allow the employee to keep pace with those changes.**
- **If there is an important discrepancy between current work performance and desired work performance, you will need to determine if the discrepancy is a training problem or another type of performance problem. This is where supervisors must ask the question, "Is this a skill deficiency or some other type of problem?" If the problem is not a skill deficiency, training is not the solution. Rather, some type of performance management action should be taken.**
- **If the performance discrepancy results from a skill deficiency, formal training may be one possible solution. The importance of the skill deficiency will help you determine the relative priority of the training. Interventions other than formal training might include informal training, on-the-job training, practice sessions, feedback on performance, self-study training, and mentoring by a senior employee who is proficient in that skill area.**

Individual Development Plans

Purpose

An **Individual Development Plan (IDP)** is an employee development tool that identifies activities which will enhance the employee's knowledge, skills, and abilities. The IDP process provides an opportunity for you to learn about your employee's goals, as well as communicate his/her strengths and deficiencies in a developmental context.

When completing an IDP . . .

You should make it a joint effort between the employee and you. You should consider your organization's needs, technology changes, expected turnover, program plans, etc. The IDP should not be a "wish list" but a realistic working document. The employee should be accountable for following through with the IDP activities. Sections of the IDP include:

- **Developmental Objectives. These are statements defining who will do what and under what conditions. An example is "Mary Smith will be able to make clear, effective presentations to the office or division staff."**
- **Proposed Dates. List when the activities are offered or, if appropriate, a targeted completion date or a time frame for completion.**
- **Cost Estimate. List the approximate costs of each of the activities. Be sure to include the tuition or course fee, as well as any incidental costs associated with the activities.**

Supervisor's Role

Through your frequent interactions with employees, you are the person to best determine an employee's training and developmental needs. When creating an IDP, you should take the lead in formulating a partnership with the employee. The employee should identify realistic goals and activities for achievement, and you should assist by providing feedback and suggestions.

Training Resources

Purpose

Once you have determined there is a need for training and/or development, you must identify a source or provider for the required training. The information will help you find the appropriate training, either for employees you supervise or for your own training and development.

Supervisor's Role

Because you are expected to initiate the Training Nomination and Authorization, you must be aware of the possible choices for training sources. In addition to the sources listed, your own supervisor may be a valuable source of information on Government and non-Government training programs available.

Training Resources…

- **ARNG and ANG Training and Career Development Opportunities** Training managers provide lists of available courses to supervisors, managers and employees for mission essential training and career development. Most are available electronically through sources such as AFCOS and TOPNet/TEAMS.
- **USDA Graduate School Catalog** (available through the HRO Employee Development Specialist). It lists both classroom and correspondence courses.
- **Non-Government Sources**. These sources can range from private companies to local community colleges and universities.
- **Other Options.** There are a number of options for training you have available and may not immediately consider as training opportunities. These options include on-the-job training by you, another supervisor, or another employee; CD ROM-based instruction available from National Guard education centers; distance learning; a mentoring arrangement with an experienced employee; developmental assignments or details to another office; technical or professional conferences; participation in professional organizations; and reading professional books, journals, or other periodicals.

Initiating the Request for Training and Authorization – DD 1556

Purpose

The Training Nomination and Authorization is available in an automated version on the HRO website and in Form Flow format. This format is used by most sites and is acceptable for most circumstances. This form is the Agency document used to nominate and authorize employee participation in training activities. It is also used to record all Government and non-Government training; serves as a purchase order for the training provider in lieu of cash for registration at an educational institution; critiques training received; and, documents the completion of training in the employee's training file.

Supervisor's Role

You are the first link in the training approval chain, and it is your responsibility to initiate the Training and Authorization using the DD Form 1556. You should consider the training needs of employees initially when performance standards and work plans are established, during periodic reviews of the employee's performance, and in developing the IDP with the employee.

When completing the Training Nomination and Authorization . . .

It is important to maintain care and accuracy. Some reminders include:

- **As the supervisor, you should initiate the Training Nomination and Authorization.**
- **The Training Nomination and Authorization is required to authorize the employee to attend training and update the training file.**
- **You should always follow the procedures established by the HRO/EDS.**
- **No training may be attended, conducted, or paid for that has not been authorized before the start of training.**
- **The Training Nomination and Authorization should be initiated in time to reach the HRO/EDS or Training Manager at least 4 weeks before the training begins.**

Frequently asked questions (FAQ's)

Q: I have found a number of courses I would request my employee to attend. Are there any restrictions on who can attend?

A: All requested training must be mission-related. Training should be used as a means of enhancing individual or group performance that contributes to the organization's mission and/or relates to the performance of official duties. The justifications should clearly reflect how the training would accomplish these objectives. Both participants and their supervisors should carefully review the description of each requested course, particularly noting time requirements. In the training application, it must be indicated how this training will be used in the employee's workplace.

Q: What is the difference between an internal or NGB-sponsored course and vendor-sponsored training? Is it important to make the distinction?

A: Internal and NGB-sponsored training courses are for DoD employees and are listed in the respective (ARNG or ANG) automated training systems.

> **Vendor-sponsored training includes those courses commercially available for a fee. Examples include courses provided by Life-Span Services, Inc. (pre-retirement), New Horizons, and colleges and universities. It is important to make a distinction because funding authorization and cancellation policies are different for each type of course.**

Q: What must be done if my employee cannot attend an NGB-Sponsored course after he/she has been accepted and notified?

A: Participants who must cancel a course for which they have been accepted should notify the HRO/EDS or their respective Training Manager at least two weeks before the course begins so that another participant may be assigned to their space in the class. Failure to make proper notification will result in a lost training opportunity.

Q: How do I cancel or change a vendor-sponsored training request for my employee?

A: Notify the vendor and then follow appropriate procedures established by your HRO/EDS. A designated individual (usually the person inputting the training request) must submit a cancellation notification to the vendor. The notification should state the purchase order number in the subject line. Include in the body the following: course title; name of the participant; reason for cancellation or change; whether the vendor has been contacted; amount of the purchase order; and the amount of the cancellation fee, if any.

Q: How long does it take for a training request to be completed?

A: The time varies from one organization to another depending on the authorization/approval chain. Usually it takes 2 days for the request to be processed once it reaches the proper level. Requests should be received by the HRO/EDS or Training Manager at least 4 weeks before training begins to allow for adequate processing time.

Q: How will I know if my employee has been authorized to attend vendor-sponsored training? Will I receive a confirmation indicating the acceptance?

A: The request has been authorized when a confirmation is received from the HRO/EDS or Training Manager. If training applications were submitted for more than one employee, you should check each name to be sure all the applicants have been authorized. It is the responsibility of the initiating office to monitor the training request to ensure that it is authorized by the HRO/EDS and then notify the participant. It is the responsibility of the participant to notify the immediate supervisor of the acceptance. The notification will specify the location and the course hours. It is ultimately the employee's responsibility to notify the supervisor of training acceptance.

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Q: Can someone from the HRO/EDS register my employee for a vendor-sponsored course?

A: No. It is the responsibility of the requesting office to complete the registration with the vendor.

Q: My employee's request for vendor-sponsored training was rejected, but he/she was not notified and attended the class. What do I do now?

A: It is the responsibility of the HRO/EDS or Training Manager and the Supervisor to monitor the progress of the training application. Employees should never attend training without the proper authorization. However, if this does occur, notify your HRO/EDS and follow the procedures given.

Q: My office now has a U.S. Government IMPAC VISA that can be used to pay for training. Can I now bypass all of this administrative paperwork?

A: No. Authorization to attend training must be given by the HRO/EDS or the Training Manager/Supervisor before using the U.S. Government IMPAC VISA as the method of payment for the training. The VISA cardholder should print the approved training request and retain it with the Purchase Log in case of an audit.

Q: When is a meeting or conference considered a training event?

A: Agencies may sponsor an employee's attendance at a meeting or conference as a developmental assignment under section 4110 of Title 5, United States Code, when (a) the announced purpose of the conference is educational or instructional; (b) more than half of the time is scheduled for a planned, organized exchange of information between presenters and audience that meets the definition in section 4101 of Title 5, United States Code; (c) the content of the conference is germane to improving individual and/or organizational performance; and (d) developmental benefits will be derived through the employee's attendance.

Contact:

For more information on training in general, orienting new employees, preparing employees IDP's, or other training requirements, contact your Employee Development Specialist in HRO or Training Manager.

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SUPPLEMENTAL INFORMATION

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References:		
45 CFR 5, FOIA 5 U. S. C. 553, E. O. 12600, Privacy Act of 1974 (5 U. S. C. 552a) P L 101-12; CFR part 1209; P.L. 90-486; 32 U.S.C 709		

Freedom of Information Act (FOIA)

Purpose

The Freedom of Information Act (FOIA) was enacted so the public could obtain copies of Government records. The Act attempts to balance the public's right to know and the ability of the Government to function. Under the FOIA, the National Guard is required to make available to the public copies of all documents in its possession, with certain exceptions.

Supervisor's Role

You should be aware of the provisions of FOIA and understand that most National Guard records are subject to a FOIA request. Most records may be released. Though you may not directly handle a FOIA request yourself, you should cooperate with a FOIA Coordinator if you are asked to provide records or information. Also, you should ensure all of your employees are familiar with the principles of FOIA.

Information available under FOIA . . . can take many forms (i.e., paper records, microfiche, photos, maps, and electronic records such as E-mail).

If the records requested under FOIA . . . fit into one of several narrow categories, or exemptions, they do not necessarily have to be released. The following kinds of records are generally exempt from release:

- **Trade secrets and commercial or financial information that is privileged or confidential;**
- **Inter-Agency or intra-Agency memoranda or letters if the content involves recommendations or opinions that are part of the process of Government decision making and if released would cause harm to the (State) National Guard and;**
- **Personnel, medical, and similar files, the release of which would constitute a clearly unwarranted invasion of personal privacy.**

All requests for records must . . . be received centrally by the FOIA Officer. That office will coordinate the request for information. Any requests for records you receive should be referred to the FOIA Officer immediately since FOIA requests must be responded to within 20 calendar days.

