



DEPARTMENT OF THE ARMY  
OFFICE OF THE DEPUTY CHIEF OF STAFF, G-1  
6600 MELOY DRIVE, SUITE 134  
FORT BENNING, GEORGIA 31905



PECP-SCR-H

2 February 2007

SUBJECT: Fort Benning CPAC Staffing Update 2-2007

1. This publication is issued to ensure the Fort Benning Commanders, managers, supervisors, and employees are kept informed of employment and staffing issues. Future updates will contain updated information on specific employment topics (i.e., compensation, recruiting procedures, travel entitlements, classification issues, NSPS implementation information, etc.) and will be issued on a monthly basis.

2. **Last Chance for Higher Raise Upcoming.** Congress is putting together a spending plan to fund most federal agencies through the rest of the current fiscal year, an effort that represents the last slim hope of boosting the average 2.2 percent 2007 raise. A temporary funding measure that has been in effect in lieu of regular appropriations for all agencies except DoD and DHS expires February 15. With President Bush's fiscal 2008 budget proposal set to come out February 5, leaders expect to enact only another catchall measure for the remainder of fiscal 2007 and then concentrate on next year's budget. Leaders have said they will try to provide additional funding for areas that will run seriously short under the current funding formula, such as veterans health care, but in general they are not in the mode to add to spending. Federal unions, though, continue to urge Congress to boost the raise to the 2.7 percent figure that was under consideration much of last year until the 2.2 number was set by default when the stopgap funding measures were silent on the raise. Meanwhile, a bipartisan group of House members has urged the White House to support equal raises for civilian and military personnel next January.

3. **Health Proposal Could Affect Some in FEHB.** A White House proposal to change certain tax code provisions as part of a health insurance reform plan could affect some FEHB enrollees, although the exact effect--even assuming that Congress approves the plan--is unclear. Under the plan, the first \$7,500 of income for individuals and \$15,000 for couples would be non-taxable, but health insurance premiums--both the enrollee share and the employer share where applicable, as in FEHB--would be taxable. Premiums in some of the higher-cost FEHB plans already are near or above those limits; the limits would be adjusted for general inflation, not the usually higher inflation in the health care sector. Under the plan, employers could adjust compensation packages to provide

2 February 2007

higher pay and lower health insurance premiums to offset any negative effect of the tax change. However, given the complexities and politics involved in federal pay and benefit policies, the government might find it difficult to make such a change on behalf of its employees.

**4. Tax Consequences of 'Make Whole' Remedy.** In a recent decision from the EEOC Office of Federal Operations, the Commission reiterated its position on the remedies available to employees who prevail on discrimination claims involving back pay awards. In *Drennon-Gala v. Department of Justice*, EEOC Petition No. 0420060025 (Dec. 4, 2006), the employee filed a discrimination claim against the agency alleging it removed him from his case manager position in reprisal for prior EEO activity. At the hearing, the EEOC administrative judge agreed with the employee that his termination was motivated by the agency's retaliatory animus.

When employees prevail in discrimination complaints, they are entitled to "make whole" relief. In other words, the agency must put the employee in the position he would be in, absent the discrimination. In ruling that the agency unlawfully terminated the employee for discriminatory reasons, the administrative judge awarded the employee: (1) reinstatement to the case manager position, (2) a clean record, (3) back pay with interest, and (4) commensurate salary increases from the date of termination to date of reinstatement. When reimbursing the employee for back pay, the agency granted him a "lump sum" monetary amount for all the years he did not receive a salary following his termination.

The agency issued the employee the full amount of back pay, but because the award was a lump sum, the one-time increase in his income resulted in negative tax consequences. In his petition for enforcement, the employee alleged that the agency had not granted him "make whole" relief because he incurred a greater tax liability. The employee alleged that if the agency had not discriminated against him, he would have paid taxes on his yearly salary, which would have been at a lower tax rate compared to the "lump sum" amount that required him to pay a higher tax rate.

In its decision, the Commission agreed with the employee that due to the tax liability incurred as result of the one-time, "lump sum" payment, the agency did not grant him "make whole" relief. In order to put the employee in the position he would have been in, absent the discrimination, the Commission ruled that the agency must be responsible for the increased income tax liability. However, the Commission stated that the employee bore the burden to prove that he experienced negative tax consequences as result of the "lump sum" award.

