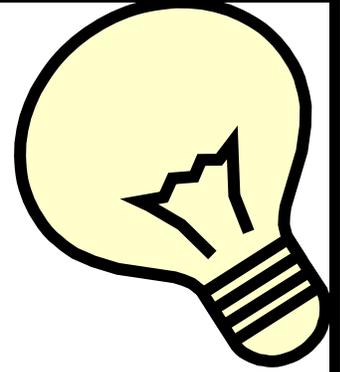


The

Illuminator

Shedding Light on the HR World

7-2008



In this Issue:	Page
Lawmakers Propose 'Roth' Options for TSP	3
Missed Opportunities	5
The Leave Transfer Program	7
Federal Legal Corner: Employees Protected from Retaliation	8
Find Ways to Open Doors to a New Career	9
The Benefits of Social Security	11
Don't Delay Dealing With Problem Employees	13
HR Managers Work to Smooth the Way for New Employees	15
Getting a Handle on Leave: 15 Things Every Federal Manager Can Do to Improve Managing Leave and Attendance Issues	17
Missing a Valid Security Clearance is a Valid Basis for Removal	20
Retirement Planning To Do List	21
Revisiting the Probationary Period ----One More Time	25
New COLAs for Feds in Hawaii, Puerto Rico	26
'Time is Running Out' for Rehired Annuitant Bill	26
Protecting Your 2009 Federal Pay Increase	27
Savvy Singles	29
Loan Arrangers	29

Up, Not Down	29
Care Coverage	30
Now Or Later	30
Bill Would Establish ROTC-Like Program for Federal Service	31
Lawmakers Discuss Expanding Locality Pay to Areas Covered by COLAs	31
Deciding an Adverse Action: The Process and the Proposal	33
The NAF Corner	
Incentive Awards	35
NAF Pay System	36
Pentagon Issues Regulations Applying Federal Labor Relations Rules to Pay System	37
DoD Redirects Contracting Support Work	38
The Merit Systems Protection Board: Its Purpose and Process	41
Recruitment, Relocation and Retention Incentives	44
Human Resources (HR) for Supervisors Course	48
RPA and ART Workshop	48
Job Aids Available on the Web	49
Fort Benning CPAC Homepage	49

This publication is issued to ensure the Fort Benning commanders, managers, supervisors, and employees are kept informed of employment and staffing issues. Monthly issuances will contain updated information on specific employment topics (i.e., compensation, recruiting procedures, travel entitlements, classification issues, NSPS implementation information, etc.).

This newsletter is an apercu of articles written by CPAC staff [members] as well as information excerpted from various sources which include, but is not limited to, the Government Executive Newsletter, FedWEEK, the Federal Manager's Daily Report, and the ABC-C Newsletter .

The Illuminator

7-2008



Lawmakers Propose ‘Roth’ Options for TSP. A bipartisan group of lawmakers has drafted legislation to add new features to the primary retirement plan for federal civilian and military personnel, the Thrift Savings Plan.

One proposed feature is the addition of a Roth 401(k) option for TSP participants, which would offer a hedge against future tax increases.

The draft bill, released publicly May 16, also would automatically enroll all new federal employees — military and civilian — in TSP. The Pentagon is expected soon to decide if it backs automatic enrollment for new military recruits.

The bill would require that employees who are automatically enrolled contribute a percentage of their salary determined by the board that governs the TSP. That rate would be between 2 percent and 5 percent; the bill suggests 3 percent.

The bill would make the plan’s L Funds the default choice for employees who voluntarily or are automatically enrolled in TSP but who do not select a fund in which to invest. The L Funds — which are mixes of TSP’s five stock, bond and government securities funds that vary based on when participants expect to begin making withdrawals — balance risk and return on a sliding scale, with risk increasingly mitigated as the employee ages. The G Fund — a government securities fund that usually carries the lowest risk and lowest return of TSP’s five funds — is the default choice today.