All Supervisors and Managers should be familiar with principles of the FOIA.

Contact: For more information, contact your organization's FOIA Officer – State JAG

Privacy Act

Purpose

The Privacy Act provides safeguards for persons against unwarranted invasions of privacy. The Privacy Act is applicable only when records are maintained by a Federal Agency in a "system of records" (i.e., a group of records under the control of a Federal Agency from which information is retrieved by the name of the person, identifying number, or some other identifier). It requires Federal agencies to maintain prescribed standards for collecting, maintaining, using, and/or disclosing information of a personal nature. The Privacy Act also provides employees with access privileges to their personnel records. The personnel records system for National Guard employees is described in Federal Register notices.

Supervisor's Role

As a supervisor, you should understand the provisions of the Privacy Act. You cannot keep secret files on employees. (Personal notes maintained by supervisors as memory joggers are not considered part of a Privacy Act system of records until they are shared with someone else; then the subject individual has the right of access to that information). You should ensure personal information is used only for its intended purposes. In most instances, you should permit employees to review their record and provide them with the opportunity to correct inaccuracies. If you keep maintain that are retrieved by name or personal identifier, they are considered part of a system of records.

Contact: For more information on the Privacy Act, contact the State JAG.

The Privacy Act . . . was enacted to permit persons to (a) find out what records the Federal Government has maintained on them, (b) have access to those records, and (c) provide safeguards for persons against invasions of personal privacy.

To achieve this, you should . . .

- **Understand the requirements of the Privacy Act and how they relate to your job.**
- **Consult the State JAG Officer on all Privacy Act Requests.**
- **Be certain personal information is not disclosed unless (a) there is a bona fide "need to know" in order to perform an official job function, (b) permission was received from the subject of the information, or (c) the disclosure is authorized by law or regulation.**
- **Collect and maintain only information that is necessary and relevant to a function the National Guard is authorized to perform by law or Executive Order.**
- **Verify the identity of the requester before disclosing any information (by picture ID if in person or by notarized signature if by mail) to ensure it is the person to whom the record pertains.**
- **Provide appropriate safeguards to all personal information in your possession (i.e., store files in locked cabinets and protect electronic files by using passwords).**
- **Respond to requests by the subject person within 10 working days. When in doubt, check with the Privacy Act Coordinator – State JAG Officer.**

Whistleblower Protection

Purpose

All personnel actions you effect must be initiated and carried out without prejudice. This means you cannot discriminate against an employee who makes a whistleblower disclosure(s). The Whistle-blower Protection Act (WPA) protects current, former, and prospective Federal employees from unfair personnel actions that may result from their whistle-blowing activities.

Supervisor's Role

You should be familiar with the provisions of the Whistleblower Protection Act and provide all employees the freedom to disclose information protected by the Act (i.e., information they reasonably believe is evidence of a violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety). You must ensure that all personnel actions taken under your control are initiated and effected without prejudice to whistle-blowing activities.

Contact: For more information about the Whistleblower Protection Act, contact the JAG.

If an employee is a WHISTLEBLOWER . . . you must treat them fairly and without prejudice to their whistle-blowing activities. You should ensure all personnel actions you effect are based on merit principles. Examples of these personnel actions include:

- **New appointments**
- **Promotions**
- **Disciplinary or corrective actions**
- **Details**
- **Reassignments or transfers**
- **Reinstatements or reemployment**
- **Performance evaluations**
- **Pay decisions**
- **Benefits administration**
- **Awards**
- **Training and development**
- **Other significant changes in duties**

Prohibited Personnel Practices

Under provisions of the Civil Service Reform Act, any employee who can effect, direct others to effect, or recommend or approve any personnel action may ***not:***

- **Discriminate based on race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation;**
- **Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;**
- **Coerce the political activity of any person;**
- **Deceive or willfully obstruct any person from competing for employment;**
- **Influence any person to withdraw from competition for any position to improve or injure the employment prospects of any other person;**
- **Give unauthorized preference or advantage to any person to improve or injure the employment prospects of any particular employee or applicant;**
- **Engage in nepotism (hire or promote or advocate the hiring or promotion of relatives within the same Agency component);**
- **Take or threaten to take a personnel action against an employee for any disclosure of information the employee reasonably believes evidences a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety;**
- **Discriminate based on personal conduct that is not adverse to on-the-job performance of the employee, applicant or others; or**
- **Violate any law, rule, or regulation that implements or directly concerns the merit system principles.**

Political Activities – The Hatch Act

Purpose

All personnel are encouraged to register and vote. However, there should be no political party support activity by technicians in uniform during duty hours or on base. The Hatch Act was originally passed to prohibit all partisan political activities by Federal employees. It was modified in 1993 to permit some partisan activities. The modification provides for Federal employees to participate voluntarily, the same as private citizens, in the partisan political process. It protects the Federal civilian employee from improper political solicitations. There are exceptions for non-partisan elections.

Example: Federal employees can solicit, accept, and receive individualized, uncompensated volunteer services, but ***not contributions****.*

Supervisor's Role

You should be familiar with the provisions of The Hatch Act and its exceptions. For example Technicians **may** (but not in uniform):

- **Join a political party, or political group and participate in its activities;**
- **Serve as an officer of a political party;**
- **Attend and participate in nominating caucuses;**
- **Organize a political party;**
- **Participate in political rallies and gatherings; or**
- **Display pictures, signs, and buttons – off-duty, off property.**

A Technician **may not** participate in political activities:

- **While on duty or wearing a uniform, badge, insignia, or other similar item that identifies the employing Agency or the position of the employee;**
- **While in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any Agency; or**
- **While using a Government-owned/leased vehicle or while using a privately owned vehicle in the discharge of official duties.**

Technicians who are also military members may have additional restrictions imposed. For all Hatch Act information and clarification, check with the JAG for further guidance.

Procurement Integrity Act

Purpose

Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The *general rule is to strictly avoid any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships*. While many Federal laws and regulations place restrictions on the actions of Government personnel, employee's official conduct must, in addition, be such they would have no reluctance to make a full public disclosure of their actions.

Supervisor's Role

You should be familiar with the provisions of the Procurement Integrity Act and its exceptions.

As a rule, no Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who:

- **has or is seeking to obtain Government business with the employee's Agency;**
- **conducts activities that are regulated by the employee's Agency; or**
- **has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.**

Violations of the Procurement Integrity Act may subject the employee to severe disciplinary action up to and including civil and criminal actions.

Certain limited exceptions are authorized in Agency regulations. Contact the USP&FO, Base Comptroller's Office or JAG for questions concerning the Procurement Integrity Act.

Antideficiency Act

Purpose

The Antideficiency Act (ADA) is codified in Sections 1341(a) and 1517(a) of Title 31, United States Code (U.S.C.). Funds are available to support contract obligations only if previously authorized and appropriated by Congress. The legislative process of authorization and appropriation creates different types of funds with resulting limits on their use as to purpose, time, and amount. If those limitations are exceeded, corrective entries in the accounts are required upon discovery. A shortfall in unobligated funding authority in the proper account or subdivision of funds, whether occurring at the time the liability was incurred, or at the time the obligation is properly posted, may result in a reportable violation of the ADA. The receipt of additional funds before the end of the accounting period does not necessarily mitigate the violation or eliminate the reporting requirement. However, such over-obligations are not the only source of violations. By law, violations must be reported to the President through the Office of Management and Budget (OMB) and the Congress.

Supervisor's Role

If you have responsibility for expending Federal funds (through purchase requests or IMPAC card use, etc.), you should be familiar with the provisions of the Antideficiency Act and its provisions. If you have any questions concerning the use of funds and Antideficiency Act violations, direct them to the USP&FO or Base Comptroller.

Administrative Control of Funds

The National Guard is required by law to establish and operate a system of administrative controls over appropriated and non-appropriated funds. These controls are designed to regulate the quarterly rate of obligation, the management approval levels for obligations according to timing of individual contract actions, cumulative program dollar values, and the purposes for which the funds are used. The system also tracks funds availability and facilitates a determination of accountability for ADA violations.

Potential Causes of ADA Violations include, but are not limited to:

- **Authorizing or creating obligations before funds become available.**
- **Authorizing/creating obligations in excess of amounts available, including quarterly allotments, sub-allotments, allocations of appropriated funds, or other controls.**
- **Exceeding a statutory ceiling on the amount of funds that may either be obligated or expended for a specific purpose, even if otherwise available.**
- **Distributing funds in excess of the amount available.**
- **Exceeding the amount available in an administrative subdivision of funds.**
- **Failing to comply with statutory or regulatory limits or prohibitions on the use of an appropriation or fund.**
- **Accepting voluntary service, or employing personal service, in excess of that authorized by law, except in emergencies involving safety of human life or protection of property.**

Environmental Compliance

Purpose

ECAMP or the environmental compliance and management program is very extensive and generally requires both initial (approximately 20 hours) and follow-on training for a successful program. Such training involves subjects such as environmental compliance, hazardous waste management, material data safety sheet (MSDS) awareness, and the setup and operation of a successful program. Large Agency fines, bad publicity, and lawsuits are some of the penalties that can result from environmental compliance violations.

Supervisor's Role

It is your responsibility to contact your environmental compliance representative for your particular unit or branch to become aware of your responsibilities. At a minimum, you must become familiar with your unit environmental program, or in the absence of such program, verify whether or not one is required. For the ARNG, the environmental compliance office is located in the CFMO; the environmental specialist or environmental engineer located in the base civil engineering section or the clinic is responsible for environmental compliance in the ANG.

Public Affairs – Handling the Media

Purpose

As the military continues to change and its relationship with the general public becomes more common and expected, the need for an understanding of the media and especially the military's relationship with the news media is a skill which commander's and those in leadership positions are expected to master. Gone are the days where the comment " No comment" is acceptable. Also comments made "off the record" to a reporter can show up in the morning headlines. While the media can be a great asset to forwarding the "Guard" message and objectives, extreme caution and careful guidelines must be followed before providing media input.