The Commission's decision in *Drennon-Gala* highlighted the myriad issues concerning remedies that an employee must consider even after winning an

EEOC hearing. The Commission takes seriously the "make whole" provision of federal anti-discrimination laws. Even though tax law would appear to be unrelated to a discrimination complaint, employees must be mindful of the negative tax consequences of a legal award and be prepared to assert their right to "make whole" relief by gathering evidence to prove additional liabilities that resulted from an agency's discriminatory conduct.

This information is provided by the attorneys at Passman & Kaplan, P.C

5. **Whistleblower Bill Reintroduced.** Legislation (S-274) offered in the Senate would broaden job protections for federal employees who make whistleblowing disclosures designed to overcome several court rulings that whistleblower advocates say have narrowed those rights. Predecessor versions have been offered in the last several Congresses of the bill, which would make clear that disclosures about information learned in the course of regular job duties are covered by whistleblower protections, and would loosen restrictions on where disclosures may be made and still protected. The Senate last year adopted similar language as an amendment to a defense bill but the language was dropped after the White House objected.

6. **Carrying Health Benefits into Retirement.** Federal Health Benefits (FEHB) may be carried into retirement provided an employee (1) retires on an immediate annuity (that is, an annuity which begins no later than one month after the date of final separation); and, (2) be enrolled in FEHB at the time of retirement and had FEHB coverage (including coverage as a family member) for five continuous years of service immediately preceding retirement or since the first opportunity to enroll. The five-year period includes enrollment in different plans or options within the FEHB Program.

If an employee is approved for retirement under the Voluntary Early Retirement Authority (VERA), the five-year requirement *may* be waived. The Office of Personnel Management (OPM) could consent to a waiver provided the employee had been covered under the FEHB Program continuously since October 1, 1996 or the beginning date of an agency's latest statutory buyout authority, whichever is later.

There are also other circumstances under which the five year requirement may also be waived. Requests for waiver should be submitted to OPM and must provide evidence that failure to satisfy the 5-year requirement was due to exceptional circumstances such as (1) an employee had intention to have FEHB coverage as a retiree; (2) the circumstances that prevented the employee from meeting the 5-year requirement were essentially outside their control; and (3) the

PECP-SCR-H  
SUBJECT: Fort Benning CPAC Staffing Update 2-2007

2 February 2007

employee acted reasonably to protect their right to continue FEHB coverage into retirement. This includes reading and acting on information provided and requesting information if none was automatically given. Upon receipt of the waiver request, OPM will consider whether that employee had a compelling reason to believe they were covered as a family member of another person enrolled in FEHB during the time in question; evidence that the employing office would not allow the employee to enroll; the extent to which the events that led up to the loss of the right to continued FEHB coverage could have been controlled; and whether active measures were employed to gain FEHB coverage at the earliest opportunity after learning of the loss of benefits or possible loss of future rights; whether substantial FEHB coverage was carried during the employee's career [even though there was a break in continuity during the last 5 years of service]. The steps to request OPM consideration are outlined in the FEHB Handbook at <http://www.opm.gov/insure/handbook/fehb22.asp>.

Employees not currently enrolled in FEHB but desiring to carry these benefits into retirement must make an election during an Open Season preceding their retirement or during a qualifying life event which allows them to make an out of season election. Qualifying life events could include, but are not limited to, change in family status; marriage, birth or death of a family member, adoption, legal separation or divorce.

The overall cost or premium will remain the same for retirees as when they were federal employees. However, annuitants/retirees should bear in mind that deductions are made on a monthly basis [as opposed to biweekly for current employees]. If the annuity is not large enough to cover the annuitant's share of the premium for their plan, annuitants may (1) change to a lower-cost plan or option (that is to say one in which their share of the premium is low enough to be withheld from the annuity), or (2) choose to pay their premiums directly to the Office of Personnel Management (OPM).

Retirees may also make a survivor annuity election in order for their spouse (and any eligible children) to continue health benefits after their death if the survivor/eligible children were covered as dependents on their FEHBP while they were living. In this instance, the premium will be deducted from the civil service survivor annuity. As is the case with annuitants, survivors may also pay premiums directly to OPM if the annuity is insufficient to cover the premiums.