If the proposed Roth investment option becomes reality, experts say participants should think long and hard before using it.

The difference in the Roth option lies in when participants pay taxes. Under the TSP system today, participants invest pretax earnings in the plan and pay taxes when they withdraw their savings in retirement.

Under a Roth option, participants would invest their after-tax earnings in TSP, and be able to withdraw them tax-free in retirement.

If the tax rates a person pays remain the same between the time he invests in his plan and his retirement, there would be no difference between the Roth and the traditional TSP plan. A TSP participant would have to predict how his tax rates are going to change over time when trying to determine whether a Roth would pay off. And experts differ on whether a Roth is worthwhile.

Some say that future tax increases are inevitable and would make a Roth portfolio the right move. “The feeling of most people in accounting and financial management is that tax rates will go up,” said Dave Ponder, a private financial adviser who advises the

The Illuminator

7-2008



National Active and Retired Federal Employees Association. “Historically, we’re at a place where tax rates are very low. And when you consider financial crises such as Social Security and Medicare, it’s a good guess that future rates will be higher than now.”

A Roth option would be a smart move for participants who expect to get inheritances or other windfalls that would place them in a higher tax bracket, Miles said.

And Ponder said the Roth option would help people with higher incomes, who are more likely to get bumped into a higher tax bracket. Young people looking forward to a whole career of pay raises — and the accompanying tax increases — would also benefit from a Roth, according to New York Life Investment Management LLC.

But Miles said he is underwhelmed by the prospect of a Roth option in the TSP. A Roth plan could hurt investors if they drop into a lower tax bracket in retirement, which he said is a more common scenario.

“How many cases are there where federal employees are subject to higher tax burdens in retirement than when they work?” Miles asked. “It’s possible, but it’s not that likely. The rule is, if anything, taxable income goes down” in retirement.

Dan Adcock, assistant legislative director for NARFE, worries that TSP — if a Roth is added — could lose the simplicity that makes it a good investment program.

“One of the things that the thrift board strives to do is create a system ... where the choices to employees are not so overwhelming that they shut down and don’t make rational decisions on their retirement,” Adcock said. NARFE is studying the matter and has not decided whether it supports the proposal, he said.

If someone is worried about guessing wrong on whether tax rates will go up or down, Miles and Ponder suggest splitting investments between the Roth and the traditional TSP. That way, they say, the windfall from one plan would cancel out the loss from another plan and the investor would come out even.

It’s far from certain that a Roth option will come to TSP. Reps. Henry Waxman, D-Calif., Danny Davis, D-Ill., and Tom Davis, R-Va., on May 16 sent the board governing the TSP a draft bill containing the Roth proposal.

That board, called the Federal Retirement Thrift Investment Board, decided against pursuing a Roth option last year, saying it was unclear whether it would be used enough to justify the \$13 million expense of adding it. That’s how much it would cost to overhaul TSP’s computer systems and educate participants.

The Illuminator

7-2008



At a May 19 meeting, the board said it is staying neutral for now on the proposal and will continue studying the private sector's adoption of Roth 401(k) options until next summer.

"It'll require a whole separate accounting system, because you have to keep pretax and post-tax [investments] separate," said Tom Trabucco, the board's legislative director. "That's why we want to see the take-up figures [in the private sector]. Is it just executives who are signing up for this, or is it going down to the new employees who would really benefit?"

About 60 percent of surveyed TSP participants told the board in 2007 that they were interested in a Roth option. But the board last year cited a survey from the investment management company Vanguard that said only 8 percent of participants in large private-sector retirement plans took advantage of a Roth option.

Karen Lightfoot, spokeswoman for the House Oversight and Government Reform Committee, said it is unclear when lawmakers will formally introduce the bill.

A TSP Roth option would get the same matching funds and be subject to the same contribution caps as the regular TSP, Lightfoot said. Under the draft bill, it would be possible to direct contributions to both the Roth and traditional TSP funds.