Supervisor's Role

If a serious incident takes place involving members of your unit, or something happens in your area involving National Guard property or equipment, work with your chain of command to ensure the full-time Public Affairs Office in your State Headquarters is notified immediately. If an accident involves serious injury, death or significant loss of property, the moment you finish calling for help from the police and/or fire departments, begin the process of notifying proper public affairs officials to **obtain guidance before making statements to the media**. If you've done your homework and made advance contact with your full-time Public Affairs Office, these procedures should be part of every unit's Standard Operating Procedures.

By notifying the State Public Affairs Office immediately, you engage the horsepower of higher headquarters. **Avoid the temptation to wade into a potentially complicated public affairs issue alone – the risks are too great.** Rely on the full-time Public Affairs Office to take over the public affairs mission and stand by to assist.

Department of Defense Government IMPAC Charge Card

Purpose

The purpose of the U.S. Government International Merchants Purchase Authorization Card (IMPAC) program is to purchase supplies and services, and develop a clear audit trail and quality assessment through documentation. It prescribes the duties and responsibilities for both contracting and non-contracting cardholders, approving officials and commanders when buying supplies and services. It also provides information on how to prepare the required forms.

Supervisor's Role

Standards of Conduct - Employees of The Adjutant General in the States and Territories hold public trust. Their conduct must meet the highest ethical standards**. All Agency employees shall use this card only to purchase items of supply or services within the guidance of the IMPAC program**. Cardholders and approving officials acknowledge that making false statements on credit card records may be cause for removing the employee from Federal service. The Government may punish violators by fine, imprisonment, or both, as stated in 18 USC 1001. Unauthorized use shall have the meaning set forth in footnote 22, 12 CFR 226.12. "**Unauthorized use" means the use of a credit card by any person including the cardholder who does not have actual implied or apparent authority for such use and for which the Government received no benefit.**

Procurement Integrity

Individuals delegated procurement authority are procurement officials, as defined under Section 27 of the Office of Federal Procurement Policy Act, and must receive procurement ethics training and execute the procurement integrity certification required by Federal Acquisition Regulation (FAR) 3.104-12. As procurement officials, cardholders and approving officials are subject to administrative actions or remedies as well as civil and criminal penalties for violations of the Procurement Integrity Act.

Cardholder - Trained individuals authorized by letter of appointment from the Base Contracting Office, under the warrant of the Base Contracting Officer, to buy items for the Government and who is the custodian of their IMPAC account.

Improper use of the card includes but is not limited to the following that will result in the immediate cancellation of the cardholder's card. This includes, but is not limited to:

- Buying personal or unauthorized items.
- Violation of the FAR, Agency FAR supplements or NGB Regulations.

All card misuse or abuse of the IMPAC must be reported to the State National Guard Contracting Office.

Department of Defense Government Travel Charge Card

Policy

General. “The Travel and Transportation Reform Act of 1998” (TTRA) (Public Law 105-264) stipulates the Government-sponsored, contractor-issued travel card (hereafter referred to as the “travel card”) shall be used by all U.S. Government personnel (civilian and military) to pay for costs incident to official business travel. Provisions governing this mandatory use requirement within the Department of Defense (DoD) are defined in the Joint Federal Travel Regulations (JFTR).

Purpose

Within the Department of Defense, the Travel Card Program is intended to facilitate and standardize the use by DoD travelers of a safe, effective, convenient, commercially available method to pay for expenses incident to official travel, including local travel. The travel card is used to improve DoD cash management, reduce DoD and traveler administrative workloads, and facilitate better service to DoD travelers. In addition, because of the refund feature of the Travel Card Program, the program is intended to result in cost savings. In addition to individual travel cards, there are travel card variations that include restricted cards, unit cards, and centrally billed accounts (CBA). These variations are used to meet specific needs of the DoD components.

Supervisor’s Role

When travel is in connection with employee’s duties, travel and per diem will be authorized in accordance with DoD Joint Travel Regulations. Employees required to travel will be issued a Government travel card. This card may be used to obtain a cash advance (within per diem limits) from an ATM for travel and other travel expenses such as airfare, motel, meals, etc.

Under no circumstances should a Government travel card be used for personal use. It is the employee’s responsibility to promptly pay the credit card bill. Disciplinary action may result from abuse or improper use of the Government travel card.

Employees are required to furnish receipts for any official miscellaneous expenses over $75. These receipts should be attached to the travel voucher claim. Upon completion of TDY travel, employees should submit a travel voucher (DD Form 1351-2) to the appropriate reimbursement office so the claim is received within 5 days. As a supervisor you should be able to assist employees in completing travel vouchers.

Glossary of Human Resource Terms

Abandonment of Position - When an employee fails to report for duty and does not submit a resignation.

Absence Without Leave (AWOL) - Absence without approved leave.

Admonishment - Informal censure, usually oral, of an employee by a supervisor.

Adverse Action - A removal or suspension without pay, furlough without pay for 30 days or less, or reduction in grade or pay. An adverse action may be taken against an employee for disciplinary or non-disciplinary reasons. TPR 752 covers adverse and disciplinary actions. TPR 430 covers removals or reductions in grade based solely on unacceptable performance. TPR 351 covers actions taken for reduction-in-force reasons.

Affirmative Action - Federal policy that requires agencies to take positive steps to ensure equal opportunity in employment, development, advancement, and treatment of all employees and applicants for employment regardless of race, color, sex, religion, age, national origin, or physical or mental handicap. Affirmative action also requires specific actions be directed at special problems and unique concerns associated with equal employment opportunity for minorities, women and other disadvantaged groups.

Appeal - A request by an employee for review of an action by a higher authority, either inside or outside an Agency. The right to such review is provided by law or regulations and may include a hearing after which a written decision, based on applicable laws, Executive Orders, and regulations, is rendered.

Appointment, Noncompetitive - Employment without competing with others, in the sense that it is completed without regard to Civil Service section registers, etc. Includes reinstatements, transfers, reassignments, demotion, and promotion.

Appointment, Temporary Limited – Non-permanent appointment of an employee employed for a specified period of one year or less, or for seasonal or intermittent positions.

Appointment, Term – Non-permanent appointment of an employee employed to work on a project expected to last more than one year, but less than four years.

Arbitration - Final step of the negotiated grievance procedure in which an impartial arbitrator, selected by the Agency and union, renders a binding award to resolve the grievance.

Arbitrator - An impartial third party to whom disputing parties submit their differences for decision (award). An ad hoc arbitrator is one selected to act in a specific case or a limited group of cases. A permanent arbitrator is one selected to serve for the life of the agreement or a stipulated term, hearing all disputes that arise during this period.

Audit - A fact-finding session conducted by an HRO representative with an employee or employee's supervisor to verify or gather information about a position. Sometimes called "desk audit."

Bargaining Rights - Legally recognized rights of a labor organization to represent bargaining unit employees in appropriate dealings with management.

Bargaining Unit - An appropriate grouping of employees represented on an exclusive basis by a labor organization. "Appropriate" for this purpose means a group of employees who share a community of interest that promotes effective union and Agency dealings and efficient Agency operations.

Basic Workweek - For a full-time employee, the 40-hour work schedule within an administrative workweek. The usual workweek is governed by The Adjutant General's workweek policy.

Break in Service - The time between separation and reemployment that may cause a loss of rights or privileges. For transfer purposes, it means not being on an Agency payroll for one working day or more.

Bumping - During reduction-in-force, the displacement of one employee by another employee in a higher retention group or subgroup.

Career - Tenure of a permanent employee in the excepted or competitive service who has completed the trial or probationary period.

Career-Conditional - Tenure of a permanent employee in the competitive service who has not completed three years of substantially continuous creditable Federal service.

Career Ladder - A series of developmental positions of increasing difficulty in the same line of work, through which an employee may progress to a journey level.

Certificate - A document that has been developed through competitive procedures to provide selecting officials with a list of qualified candidates.

Certification - The process by which eligible candidates are ranked for appointment or promotion consideration.

Change in Duty Station - A personnel action that changes an employee from one geographical location to another in the same Agency.

Change to Lower Grade - Downgrading a position or reducing an employee's grade.

Class of Positions - All positions sufficiently similar in (1) kind of subject matter of work; (2) level of difficulty and responsibility; and (3) qualification requirements, so as to warrant similar treatment in personnel and pay administration.

Collective Bargaining - Performance of the mutual obligation of the employer and the exclusive employee representative to meet at reasonable time, to consult and bargain in good faith, and to reach agreement with respect to conditions of employment and to execute a written document incorporating such agreements if requested by either party. (This obligation does not compel either party to agree to proposals or be required to make concessions.)

Collective Bargaining Agreement - A written agreement between management and a labor organization that is usually for a definite term and usually defines conditions of employment, and includes grievance and arbitration procedures.

Compensatory Time - Time off (hour for hour) granted an employee in lieu of overtime pay.

Competitive Area - For reduction-in-force, that part of an Agency within which employees are in competition for retention.

Competitive Service - Federal positions normally filled through open competitive examination under civil service rules and regulations.

Competitive Status - Basic eligibility of a person to be selected to fill a position in the competitive service without open competitive examination. Competitive status may be acquired by career-conditional or career appointment through open competitive examination or it may be granted by statute, Executive Order, or civil service rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted subject to the conditions prescribed by Civil Service rules and regulations.

Conversion - This process is also to change a temporary employee's grade (i.e., from GS-3 to GS-4 is a conversion to another appointment), or to change from one type of appointment to another.

Demotion - A change of an employee while serving continuously with the same Agency: (a) To lower grade when both the old and the new positions are in the General Schedule or under the same type of graded wage schedule; (b) To a position with a lower rate of pay when both the old and the new positions are the same type of ungraded wage schedule or are in a different pay system.