Please contact the Army Benefits Center for Civilians for more in-depth information.

7. **Resistance to Telework Remains.** Despite years of encouragement for teleworking from OPM, GSA, some in Congress and some outside groups, resistance of managers remains a major impediment to broader use of telework, according to a survey. The survey, conducted by the Telework Exchange--one of those outside groups--found that fear of not having control over employees' activities, productivity concerns and security concerns are the major impediments to telecommuting. Communication issues--lack of face-to-face contact, inability to personally collaborate and lack of access to co-workers-- also were cited, as were issues such as inability to track work being completed, employees not being available for last-minute projects, and lack of support from top management. Only 35 percent of the managers responding to the survey said their agency supports telecommuting, 47 percent said it doesn't and the rest were unsure.

The survey showed that better work-life balance is by far the major driver in favor of telecommuting, cited as the most important factor even by managers who do not manage teleworkers. The related issue of recruitment and retention was next, followed by factors such as increased employee productivity, real estate savings and continuity of operations planning. The survey also showed that the more familiar managers are with telework, the more positive their attitudes toward it. Of those who do not manage teleworkers, only 54 percent had a positive attitude toward it, compared with 63 percent of those who do manage teleworkers and 75 percent who telework themselves.

8. **Employees Like Their Work, Benefits.** Federal employees hold generally positive views about their jobs, pay, benefits and immediate supervisors, although they take a dimmer view of higher management and the way their agencies handle both good and bad performance, according to survey results released by OPM. More than 220,000 employees responded to the survey, conducted last summer and which follows similar surveys conducted in 2002 and 2004. Respondents agreed or strongly agreed statements such as: the work I do is important (90 percent) and I like the kind of work I do (83). Also, 68 percent said they were satisfied overall with their jobs and 61 percent with their pay--in both cases, another 18 percent were neutral. Among benefits, annual and sick leave were rated the highest, with just under 90 percent saying they were satisfied or very satisfied with each, while around 60 percent each expressed satisfaction with their retirement, health and life insurance benefits.

As in the past surveys, certain areas showed far lower levels of satisfaction. Only 22 percent agreed or strongly agreed that pay raises depend on how well employees perform in their jobs, 30 percent that differences in performance are recognized in a meaningful way, 34 percent that promotions are based on merit and 40 percent that awards depend on how well employees perform their jobs.

Meanwhile, only 29 percent said that steps are taken to deal with a poor performer who cannot or will not improve. And while substantial majorities approved of their supervisors in areas such as providing constructive suggestions, supporting employee development and communicating the goals and priorities of the organization, less than half have a high level of respect for senior leaders and only four-tenths said leaders generate high levels of motivation and commitment.

The report shows some trends since the initial 2002 survey reflected in both the 2004 and 2006 surveys. For example, two increases have been shown in liking the kind of work employees do, steps the organization takes to deal with poor performers, access to desktop-based learning and training programs, managers communicating among different work units, opportunity to get a better job in the organization and satisfaction with health benefits. However, there has been a downward trend regarding the workload being reasonable, awards being linked to how well employees perform their jobs, and satisfaction with alternative work schedules. Most of the changes were of only a few points, except for the desktop training question, up 11 points to 75 percent, and the health insurance question, up 8 points to 58 percent.

For some of the questions, OPM presented comparisons with similar survey questions of private sector employees. There was an insignificant difference on certain questions, such as cooperation in the workplace, opportunity to improve skills, sufficiency of information to do the job, feelings of accomplishment, and involvement in decisions that affect work. However, there were some more substantial differences: only 47 percent of federal employees were satisfied with the information they receive from management regarding what's going on in the organization versus 60 percent in the private sector; 66 percent were satisfied with the job being done by their immediate supervisor versus 74 percent; 54 percent were satisfied with the training they received versus 61 percent; 60 percent believe they are encouraged to come up with new and better ways of doing things versus 67 percent; and 56 percent were satisfied with their organization overall versus 63 percent. In contrast, 83 percent of federal employees like the kind of work they do versus 76 percent in the private sector.