Under the draft bill, it would not be possible to convert money already saved in the regular TSP to a new Roth plan, she said.

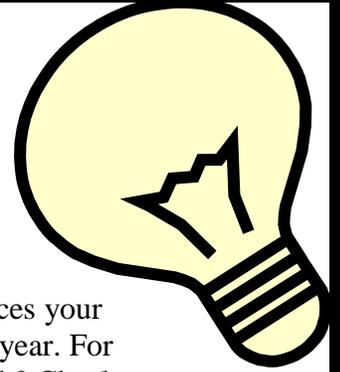
Missed Opportunities. This article is written by J.A. Elliot, Federal Benefits Specialist. It was posted in the June 2008 National Institute of Transition Planning Newsletter. Any references to "I" refer to J.A. Elliot as the author.

Based upon feedback I get from our seminar participants, a vast majority of federal employees seem to be missing out on several important considerations and benefits. The following is a list of what I think are some key opportunities.

1. Flexible Spending Accounts (FSA). A significant number of participants in our seminars are not taking advantage of FSAs. Enrolling in a FSA can save you tax dollars for money that you are going to spend anyway for health care items that are not covered under your Federal Employees Health Benefits (FEHB) plan. A FSA can also be used for dependent care expenses for children under age 13, and adults claimed on your tax return as dependents. This is how it works: Each open season, in mid-November to mid-December, the same dates as the FEHB open season, you can designate for the following year any dollar amount for non-insured health care expenses up to \$5,000, or as little as \$250. You can also designate \$250 to \$5,000 for dependent care expenses. This is done through payroll deduction. You have 14 ½ months to use your designated amount (there

The Illuminator

7-2008



is no rollover, so you use it or lose it). Whatever amount you designate, reduces your Federal,, State (if any), and Payroll taxable income by a like amount for that year. For money you are going to spend anyway, why not get this outstanding tax break? Check out www.fsafeds.com for complete information.

2. Long Term Care Insurance (LTC). When I ask for a show of hands at a seminar as to whom has LTC, maybe one or two are raised. A few years ago the Congress looked at the demographics of an aging baby boom generation and was alarmed at the prospect of all those boomers living to a ripe old age with no resources to pay for hugely expensive long term care. Currently, the average expense for a nursing home in this country can range from \$55,000 to \$75,000 per year depending on where you live. In-home care can cost as much as \$25 an hour and run \$52,000 per year for a 40 hour week. Experts say that 70% of the people who live past 65 will need some form of LTC. So, Congress asked the Office of Personnel Management to come up with a LTC plan for federal employees, and in 2002 they did. OPM currently contracts with Long Term Care Partners to offer LTC insurance for federal employees and retirees. Yet apparently it is not being used, despite the financial planning community overwhelmingly recommending LTC insurance for those individuals and families whose assets would be depleted rapidly by LTC expenses. Practically speaking there are three ways to pay for LTC: 1) Out of your own savings, investments, and income, 2) Medicaid, but that won't cover you until you are pretty much wiped-out financially, or 3) LTC insurance. (Your health insurance plan will not pay for LTC and Medicare will only pay for the first 90 days.) LTC insurance is a relatively inexpensive and efficient way to pay for LTC. LTCFEDS provides a variety of plans you can tailor to your needs, and a calculator to determine your cost. Check it out at www.ltcfeds.com.

3. Retirement Calculators. Many agencies, maybe most by now, have installed benefits calculators on an agency intranet system. These calculators typically give you the means to do your own retirement annuity estimates for FERS and CSRS, Social Security estimates, and TSP projections. Your salary data is generally loaded in these systems for personalized retirement planning. If your agency does not have one of these calculators, you can visit www.opm.gov/asd, for FERS and CSRS estimates, www.ssa.gov for Social Security estimates, www.tsp.gov, and our website mast, www.nitpinc.com, for TSP projections. Yet surprisingly, most participants in our seminars have never used these calculators. These are invaluable tools in retirement planning regardless of age, and they are easy to use. If you don't know how much you're going to have to live on in retirement, how do you know when you can afford to retire? And what steps to take now?