Detail - A temporary assignment of an employee to different duties or to a different position for a specified time, with the employee returning to his/her regular duties at the end of the detail.

Disciplinary Action - Action taken to correct the conduct of an employee. An action may range from an informal admonishment through a formal written reprimand, suspension, reduction-in-grade or pay, to removal from civil service.

Downgrading - Change of a position to a lower grade.

Dual Compensation - Compensation for more than one Federal position if the employee worked more than 40 hours during the week. The term is also used in connection with compensation from a full-time Federal position plus a retirement annuity for prior military service.

Employee Development - A term that may include career development and upward mobility. It may be oriented toward development for better performance on an employee's current job, for learning a new policy or procedure, or for enhancing an employee's potential for advancement.

Employee Relations - The human resource function that focuses on the relationship between the supervisor and individual employees.

Entry Level Position - A position in an occupation at the beginning grade level.

Environmental Differential Pay (EDP) - Additional pay authorized for a duty involving unusually severe hazards or working conditions.

Equal Employment Opportunity (EEO) - Federal policy to provide equal employment opportunity for all; to prohibit discrimination on the grounds of age, race, color, religion, sex, national origin, or physical or mental handicap; and promote the full realization of employee's potential through a continuing affirmative action program in each executive department and Agency.

Excepted Service - Positions in the Federal Civil Service not subject to the appointment requirements of the competitive service. Exceptions to the normal, competitive requirements are authorized by law, executive order, or regulation.

Exclusive Recognition - The status conferred on a labor organization that receives a majority of votes cast in a representation election, and is entitled to act for employees included in an appropriate bargaining unit. The labor organization enjoying this status is known as the exclusive representative, exclusive bargaining representative, bargaining agent, or exclusive bargaining agent.

Federal Labor Relations Authority (FLRA) - Administers the Federal Service Labor-Management Relations Program. It resolves questions of union representation of employees; prosecutes and adjudicates allegations of unfair labor practices; decides negotiability questions; and, on appeal, reviews decisions of arbitrators.

Federal Service Impasses Panel (FSIP) - Administrative body created to resolve bargaining impasses in the Federal service. The Panel may recommend procedures, including arbitration, for settling impasses, or may settle the impasse itself. Considered the legal alternative to strike in the Federal sector.

Federal Wage System (FWS) - A body of laws and regulations governing the administrative processes related to trades and laboring occupations in the Federal service.

Full Field Investigation - Personnel investigation of an applicant's background to determine whether he/she meets fitness standards for a critical-sensitive Federal position.

General Schedule (GS) - The pay system as presented by Chapter 51 of Title 5, United States Code, for classifying positions.

Grade - All classes of positions that, although different with respect to kind or subject matter of work, are sufficiently equivalent as to (1) level of difficulty and responsibility and (2) level of qualification requirements of the work to warrant the inclusion within one range of rates of basic compensation.

Grade Retention - The right of a General Schedule or prevailing rate employee, when demoted for certain reasons, to retain the higher grade for most purposes for two years.

Grievance (Negotiated Procedure) - Any complaint or expressed dissatisfaction by an employee against an action by management in connection with conditions of employment. Whether such complaint or expressed dissatisfaction is formally recognized and handled as a "grievance" under a negotiated procedure depends on the scope of that procedure.

Grievance (Under Agency Administrative Procedure) - A request by an employee or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction to the employee, subject to the control of Agency management.

Grievance Procedure - A procedure, either administrative or negotiated, by which employees may seek redress of any matter subject to the control of Agency management.

Hearing - The opportunity for contending parties under a grievance, appeal, complaint, or other remedial process to provide testimony, introduce evidence, and to confront, examine or cross-examine witnesses.

Incentive Awards - An all-inclusive term covering awards granted under various parts of OPM and NGB regulations. Includes awards for adopted suggestions; performance awards such as Sustained Superior Performance (SSP) and Quality Step Increases (QSI), special act and achievement awards; and various honorary awards.

Injury, Traumatic - Under the Federal Employees' Compensation Act, for continuation of pay purposes, a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member or function of the body affected and be caused by a specific event or incident or series of events or incidents within a single day or work shift.

Injury, Work Related - For compensation purposes under the Federal Employees' Compensation Act, a personal injury sustained while in the performance of duty. The term "injury" includes diseases proximately caused by the employment.

Interagency Career Transition Assistance Program (ICTAP) - A program to help find jobs for career and career-conditional employees displaced either through reduction-in-force or by an inability to accept assignment to another area.

Intermittent - Less than full-time employment requiring irregular work hours that cannot be pre-scheduled.

Job Analysis - Systematic review of duties of a position and the development and evaluation of the knowledge, skills, and abilities (KSAs) needed to perform the work.

Job Freeze - A restriction on hiring and/or promotion by administrative or legislative action.

Journey Level (Full Performance Level) - The highest level of a career ladder position at which an employee applies the full range of duties in a specific occupation. All jobs below full performance level are developmental, through which an employee in the occupation may progress to full performance.

Labor-Management Relations - Relationships and dealings between employee unions and management.

Labor Organization - An organization composed in whole or in part of employees, in which employees participate and pay dues, and whose purpose is to deal with an Agency concerning grievances and working conditions of employment.

Leave, Annual - Time allowed to employees for vacation and other absences for personal reasons.

Leave, Court - Time allowed to employees for jury and certain types of witness service.

Leave, Military - Time allowed to employees for certain types of military service.

Leave, Sick - Time allowed to employees for physical incapacity, to prevent the spread of contagious diseases, or to obtain medical, dental, or eye examination or treatment, or to care for relatives (FMLA).

Leave Without Pay (LWOP) - A temporary nonpayment status and absence from duty, requested by an employee and approved by management.

Level of Difficulty - A classification term used to indicate the relative ranking of duties and responsibilities.

Major Duty - Any duty or responsibility, or group of closely related tasks, or a position that (1) determines qualification requirements for the position; (2) occupies 25% or more of the employee's time; and (3) is a regular or recurring duty.

Management Official - A person employed by an Agency in a position with duties and responsibilities which require or authorize the individual to formulate, determine, or influence the policies of the Agency.

Management Rights - The right of management to make day-to-day personnel decisions and to direct the workforce without mandatory negotiation with the exclusion representative. A specific listing of management rights is contained in the Federal labor relations statute and includes such matters as hiring, assignment, removal, selection, contracting-out, etc.

Mediation - Procedure using a third party to help reach an agreement voluntarily.

Merit Promotion Program - The system under which agencies consider an employee for internal personnel actions on the basis of personal merit.

National Agency Check and Inquiry (NACI) - The investigation of applicants for non-sensitive Federal positions by means of a name and background check through national investigative files and voucher inquiries.

Negotiability - A determination as to whether a matter is within the obligation to bargain.

Negotiations - The bargaining process used to reach a settlement between labor and management over conditions of employment.

Noncompetitive Appointment - An appointment that is permitted in the Federal service that is exempt from competitive procedures (either a test or formal examination of qualifications). Non-competitive appointments may be authorized because of: (1) characteristics of the position, such as a senior policy/leadership position; (2) characteristics of the candidate, such as a physically handicapped individual; or (3) the competitive status ascribable to the candidate, such as reinstatement of a former career employee.

Noncompetitive Promotion - A promotion that is effected without a competitive requirement based on a prior promotion authorization/plan. For example, an employee is selected through a competitive process (such as Merit Promotion or Delegated Examining) for a career ladder position that starts as grade 7 and progresses to grade 11; the employee may be promoted from 7 to 9 and then from 9 to 11 without further competition–this is a career ladder promotion... a promotion that is noncompetitive. Also, if an employee competes successfully for a position at the grade 5 level and the vacancy announcement indicates that the position has "promotion potential to grade 6," then the employee may be promoted to the grade 6 level without additional competition–another noncompetitive promotion.

Objection - A written statement by an Agency of the reasons (either qualifications, medical or suitability) it believes an eligible person whose name is on a certificate should not be referred for the position. If the Examining Office sustains the objection, the Agency may eliminate the person from consideration.

Office of Personnel Management (OPM) - Regulates, administers, and evaluates the Civil Service Program according to merit principles.

Office of Workers' Compensation Programs (OWCP) - Office within the Department of Labor that administers statutes that allow compensation to employees and their survivors for work-related injuries and illnesses. Decides and pays claims.

Official Personnel Folder (OPF) - The official repository of employment records and documents affecting personnel actions during an employee's Federal civilian service.

Pay Retention - The right of a General Schedule or prevailing-rate employee (following a grade retention period or at other specified times when the rate of basic pay would otherwise be reduced) to continue to receive the higher rate. Pay is retained indefinitely.

Pay, Severance - Money paid to employees who are separated by reduction-in-force but are not eligible for retirement. The following formula is used, but the amount cannot be more than one year's pay:

> *Basic Severance Pa***y -** One week's pay for each year of civilian service up to 10 years, and two weeks' pay for each year served over 10 years, plus
>
> *Age Adjustment Allowance* **-** 10 percent of the basic severance pay for each year over age 40.

Performance Appraisal - The comparison, under a performance appraisal system, of an employee's actual performance against the performance standards previously established for the position.

Personnel Action - The process necessary to appoint, separate, reinstate, or make other changes affecting an employee.

Personnel Management - Management of human resources to accomplish a mission and provide individual job satisfaction. It is the line responsibility of the operating supervisor and the staff responsibility of the human resource office.

Position - A specific job consisting of all the current major duties and responsibilities assigned or delegated by management to an employee.

Position Classification - Analyzing and categorizing jobs by occupational group, series, class, and grade in accordance with official classification standards.

Position Description - An official written statement of the major duties, responsibilities, and supervisory relationships of a position.

Position Management - The process of designing positions to combine logical and consistent duties and responsibilities into an orderly, efficient, and productive organization to accomplish Agency mission.

Premium Pay - Additional pay for shift premium and holiday work.

Prevailing Rate System - A subsystem of the Federal Wage System used to determine the employee's pay in a particular wage area. The determination requires comparing the rate of pay with the private sector for similar duties and responsibilities.