9. **NAF HR for Supervisors Course** . The first NAF Human Resources for Supervisors Course was conducted during the week of 8-12 January 2007. Twenty-eight NAF supervisors were in attendance. Patterned closely after its appropriated fund counterpart, the course contents consisted of 10 modules designed to familiarize new supervisors of NAF employees with their roles and responsibilities in regard to Civilian Human Resource Management. The course

covered HR legal and regulatory requirements as well as HR processes and consisted of the following modules:

- Placement and Staffing
- Hours of Work, Leave and Attendance, Pay
- Performance Evaluation / Incentive Awards Program
- Position Management and Classification
- Business Based Actions
- Management Employee Relations
- Labor Relations
- Training & Development
- EEO
- Health and Safety

Course attendees received lectures and participated in class discussions and exercises both individually and as members of groups. Information on additional course offerings will be forthcoming.

10. **TSP Reports Survey Results.** The TSP meanwhile released results of a survey it conducted last year, showing that investors overall support increasing the available options in the program, such as a "Roth 401(k)" feature that allows money to go into the program after-tax but come out tax-free (the TSP only allows money to go in pre-tax but come out taxable). Sixty percent of respondents favored such an option, while only 11 percent didn't favor it, and 46 percent favored a wider selection of investment options while only 19 percent opposed it; the rest were either neutral or said they didn't know. Of the possible additional fund types mentioned in the survey, a Treasury Inflation- Protected Securities fund drew the greatest positive response; opposition to adding new funds focused on concerns about adding overhead costs and making the program more complex.

11. **Reasons for Participating, and Not.** Among participants, the most common reason is the tax advantage, cited by 70 percent, followed by the convenience of payroll deduction, 57 percent, the availability of matching contributions (86 percent of FERS respondents) and freedom to retire at the time of one's choosing (41 percent). Of those not participating in the TSP, the most commonly cited reason was lack of money, followed by saving in other ways, ineligibility to invest because of a waiting period after a hardship withdrawal, and inability to access the money before retirement. Only small percentages cited dissatisfaction with the investment options or the program's complexity. Only a fourth of those surveyed said that more investment options would boost the

number of workers participating in the TSP while two-thirds said that automatic enrollment would do so.

The report also says stock-related investments make up about two-thirds of private sector 401(k) plan assets but the average TSP account has almost half of its assets in the government securities (G) or bond (F) funds. "One explanation for this relatively low share of TSP participants invested in equities may be attributed to federal employees being more conservative investors than private sector employees. There is also some sense that federal workers, who take great pride in their jobs, view the G fund like private sector employees view their company's stock. An alternative explanation may be the high level of participant inertia with a disproportionate share of members not making active investment decisions and instead settling for the default portfolio -- 100 percent G fund," the report said. The TSP is considering making changing the default fund for investors who do not choose funds to a lifecycle (L) fund which would have a mix of funds.

12. **Breach of Settlement Agreement Found.** The U.S. Court of Appeals for the Federal Circuit recently held that the U.S. Postal Service materially breached a settlement agreement by failing to timely provide documents necessary for the appellant's disability retirement application. *Lary v. U.S. Postal Service*, 2006 WL 3742104, Fed. Cir. No. 3050 (12/21/06). Because the appellant had missed the deadline for filing his disability retirement application, rescission of the settlement agreement was not an effective remedy. The court required the Merit Systems Protection Board to order specific performance--i.e., the agency must redo all of the steps contemplated by the settlement agreement.

This case arose when the appellant, who suffered from obstructive sleep apnea, was removed for attendance-related problems. On appeal, the parties entered into a settlement agreement under which the agency agreed to provide all relevant documents for the appellant's disability retirement application. While the agency did not timely provide the documents, it filed the appellant's application. However, the application was rejected by the Office of Personnel Management because it was filed more than one year from the effective date of appellant's separation.

The appellant then filed a petition for enforcement of the settlement agreement alleging a breach by the USPS. The MSPB administrative judge found that the breach was not material, and the Board affirmed over a dissent.

On appeal, the court vacated the Board's decision, finding the breach was material because the promised documents were central to the settlement

agreement. The court dismissed the Postal Service's argument that the appellant should have filed an incomplete application because, at best, it would have delayed the receipt of disability benefits. In addition to requiring the agency to clean appellant's record and to comply with the settlement agreement, the court ordered that the agency should issue a new date of removal which would allow appellant to timely file for disability retirement. Furthermore, the Board was required to award back pay and any other relief because appellant's previous removals must be expunged.

This case illustrates the importance of properly drafting settlement agreements, which are enforceable contracts. Experienced employment lawyers who concentrate on representing federal employees are best equipped to handle such tasks. The court in this case awarded the appellant the benefits to which he would have been entitled had the agency complied with the original settlement agreement.

\* This information is provided by the attorneys at Passman & Kaplan, P.C

13. **Count Those Pay Dates Carefully.** Some federal employees will have 27 pay dates in calendar year 2007, which could affect TSP investment planning for some FERS employees. All investors are limited to a \$15,500 dollar cap for the year, but FERS investors planning to put in the full amount must be sure to continue investing through every pay period of the year in order to capture the maximum government contribution. If they set up their investments on the assumption of 26 pay dates, they would not be able to make an investment in a 27th, and they would lose matching contributions for that pay period (that's not a concern for CSRS participants, who get no government contributions). Pay dates vary according to payroll systems, which differ from agency to agency and even within agencies in some cases. Employees should check with their payroll office, taking note that the key distinction is not how many pay periods are in the year for them, but how many pay dates. TSP investors can change their investment levels at any time.

14. **Human Resources (HR) for Supervisors.** The HR for Supervisors Course is highly recommended for all Department of Army civilian (DAC) and military supervisors of appropriated fund (APF) civilian employees who supervise at least 3 appropriated fund DAC employees. The course is 40 hours long and is intended to help the supervisor in performing his/her HR management duties. In addition to teaching the participants about HR regulations and processes, the course introduces them to the automated HR tools. Completion of this course can enhance the supervisor's confidence and performance. The course includes the following modules:

2 February 2007

- Overview of army CHR (includes coverage of Merit System Principles and Prohibited Personnel Practices)
  - Staffing
  - Position Classification (includes an introduction to CHR automated tools such as CPOL, ART, Gatekeeper and FASCLASS)
  - Human Resource Development
  - Management Employee Relations
  - Labor Relations
  - Equal Employment Opportunity

The course includes lectures, class discussion and exercises. There is a pre and post test administered at the beginning and end of the course. The course does not address supervision of Non-appropriated Fund (NAF) or contractor employees. The next course, scheduled for **19-23 March 2007, will be conducted from 0800 to 1630** at the Fort Benning CPAC, classroom #225, building #6. Please see the schedule below for other course start dates. The point of contact for this course is Ms. Stephanie Carpenter, Fort Benning CPAC, 545-2681.

### DATE

11-15 June 2007

17-21 September 2007

15. **RPA and ART Workshop**. The Fort Benning CPAC HR specialists are available to conduct RPA and ART desk-side walkthroughs and/or workshops to assist managers/supervisors and new DCPDS account holders with accessing and using DCPDS, ART, initiating RPAs, creating Gatekeeper Checklists, forwarding and tracking RPAs, generating reports and printing SF 50s. Training can be accomplished via individualized sessions or activity specific workshops upon request. If you desire training of this nature, please contact your servicing HR specialist to arrange for scheduling.

16. **Job Aids Available on the Web**. Lotus ScreenCams (how-to-movies) are available to assist DCPDS users with DCPDS, Army Regional Tools (ART), Oracle 11i and other automation tools. ScreenCam movies ART Logon, Ghostview, Gatekeeper, Inbox Default, Initiating an RPA, Logging On, Navigator, RPA Overview and RPA Routing are available on the web at: <http://www.chra.army.mil/>. Click on HR Toolkit and then click on the name of the

2 February 2007

movie to download or play it. Managers/supervisors and administrative personnel responsible for initiating RPAs are encouraged to review this site and check out these new tools. ART Users Guide has been updated and provides descriptions of and instructions for using tools available in ART, including such tools as Employee Data, Inbox Statistics (timeliness and status information about personnel actions), Organization Structure (information about positions in various organizational elements), and many more tools. It is intended for use by managers, resource management officials, administrative officers, and commanders as well as CPAC and CPOC staff members. There is both an on-line and downloadable Word version (suitable for printing).