Probationary Period - A trial period that is a condition of the initial competitive appointment. Provides the final indispensable test of ability, which is actual performance on the job.

Promotion - A change of an employee to a higher grade when both the old and new positions are under the same job classification system and pay schedule, or to a position with higher pay in a different job classification system and pay schedule.

Promotion, Career - Promotion of an employee without current competition when (1) he/she had earlier been competitively selected from a register or under competitive promotion procedures for an assignment intended as a matter of record to be preparation for the position being filled or (2) the position is reconstituted at a higher grade because of additional duties and responsibilities
.

Promotion, Competitive - Selection of a current or former Federal Civil Service employee for a higher-grade position, using procedures that compare the candidates on merit.

Promotion Certificate - A list of best qualified candidates to be considered to fill a position under merit promotion procedures.

Qualification Requirements - Education, experience, and other prerequisites to employment or placement in a position.

Qualification Standards for General Schedule Positions - The official NGB qualification standards manual for General Schedule and Wage System positions.

Quality Step Increase (QSI) - An additional within-grade increase granted to General Schedule employees for high-quality performance above that ordinarily found in the type of position concerned.

Reassignment - The change of an employee, while serving continuously within the same Agency, from one position to another, without promotion or demotion.

Recognition - Employer acceptance of a labor organization as exclusive representative of all members of a bargaining unit.

Recruitment - Process of attracting a supply of qualified eligibles for employment consideration.

Reduction-in-Force (RIF) - A personnel action that may be required due to lack of work, lack of funds, changes resulting from reorganization, downward reclassification of a position, or the need to accommodate an employee with reemployment or restoration rights. Involves removing an employee from his/her position but does not necessarily result in employment termination or even a reduction in grade.

Reemployment Priority List - Employees, separated by reduction-in-force, who are identified, in priority order, for employment to competitive positions in the commuting area where the separations occurred.

Reemployment Rights - Rights of an employee to return to an Agency after detail, transfer, or appointment to (1) another Executive Agency during an emergency; (2) an international organization; or (3) other statutorily covered employment (i.e., Active Military Duty).

Register - A list of eligible applicants compiled in the order of their relative standing for referral to Federal jobs, after competitive civil service examination.

Reinstatement - Noncompetitive reemployment in the competitive service based on previous service under a career or career-conditional appointment.
.
Removal - Separation of an employee for cause or unacceptable performance.

Representational Election - Election conducted to determine whether the employees in an appropriate unit desire a labor organization to act as their exclusive representative.

Reprimand - An employee disciplinary action that is normally in writing and placed in the temporary side of an employee's OPF.

Resignation - A separation, prior to retirement, in response to an employee's request for the action. It is a voluntary expression of the employee's desire to leave the organization and must not be demanded as an alternative to some other action to be taken or withheld.

Restoration Rights - Right of employees who enter military service or sustain a compensable job-related injury or disability to be placed in the same or comparable employment status held prior to their absence.

Retention Preference - The relative standing of employees competing in a reduction-in-force. Standing is determined by performance appraisal, tenure group, and length of service.

Retention Register - A list of all employees, arranged by competitive level, describing their retention preference during reduction-in-force.

Retirement - Payment of an annuity under either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) after separation from either a CSRS or FERS position based on the employee meeting age and length-of-service requirements. The types of retirement are:

> ***Deferred*** - Under both systems, an employee who has five years civilian service who separates or transfers to a position not under the Retirement Act may receive an annuity at age 62 if he/she does not withdraw from the retirement fund.

Disability - An immediate annuity paid to an employee who has completed either five years of civilian service under CSRS or 18 months of civilian service under FERS. Employee must be unable to render useful and efficient service in his/her position because of disease or injury.

Discontinued Service - Under both retirement systems, an immediate annuity paid to an employee who is involuntarily separated, through no personal fault of the employee, after age 50 and 20 years of service, or at any age with 25 years of service. This annuity is reduced by 1/6 of one percent for each full month under age 55 (two percent per year).

Optional - The minimum combinations of age and service for this kind of immediate annuity are:

CSRS: age 62 with five years of service
age 60 with 20 years of service
age 55 with 30 years of service

FERS: age 62 with five years of service;
age 60 with 20 years of service;
minimum retirement age (MRA) and 30 years of service.
The MRA is dependent upon the employee's date of birth.

Review, Classification - An official written request for reclassification of a position. Previously called a classification appeal.

Selecting Official - A person having power by law or lawfully delegated authority to make appointments.

Special Salary Rates - Salary rates higher than regular statutory schedule; established for occupations in which private enterprise pays substantially more than the regular Federal pay schedule.

Staffing - Using recruitment, appointment, reassignment, promotion, reduction-in-force, etc., to provide the workforce required to fulfill the Agency's mission.

Steward (Union Official) - A local union's representative in an organizational unit, appointed by the union to carry out union duties, adjust grievances, collect dues, and solicit new members.

Strike - Temporary stoppage of work by a group of employees to express a grievance, enforce a demand for changes in conditions of employment, obtain recognition, or resolve a dispute with management. Wildcat strike: a strike not sanctioned by the union and which may violate a collective agreement. Quickie strike: a spontaneous or unannounced strike of short duration. Slowdown: a deliberate reduction of output without an actual strike in order to force concessions from an employer. Walkout: same as a strike. **Strikes are illegal for Federal employees.**

Suitability - An applicant's or employee's fitness for Federal employment as indicated by character and conduct.

Supervisor - A person employed by an Agency who has authority in the interest of the Agency to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline or remove employees; to adjust their grievances; or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

Suspension - Placing an employee, for disciplinary reasons, in a temporary status without duties and pay.

Tenure - The time an employee may reasonably expect to serve under a current appointment. It is governed by the type of appointment, without regard to whether the employee has competitive status.

Work Folder – Employee record kept by the immediate supervisor containing emergency locator information, personnel data, performance related documentation, counseling records, awards, copies of recent personnel actions, performance standards, copies of OWCP documentation and the employees official position description.

Tenure Groups - Categories of employees ranked in priority order for retention during reduction-in-force. For the competitive service, the tenure groups are, in descending order:

Group I - Employees under career appointments and not serving probation.
Group II - Employee serving probation and career employees in obligated positions.
Group III - Employees with indefinite appointments and status quo employees under any other non-status, non-temporary appointment.

For the excepted service, in descending order:

Group I - Permanent employees, not serving a trial period, whose appointments carry no restriction or condition, such as indefinite" or "time limited."
Group II - Employees serving trial periods, those whose tenure is indefinite because they occupy obligated positions, and those whose tenure is equivalent to career-conditional in the competitive service.
Group III - Employees whose tenure is indefinite, but potentially permanent.

Time-in-Grade Restriction - A requirement intended to prevent excessively rapid promotions in the General Schedule. Generally, an employee may not be promoted more than two grades within one year to a position up to GS-5. At the GS-5 and above, an employee must serve a minimum of one year in grade and cannot be promoted more than one grade, or two grades if that is the normal progression.

Tour of Duty - The hours of a day (a daily tour of duty) and the day of an administrative workweek (weekly tour of duty) scheduled in advance and during which an employee is required to work regularly.

Training - Formal instruction or controlled and planned exposure to learning.

Transfer - A change of an employee, without a break in service of one full workday, from a position in one Agency to a position in another Agency.

Transfer of Function - For reduction-in-force, the transfer of a continuing function from one Agency or competitive area to another, or when the competitive area in which work is performed is moved to another commuting area.

Unfair Labor Practice (ULP)- An action prohibited by the Federal Labor Relations Statute. The statute contains prohibitions for both Agency management and labor organizations.

Wage Employees - Those employees in trades, crafts, or labor occupations covered by the Federal Wage System and whose pay is fixed and adjusted periodically in accordance with prevailing rates.

Within-Grade Increase (WIGI) - A salary increase provided in certain Government pay plans based upon time-in-grade and acceptable or satisfactory work performance. Also known as "periodic increase" or "step increase."

CURRENT POLICY MEMORANDUMS

Policy

The following policy memorandums are **examples** of policies all supervisors must be aware of and follow. These policies should be posted on common bulletin boards in the workplace. As these are **generic** samples, we encourage all states to include your specific memorandums in this section.

Supervisor's Role

You should be aware of provisions of TAG policy memorandums and understand your employees are subject to these policies. It is recommended you periodically review and share the information in these memorandums with your employees.

Policy Memorandums:

- **Physical Training Policy**
- **Work Week Policy**
- **Smoking Policy**
- **EEO Policy**
- **Sexual Harassment Policy**
- **Discrimination Policy**
- **Workplace Violence Policy**

PHYSICAL TRAINING (PT) POLICY

MEMORANDUM FOR ALL DoD FULL-TIME EMPLOYEES

SUBJECT: PHYSICAL FITNESS PROGRAM FOR DOD FULL-TIME SUPPORT PERSONNEL

1. All full-time support personnel (excepted and competitive civil service technicians, Active Guard/Reserve personnel, and state employees) are authorized official time for physical fitness activities while in a work (paid) status. This fitness time is encouraged for all employees, but only mandatory for Army AGR personnel.

2. The primary goal of the physical fitness program is for employees to exercise resulting in a healthier workforce. It will assist employees in maintaining a high level of fitness, reduce stress levels, and decrease use of sick leave and increase productivity. In cases where employees violate the spirit or intent of this program, privileges may be revoked. In all cases, the mission of the Department of Defense will take precedence, and employees will schedule their exercise periods accordingly.

3. Fitness training will consist only of the following exercises: Army - running, walking, bike riding, push-ups, sit-ups, weight training, and aerobics; Air, competitive technicians and state employees - running, walking, weight training, and aerobics.