In addition, to the ART Users Guide, there is a Defense Civilian Personnel Data System (DCPDS) Desk Guide which provides how-to information about tasks and functions that end users might need to perform in DCPDS, such as initiating a Request for Personnel Action (RPA) and creating a Gatekeeper Checklist. The ART Users Guide and the Desk Guide can be accessed from the CHRA web page at: <http://www.chra.army.mil/>, by clicking on HR Toolkit. In addition to these tools the Fort Benning CPAC staff is available to assist you in accessing DCPDS, ART, initiating RPAs, creating a Gatekeeper Checklist, forwarding and tracking RPAs, generating reports and printing an SF 50. If you have any questions or need assistance, please contact your servicing HR specialist to arrange a time so we can come to your office to help you

17. **Emergency Contact (Next of Kin) Database.** Information on the Emergency Contact Database is located on the Civilian Personnel on Line (CPOL) website <http://www.cpol.army.mil/>. It can be accessed from the CPOL homepage by clicking on the link for "Emergency Guidance and Resources," and then clicking on "Emergency Contact Database" Managers need to keep reminding their civilian employees of the need to have their current emergency contact information on file in the Emergency Contact Data Base. In addition, supervisors and managers are required to conduct periodic validations, with employees, to ensure the accuracy of their data. If assistance is needed, please contact project e-mail account at [echelp@asamra.hoffman.army.mil](mailto:echelp@asamra.hoffman.army.mil).

18. **Fort Benning CPAC Homepage.** Please log on to our website at <https://www.benning.army.mil/Cpac/Index.htm>. If you have any suggestions on ways to improve or recommendations for information to add, please contact the undersigned.

2 February 2007

19. **The Year End Review**. With 2007's well speeding forward, I want step back for a moment to call your attention to a few of the major milestones my staff and I experienced in 2006.

- *Departure/Arrival of CPAC Director*

Mr. Hans G. Knoff, former CPAC Director, retired 3 March 2006. His Government career spanned over 36 years in a variety of assignments in the Army as an Infantry Officer and as a Department of Army (DA) civilian.

In 1974, Mr. Knoff began his Federal service career at the Fort Benning Civilian Personnel Office (CPO) as a nonappropriated fund classification intern, and was later appointed as a classification intern on the appropriated side of the house. In 1985 he departed for his first overseas tour of duty in Schweinfurt, Germany. Mr. Knoff returned to the CPO in 1990, as Chief, Classification Division, and in 1997 departed for another overseas tour in Heidelberg, Germany as Chief of Classification Division within the Civilian Personnel Operations Center (CPOC). He returned to Fort Benning again in 2002 to serve as the Human Resources Director from 2003 until his retirement.

Mr. Knoff was succeeded by Ms. Blanche D. Robinson. Ms. Robinson hailed to Fort Benning from Daegu, South Korea where she served as the Director of the CPOC.

- *New Employees*

Nine hundred eight (908) new employees were in-processed at the CPAC, adding to the strength of Fort Benning. The number breaks out as follows - 451 appropriated, 457 nonappropriated

- *CRC Participation*

CPAC staff members were on-site at the CONUS Replacement Center to assist with the processing of 4,944 DOD civilians and contractors

- *New Publications and Issuances*

The Fort Benning CPAC Staffing Update and Tips and Tidbits was initiated

PECP-SCR-H  
SUBJECT: Fort Benning CPAC Staffing Update 2-2007

2 February 2007

- *Employees Spiraled Under NSPS*

CPAC employees were among the first 11,000 non-bargaining unit employees to be converted to NSPS in Spiral 1.1 on 30 Apr 06.

- *Approval of the Labor Management Agreement*

The Agreement between HQ, USAIC and Local 54, American Federation of Government Employees was successfully negotiated and approved

*BLANCHE D. ROBINSON  
Human Resources Officer  
Fort Benning CPAC  
Phone: 545-1203 (ComL); 835-1203 (DSN)  
E-Mail:  
blanche.robinson@benning.army.mil*