4. A maximum of three (3) hours per week of official time may be used for physical fitness training. This time may be any combination, which does not total more than three (3) hours for any workweek. This allowance is a privilege granted as an incentive to maintain a high level of personal fitness.

a. The physical training period includes total time away from the work location and time for changing clothes, showers, warm-up and cool down, etc. Morning and afternoon break periods may not be combined with physical training time. The lunch period may be combined with physical training time.

b. Times for physical fitness training must be approved by the employee's supervisor and will be dictated by work and mission requirements.

c. All physical fitness training will originate and terminate at the work site.

5. This policy has been coordinated with the Association of Civilian Technicians (ACT). This policy is effective 22 August 2000 and replaces all previous policies, this subject.

6. Questions and/or suggestions concerning this program should be addressed to your State / Territory HRO-LRS

I'm V. Generous
Major General, [State] ANG
The Adjutant General

WORKWEEK POLICY

21 January 2000

MEMORANDUM FOR COMMANDERS AND DIRECTORS, DEPARTMENT OF DEFENSE

SUBJECT: DOD WORKWEEK POLICY

1. My desire as Adjutant General is to establish a workweek policy that increases customer support and empowers commanders*. My intent is to establish a policy that offers DOD customers 5 days per week service; empowers Commanders with the flexibility to set work schedules to best accomplish the mission; is responsive to employee desires, and enhances the DOD as a great place to work.*

2. Department of Defense headquarters, MACOM headquarters, and Wing headquarters will be open five days per week, Monday through Friday, during the "core hours" of 0800 to 1630. Units and small sections are authorized to operate four days per week or to vary core hours if mission requirements support the modified schedule. Core hours are defined as the time when a "knowledgeable person/decision-maker" is working.

3. Commanders and selecting officials will establish the workweek within their units. The workweek should be established in consideration of Mission requirements, customer needs, and employee desires. Coordination and I & I (impact and implementation) bargaining will continue to be conducted with the Association of Civilian Technicians prior to implementing permanent work schedule changes.

4. Commanders are authorized to utilize a combination of the flexible 4x10, 5x8, and 8x9x8 (eight x 9 hour days, one x 8 hour day, and one day off during a two week pay period) workweeks. Telecommuting is authorized IAW DOD policy published 1 October 1999. "Flex time" (designated hours during which an employee may elect the time of arrival or departure from work) is not authorized as a general work policy. Commanders/supervisors have the authority to temporarily adjust schedules to accommodate mission requirements. The normal duty day is Monday through Friday and will not begin prior to 0700 nor extend beyond 1730. Commanders are authorized to require employees to begin earlier and remain after these times with award of compensatory time when missions dictate. Commanders/supervisors and employees may change work schedules with commander concurrence and IAW the labor contract and I & I bargaining.

5. Policy is effective 30 January 2000.

6. POC's: Federal, Col. John Smith, 888-555-6666. State, Ms. Mary Jones, 888-777-9999.

I'm V. Generous
Major General, [State] ANG
The Adjutant General

SMOKING POLICY

22 August 2000

TAG

MEMORANDUM FOR ALL DoD EMPLOYEES

SUBJECT: SMOKING POLICY FOR [State] DOD PERSONNEL

1. The Surgeon General has declared smoking a serious hazard to health and the Environmental Protection Agency has confirmed "second hand smoke" to be a significant health risk. Smoking is defined as a lighted cigar, cigarette, pipe, or any other lit tobacco product. Smoking impairs physical fitness, raises health costs, and adversely impacts the work environment of the smoker and those exposed to second hand smoke.

2. The following policy applies to all personnel of the [State] Department of Defense – traditional guard members, technicians, AGR members, state employees, and all personnel working in or visiting facilities of the [State] Department of Defense:

- Smoking is prohibited in ALL occupied buildings or work areas. This includes, but is not limited to private offices, hallways, restrooms, classrooms, break rooms, conference rooms, and entrances to buildings or facilities.

- Smoking is prohibited in ALL non-occupied buildings or work areas that share a ventilation system with an occupied building or work area.

- Smoking is prohibited in ALL Government vehicles and aircraft.

- Smoking is permitted only in designated areas during lunch periods and during official break times. Designated smoking areas must follow the above guidance. Official break times will be the same for smokers and non-smokers.

3. This policy has been coordinated with the Association of Civilian Technicians (ACT). This policy is effective 22 August 2000 and replaces all pervious policies, this subject. Questions may be referred to HRO-LRS, Major Sam Jones, at (888) 926-5000 or DSN: 926-5000.

I'm V. Generous
Major General, [State] ANG
The Adjutant General

EEO POLICY

TAG 31 August 1999

MEMORANDUM FOR All Department Of Defense Employees

SUBJECT: Equal Employment Opportunity/Equal Opportunity Policy Memorandum

1. Our Nation was founded on the principle that every individual has infinite dignity and value. The Department of Defense (DOD) must always be guided by this principle. We must show respect in all we do for our service members and civilian employees, and recognize their individual needs, aspirations, and capabilities.

2. We must strive to make military and civilian service in the DOD a model of equal opportunity for all in accordance with the letter and the spirit of Title VII of the Civil Rights Act of 1964 as amended. We must also hold those who do business with the DOD to full compliance with the policies governing equal opportunity.

3. All DOD members and applicants will be treated equally and considered without regard to race, color, religion, national origin, or gender. This includes but is not limited to equal treatment in recruitment, hiring, promotions, awards, and disciplinary actions. All members, supervisory and non-supervisory alike, must share in this responsibility.

4. I am fully committed to the advancement of all personnel serving in the States and Territories . **I will not tolerate discrimination in any form.**

5. Members who feel they have been victims of discriminatory actions are encouraged to immediately bring the matter to their supervisor and if so desired, to file a complaint with their supervisor, an EEO counselor, the Social Actions or Human Resources/Equal Opportunity Offices, or State Personnel office.

6. I expect all EO/EEO complaints to be expeditiously, fairly, and thoroughly addressed. Any military or civilian member of the DOD found to have discriminated against another member will be subject to disciplinary action, up to and including dismissal.

7. Questions regarding this policy may be addressed through the State Equal Employment Office at DSN 338-6430 or (888) 624-6430, or the State Personnel Office at (888) 624-6045.

I'm V. Generous
Major General, [State] ANG
The Adjutant General

SEXUAL HARASSMENT POLICY

TAG 16 September 1999

MEMORANDUM FOR All Department Of Defense Employees

SUBJECT: Sexual Harassment Policy Memorandum

1. The Department Of Defense policy on sexual harassment is clear and unequivocal: All DOD personnel are entitled to work in an environment that is free from sexual harassment. Assuring a DOD working environment that is free of any form of sexual harassment is both an individual and a corporate responsibility at every level of supervision and command. Simply stated, my policy is “Zero Tolerance”.

2. The official definition of sexual harassment below is applicable to all personnel, military and civilian.

3. Sexual harassment is a form of sex discrimination. It involves actions that include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a. Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person’s job, pay, or career, or

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile, or offensive work environment.

4. Members who feel they have been sexually harassed are encouraged to file a complaint with their supervisor, an EEO counselor, or the Social Actions or Human Resources/Equal Opportunity Offices.

5. I expect all complaints to be expeditiously, fairly, and thoroughly addressed, and immediate appropriate corrective action will be taken against any employee engaging in sexual harassment. Such action may include suspension, demotion, and/or termination.

6. Questions regarding this policy may be addressed through the State Equal Employment Office at DSN 338-6430 or (404) 624-6430, or the State Personnel Office at (404) 624-6045.

I’m V. Generous
Major General, [State] ANG
The Adjutant General

DISCRIMINATION POLICY

TAG 16 September 1999

MEMORANDUM FOR All Department Of Defense Employees

SUBJECT: Discrimination Policy Memorandum

1. Title VII of the Civil Rights Act of 1964 as amended prohibits sexual harassment and discrimination in employment based on race, color, religion, national origin, and gender. This act will be strictly enforced throughout the Department of Defense.

2. My policy on discrimination is clear and unequivocal. Every member of the DOD will be provided equal treatment in all facets of their employment. Conduct which violates this policy is outlined in NGR (AR) 690-600, (AF) 40-1614, and DOD Affirmative Action Program.

3. All DOD members are responsible for creating and maintaining a nondiscriminatory environment. Any form of alleged discrimination will receive immediate appropriate action by this Agency. Complaints will be addressed and resolved at the lowest possible level and appropriate action will be taken with respect to any violations of this policy.

4. If you have questions regarding the complaints process or you wish to file a complaint, please contact the State Equal Employment Manager at (404) 624-6430 or DSN 338-6430, or the State Personnel Office at (404) 624-6045.

I'm V. Generous
Major General, [State] ANG
The Adjutant General

WORKPLACE VIOLENCE POLICY

1 August 2000

MEMORANDUM FOR ALL DOD FULL TIME EMPLOYEES

SUBJECT: WORKPLACE VIOLENCE ZERO TOLERANCE POLICY

1. I am committed to our employees' well-being, health and safety. We must all work together as a team to achieve the goal of providing a more "respectful workplace." **"ZERO TOLERANCE"** is the (State) National Guard's position on threats and violence in the workplace**.** We shall refuse to tolerate violence in the workplace and will make every effort to prevent it. All incidents of workplace violence will be dealt with swiftly and decisively.

2. I have directed our Human Resources Office to develop an education program to enhance my **"ZERO TOLERANCE"** policy on threats and violence in the workplace. It will include a procedure to file and investigate complaints, and train employees on workplace violence awareness and response.

3. Violence includes physical assault or the threat of physical assault against persons or property, and also behavior that intimidates or frightens others, such as threats, harassment and uncontrolled expressions of rage. Threats will be taken seriously as a statement of an employee's intent to do harm. Violent behavior is subject to severe disciplinary action.

4. Each employee is responsible for notifying his or her supervisor or a management representative of any threats witnessed, received, or heard about from another person. Even without an actual threat, employees should inform their supervisor of any behavior witnessed as threatening or violent. This information is sensitive and anything reported will be held in strict confidence.

5. Violence in the workplace is a growing phenomenon. Command emphasis and leaderships` attention to causative factors of violence and intervention are essential to minimize the effects on the work force. Every employee, soldier, and airman must be aware of behavior patterns that could lead to violence, and understand that threats or acts of violence may be reported to the chain of command without fear of reprisal.

6. I am asking all employees to assist me in implementing this policy and maintaining a safe, respectful, healthy, and productive workplace. Supervisors and employees may use the attached quick reference to help recognize and report any incidents of workplace violence. Questions may be referred to DOWD/HRO/LRS, Captain Jay Peno, at (404) 624-6440 or DSN: 338-6440.

I'm V. Generous
Major General, [State] ANG
The Adjutant General

Enclosure:
DOD Workplace Violence Prevention Quick Reference

DOD Workplace Violence – AWARENESS, RESPONSE & PREVENTION – Quick Reference

COPING WITH THREATS AND VIOLENCE

The attached desk card summarizes the actions you should (or should not) take. Detach the card provided at the end, to use as a quick reference guide in dealing with workplace violence situations. Review the information in this paper and the card often. That way, if an angry, hostile, or threatening customer or coworker confronts you, you will know what you should do.

Everyone in your office or worksite, including supervisors and managers, should follow these same procedures. You can make copies of this card so everyone has his or her own card.

COPING WITH THREATS AND VIOLENCE

For an angry or hostile customer or coworker:

- Stay calm. Listen attentively.
- Maintain eye contact.
- Be courteous. Be patient.
- Keep the situation in your control.

For a person shouting, swearing, and threatening:

- Signal a coworker or supervisor you need help. (Use a duress alarm system or prearranged code words.)
- Do not make any calls yourself.
- Have someone call the supervisor and, base security, or local police.

For someone threatening you with a gun, knife, or other weapon:

- Stay calm. Quietly signal for help. (Use a duress alarm or code words.)
- Maintain eye contact.
- Stall for time.
- Keep talking--but follow instructions from the person who has the weapon.
- Don't risk harm to yourself or others.
- Never try to grab a weapon.
- Watch for a possible chance to escape to a safe area.

Obscene, Harassing, or Threatening Telephone Calls

Obscene and harassing callers are primarily interested in generating fear and discomfort. The longer they keep you listening, the more satisfaction they derive from the call. Some experts say the person who uses the telephone to verbally harass or embarrass is not likely to follow up with a direct confrontation.

If obscene or harassing calls continue, keep a written record of the day, date, and time; the type of voice (male/female, pitch, and accent, if any); background noise; what was said; and whether the person gave a name. The caller who makes personal threats to you or your family is another matter. Any threatening call should be reported to your supervisor and Agency security, or the local police immediately.

Coping With Stress

Job-related stress will never be eliminated, but it can be managed. If you're feeling stress constantly, or frequently "blowing up" for no reason, you should discuss the problem with your supervisor or with a counselor.

Many times, problems at home go with you to the office. Or your office itself may be causing you stress--a personality conflict with a co-worker, a heavy workload with no time off, or a noisy or disorganized environment.

If the problems cannot be resolved, you may want to think about transferring to another office or to another type of work.

Perhaps your supervisor can arrange for a room where you and your co-workers can "get away from it all" by taking short breaks. If you can't get away from it all at work, allow extra time by getting up earlier so you don't have to rush around to get to work on time.

Physical exercise is one of the best ways to reduce stress. Try walking or jogging before or after work or at lunchtime. Take up a hobby or try volunteer work in the evening or on weekends.

Federal Employee Assistance Programs
Voluntary, and confidential short-term counseling is available for Federal employees through employee assistance programs sponsored by all Federal Government departments and agencies. Counseling is offered on a variety of problems: family and marital crises; mental and emotional stress; child or spouse abuse; problems with children; care of elderly or infirm relatives; money and credit management; and alcohol and drugs.
For the Federal Employees please seek assistance with your State Employee Assistance Program Coordinator.
If one requires long-term counseling, one can usually find assistance in the community where one lives through city, county, or State offices or through church or private organizations. Look in the Government sections of the telephone directory for "health," "social services," or "counseling" and in the yellow pages for church or private organizations.

WORKPLACE VIOLENCE INCIDENT DESK REFERENCE CARD

Everyone at your worksite, including supervisors and managers, should follow these same procedures. Make copies of the card if you need to so everyone will have their own card.

Information to Gather

1. Date/Time of Incident _____
2. Type of Incident -Physical Violence _____
   -Threatening Behavior _____
   -Bizarre Behavior _____
3. Complete In Detail (attach sheets if needed):
   a. WHO (list all individuals involved)
   _____
   _____

   b. WHAT (detailed description of the incident)
   _____
   _____

   c. WHEN (Date/Time – Start & End)
   _____
   _____

   d. WHERE (Location of where the incident took place)
   _____
   _____

Emergency Telephone Numbers
Carefully tear out or keep handy the "Emergency Telephone Numbers" card at the dotted lines. Write in all the emergency numbers for your building. Tape this card on your desk by your telephone or somewhere else close to your telephone for handy reference. (Copies of this card also can be made)

Emergency Telephone Numbers
Base Security _____
Police/Sheriff _____
Fire Department _____
Ambulance _____
State/Federal Health Services Unit _____
Supervisor or Higher Headquarters _____
Human Resources Office _____

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TECHNICIAN ACT OF 1968 – (codified in 32 U.S.C. § 709)

Policy

The following Public Law forms the basis of the technician personnel system we have today. This may be read as a historical document, which has been codified and modified by 32 U.S.C. § 709.

Supervisor's Role

You should be aware of provisions of the National Guard Technicians Act of 1968 to emphasize and explain the historical significance of Technicians as a unique class of Federal employees.

Public Law (PL) 90-486

NATIONAL GUARD TECHNICIANS ACT OF 1968

Date: 13 AUGUST 1968

An Act to clarify the status of National Guard technicians, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That:
This Act may be cited as the "National Guard Technicians Act of 1968".
Sec. 2. Title 32, United States Code, *(footnote 1)* is amended as follows:
(1) Section 709 is amended to read as follows:
"709. Technicians: employment, use, status
"(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject [PAGE 870] to subsection (b) of this section persons may be employed as technicians in -
"(1) the administration and training of the National Guard;
and
"(2) the maintenance and repair of supplies issued to the National Guard or the armed forces.
"(b) Except as prescribed by the Secretary concerned, a technician employed under subsection (a) shall, while so employed, be a member of the National Guard and hold the military grade specified by the Secretary concerned for that position.
"(c) The Secretary concerned shall designate the adjutants general referred to in section 314 of this title, to employ and administer the technicians authorized by this section.
"(d) A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a position authorized by this section is outside the competitive service if the technician employed therein is required under subsection (b) to be a member of the National Guard.
"(e) Notwithstanding any other provision of law and under regulations prescribed by the Secretary concerned -
"(1) a technician who is employed in a position in which National Guard membership is required as a condition of employment and who is separated from the National Guard or ceases to hold the military grade specified for his position by the Secretary concerned shall be promptly separated from his technician employment by The Adjutant General of the jurisdiction concerned;
"(2) a technician who is employed in a position in which National Guard membership is required as a condition of employment and who fails to meet the military security standards established by the Secretary concerned for a member of a reserve component of the armed force under his jurisdiction may

be separated from his employment as a technician and concurrently discharged from the National Guard by The Adjutant General of the jurisdiction concerned;
"(3) a technician may, at any time, be separated from his technician employment for cause by The Adjutant General of the jurisdiction concerned;
" (4) a reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by The Adjutant General of the jurisdiction concerned;
"(5) a right of appeal which may exist with respect to clause (1), (2), (3), or (4) shall not extend beyond The Adjutant General of the jurisdiction concerned; and
"(6) a technician shall be notified in writing of the termination of his employment as a technician and such notification [PAGE 871] shall be given at least thirty days prior to the termination date of such employment.
"(f) Sections 2108, 3502, 7511, and 7512 of Title 5, United States Code, do not apply to any person employed under this section.
"(g)(1) Notwithstanding sections 5544(a) and 6102 of Title 5, United States Code, or any other provision of law, the Secretary concerned may, in the case of technicians assigned to perform operational duties at air defense sites -
"(A) prescribe the hours of duties;
"(B) fix the rates of basic compensation; and
"(C) fix the rates of additional compensation;
to reflect unusual tours of duty, irregular additional duty, and work on days that are ordinarily nonworkdays. Additional compensation under this subsection may be fixed on an annual basis and is determined as an appropriate percentage, not in excess of 12 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10 of the General Schedule under section 5332 of Title 5, United States Code.
"(2) Notwithstanding sections 5544(a) and 6102 of Title 5, United States Code, or any other provision of law, the Secretary concerned may, for technicians other than those described in clause (1) of this subsection, prescribe the hours of duty for technicians. Notwithstanding sections 5542 and 5543 of Title 5, United States Code, or any other provision of law, such technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.
"(h) In no event shall the number of technicians employed under this section at any one time exceed 42,500."
(2) The analysis of chapter 7 is amended by striking out the following item:
"709. Caretakers and clerks."
and inserting in place thereof the following item:
"709. Technicians: employment, use, status."
(3) Section 715(a) *(footnote 2)* is amended by striking out "caused by a person employed under section 709 of this title acting within the scope of his employment;".
Sec. 3. (a) A claim accrued under section 715 of title 32, United States Code, before the effective date of this Act by reason of the act or omission of a person employed under section 709 of title 32, United States Code, may, if otherwise allowable, be settled and paid under section 715 of title 32, United States Code.
(b) Except as provided in this Act and in the amendments made by this Act, and notwithstanding any law, rule, regulation, or decision to the contrary, the positions of persons employed under section 709 of title 32, United States Code, existing on the day before the effective date of this Act, and the persons holding those positions on [PAGE 872] that day, shall, on and after that effective date, be considered to be positions in and employees of the Department of the Army or the Department of the Air Force, as the case may be, and employees of the United States to the same extent as other Positions in and employees of the Department of the Army or the Department of the Air Force. Such positions shall be outside the competitive service, if, as a condition of employment, the persons employed therein were, on the day before the effective date of this Act, required to be members of the Army National Guard or the Air National Guard.
(c) All service under section 709 of title 32, United States Code, or prior corresponding provision of law, performed before the effective date of this Act shall be included and credited in the determination of length of service for the purposes of leave, Federal employees death and disability compensation, group

life and health insurance, severance pay, tenure, and status. This subsection shall apply only in the case of persons who perform service under section 709 of title 32, United States Code, on or after the effective date of this Act.
(d) Annual leave and sick leave to which a technician was entitled on the day before the conversion of his position, as provided in subsection (b) of this section, shall be credited to him in his new position.
Sec. 4. Section 2105(a) of Title 5, United States Code, *(footnote 3)* is amended -
(1) by striking out "or" at the end of clause (1)(D);
(2) by adding "or" at the end of clause (1)(E); and
(3) by adding the following new sub clause (F) at the end of clause (1) :
"(F) the adjutants general designated by the Secretary concerned under section 709(c) of title 32, United States Code;".
Sec. 5. (a) Section 8332(b) of Title 5, United States Code, *(footnote 4)* is amended -
(1) by striking out "and" at the end of clause (4);
(2) by striking out the period at the end of clause (5) and inserting in place thereof "; and"; and
(3) by adding the following new clause:
"(6) employment under section 709 of title 32, United States Code or any prior corresponding provision of law."; and
(4) by adding at the end thereof the following: "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968."
(b) Section 8334 (c) of Title 5, United States Code, *(footnote 5)* is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332(b)(6) which was performed [PAGE 873] prior to the effective date of the National Guard Technicians Act of 1968 shall be an amount equal to 55 per centum of a deposit computed in accordance with such provisions."
(c) Section 8339 of Title 5, United States Code, *(footnote 6)* is amended by adding at the end thereof the following new subsection:
"(1) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b) (6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded."
(d) Clause (4) of subsection (a) of this section and subsections (b) and (e) of this section do not apply to any person employed prior to the effective date of this Act under section 709 of title 32, United States Code, whose employment under that section was covered by subchapter III of chapter 83 of Title 5, United States Code.
Sec. 6. (a) Notwithstanding section 709(d) of title 32, United States Code, a person who, on the date of enactment of this Act, is employed under section 709 of title 32, United States Code, and is covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, may elect, not later than the effective date of this Act, not to be covered by subchapter III of chapter 83 of Title 5, United States Code, and with the consent of the State concerned or Commonwealth of Puerto Rico, to remain covered by the employee retirement system of, or plan sponsored by, that State or the Commonwealth of Puerto Rico. Unless such an election, together with a statement of approval by the State concerned or the Commonwealth of Puerto Rico, is filed with the Secretary of the Army or the Secretary of the Air Force, as appropriate, on or before the effective date of this Act, the person concerned is covered by subchapter III of chapter 83 of Title 5, United States Code, as of that date.
(b) A member of the National Guard of a State or the Commonwealth of Puerto Rico who was employed as a technician under section 709 of title 32, United States Code, or prior corresponding provision of law, who -
(1) was involuntarily ordered to active duty after January 1, 1968, from that employment and has not been released from that duty prior to the effective date of this Act; or
(2) is on active duty under section 265, 3015, 3033, 3496, 8033 or 8496 of title 10, United States Code, on the effective date of this Act;
and was covered by a retirement system or plan of a State or the Commonwealth of Puerto Rico, may, if he is reemployed within sixty days under section 709 of title 32, United States Code, make the election described in subsection (a) of this section, within thirty days following the date of his reemployment.

(c) In the case of any person who files a valid election under this section to remain covered by an employee retirement system of, or [PAGE 874] plan sponsored by, a State or the Commonwealth of Puerto Rico, the United States may pay the amount of the employer's contributions to that system or plan that become due for periods beginning on or after the effective date of this Act. However, the payment by the United States, including any contribution that may be made by the United States toward the employer's tax imposed by section 3111 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 3111), may not exceed the amount which the employing Agency would otherwise contribute on behalf of the person to the Civil Service Retirement and Disability Fund under section 8334(a) of Title 5, United States Code. Notwithstanding section 8332(b) of Title 5, United States Code, as amended by section 5 of this Act, the service under section 709 of title 32, United States Code, or prior corresponding provision of law, of a person who has made an election to remain covered by the employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall not be creditable toward eligibility for or amount of annuity under subchapter III of chapter 83 of Title 5, United States Code. A person who retires pursuant to his valid election shall not be eligible for any rights, benefits, or privileges to which retired civilian employees of the United States may be entitled.

Sec. 7. The fourth sentence of section 218(b)(5) of the Social Security Act, as amended (42 U.S.C. 418(b)(5)), *(footnote 7)* is amended to read as follows: "Persons employed under section 709 of title 32, United States Code, who elected under section 6 of the National Guard Technicians Act of 1968 to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall, for the purposes of this Act, be employees of the State or the Commonwealth of Puerto Rico and (notwithstanding the preceding provisions of this paragraph), shall be deemed to be a separate coverage group.".

Sec. 8. (a) Except as provided in section 709(g) of title 32, United States Code, the Secretary concerned shall fix the rate of basic compensation of positions existing on the date of enactment of this Act in accordance with the General Schedule set forth in section 5332, or under the appropriate prevailing rate schedule in accordance with section 5341 of Title 5, United States Code, as applicable. In fixing such rate -

(1) If the technician is receiving a rate of basic compensation which is less than the minimum rate of the appropriate grade of the General Schedule, or which is less than the minimum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, his basic compensation shall be increased to that minimum rate.

(2) If the technician is receiving a rate of basic compensation which is equal to a rate of the appropriate grade of the General Schedule, or which is equal to a rate of the appropriate grade or [PAGE 875] compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at that rate of the General Schedule, or at that rate under the prevailing rate schedule, as applicable.

(3) If the technician is receiving a rate of basic compensation which is between two rates of the appropriate grade of the General Schedule, or which is between two rates of the appropriate grade or compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at the higher of those two rates under the General Schedule or appropriate prevailing rate schedule, as applicable.

(4) If the technician is receiving a rate of basic compensation which is in excess of the maximum rate of the appropriate grade of the General Schedule, or which is in excess of the maximum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall continue to receive basic compensation without change in rate until -

(A) he leaves that position, or

(B) he is entitled to receive basic compensation at a higher rate,

but, when any such position becomes vacant, the rate of basic compensation of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(b) The conversion of positions and employees to appropriate grades of the General Schedule set forth in section 5332 of Title 5, United States Code, and the initial adjustment of rates of basic compensation of those positions and technicians, provided for by this Act, shall not be considered to be transfers or promotions within the meaning of section 5334(b) of Title 5, United States Code, and the regulations issued there under.

(e) Each technician on the effective date of this Act whose position is converted to the General Schedule set forth in section 5332 of Title 5, United States Code, or to the appropriate prevailing rate schedule, as applicable, who prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section, has earned, but has not been credited with, an increase in that rate, shall be granted credit for such increase before his rate of basic compensation is initially adjusted under that subsection.
(d) Each technician on the effective date of this Act whose position is converted to the General Schedule set forth in section 5332 of Title 5 United States Code, or to the appropriate prevailing rate schedule, as applicable, shall be granted credit, for purposes of his first step increase under the General Schedule or prevailing rate schedule, for all satisfactory service performed by him since his last increase in compensation prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section. [PAGE 876]
(e) An increase in rate of basic compensation by reason of the enactment of subsection (a) of this section shall not be considered to be an equivalent increase with respect to step increases for technicians whose positions are converted to the General Schedule set forth in section 5332 of Title 5, United States Code, or the appropriate prevailing rate schedule under authority of this section.
Sec. 9. Title 10, United States Code, is amended as follows:
(1) Sections 3848(c) *(footnote 8)* and 3851(c) *(footnote 9)* are each amended to read as follows:
"(c) Notwithstanding subsections (a) and (b) of this section, the Secretary of the Army may authorize the retention in an active status until age 60 of any officer of the Army National Guard of the United States who would otherwise be removed from an active status under this section and who -
"(1) is assigned to a headquarters or headquarters detachment of a State or territory, the Commonwealth of Puerto Rico, the Canal Zone, or the District of Columbia; or
"(2) is employed as a technician under section 709 of title 32, United States Code, in a position for which Army National Guard membership is prescribed by the Secretary."
(2) Sections 8848 *(footnote 10)* and 8851 *(footnote 11)* are each amended by adding the following new subsection:
"(c) Notwithstanding subsections (a) and (b) of this section, the Secretary of the Air Force may authorize the retention in an active status until age 60 of any officer of the Air National Guard of the United States who would otherwise be removed from an active status under this section and who is employed as a technician under section 709 of title 32, United States Code, in a position for which Air National Guard membership is prescribed by the Secretary."
Sec. 10. Regulations prescribed by the Secretary of the Army and Secretary of the Air Force under this Act shall be approved by the Secretary of Defense and shall, so far as practicable, be uniform.
Sec. 11. This Act becomes effective January 1, 1969, except that no deductions or withholding from salary which result there from shall commence before the first day of the first pay period that begins on or after January 1, 1969.
Approved August 13, 1968. [PAGE 877]
FOOTNOTES
Footnote 1 32 U.S.C.A. 709.
Footnote 2 32 U.S.C.A. 715(a).
Footnote 3 5 U.S.C.A. 2105(a).
Footnote 4 5 U.S.C.A. 8332(b).
Footnote 5 5 U.S.C.A. 8334(c).
Footnote 6 5 U.S.C.A. 8339(1).
Footnote 7 42 U.S.C.A. 1418(b)(5).
Footnote 8 10 U.S.C.A. 3848(c).
Footnote 9 10 U.S.C.A. 3851(c).
Footnote 10 10 U.S.C.A. 8848(c).
Footnote 11 10 U.S.C.A. 8851(c).

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Notes/Points of Contact

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