4. National Active and Retired Employees Association (NARFE) Any federal employee and retiree can be a member and it is almost free. Dues average about \$3 per month. For that you get their monthly magazine, which is chock full of information about

The Illuminator

7-2008



your FERS and CSRS pensions, the TSP, health and life insurance, Social Security, and Medicare. In the May issue, for example, there is an excellent article on the pros and cons of transferring your TSP account to a Roth IRA. Where else would you get that information outside of a retirement seminar? Not only is NARFE a great source of information on federal benefits, it lobbies Congress on your behalf to protect your benefits. Members of Congress have called NARFE the most effective political action committee they deal with. Yet most federal employees have never heard of NARFE, and only about 400,000 federal retirees are members. If you care about your benefits join NARFE at www.narfe.org.

In planning for your retirement, consider an FSA and LTC, regardless of age, and be aware of your personal situations by using the calculators. Try a membership to NARFE, read our website, listen to our radio show, read Tammy's GovExec articles as it's never too early to plan! As always, email us with any questions along the way.

Retirement is like a long vacation in Las Vegas. The goal is to enjoy it the fullest, but not so fully that you run out of money. -Anonymous

The Leave Transfer Program. If you have a family or medical emergency and have run out of leave, one of the ways you can be helped out of a financial hole is if other employees will donate annual leave directly to you. Every agency has a donated leave program for its employees. And, fortunately, there's no limit on the amount of donated annual leave you can receive from a donor or donors. Of course, when the emergency is over, any donated leave that you didn't use has to be returned to whoever loaned it to you. The amount is returned in proportion to the amount each person loaned you.

To be eligible to receive donated leave, your agency has to determine that your emergency will last at least 24 hours and give its approval for others to donate annual leave to you. If you are a part-time employee or on an uncommon tour of duty, the amount you can use will be prorated to match your work schedule.

While using donated leave, you aren't permitted to accrue more than 40 hours each of annual and sick leave. Any hours you earn that don't exceed that ceiling will be placed in a "set-aside" account. Once your emergency is over, any annual or sick leave in your set-aside account will be transferred to your regular leave account; however, if you have exhausted all your donated leave, you can begin using whatever you have accumulated in that account.

If you are a potential donator, you'll be limited in the amount of annual leave you can donate. It can't be more than half the amount you would accrue during a leave year. And, if you have an annual leave balance that exceeds the amount you can carry into the next leave year, the so-called "use of lose" leave, you'll be limited to the lesser of half the

The Illuminator

7-2008



annual leave you would accrue in a leave year or the number of hours left in the leave year for which you are scheduled to work and receive pay.

For additional information on the leave transfer program, please contact your servicing HR Specialist.

Federal Legal Corner: Employees Protected from Retaliation. The Supreme Court ruled in *Gomez-Perez v. Potter*, Postmaster General, No. 06-1321 (May 27, 2008), that a federal employee who is a victim of retaliation due to the filing of a complaint of age discrimination may assert a claim under the federal-sector provision of the Age Discrimination in Employment Act of 1967 (ADEA).

The Court found that such a claim was permitted even though the federal sector statute does not specifically reference retaliation.

Gomez-Perez worked for the United States Postal Service. After filing an EEO complaint alleging she had been discriminated against due to age, she alleged she was subject to various forms of retaliation, including reducing her work hours and lodging false complaints against her. She complained also of verbal harassment.

The USPS filed a motion for summary judgment which the district court granted.

An appeals court agreed with the district court that the ADEA prohibited age discrimination against federal employees, but did not create a cause of action for victims of retaliation. Gomez-Perez appealed to the Supreme Court.

The federal-sector provision of the ADEA provides that "[a]ll personnel actions affecting employees or applicants for employment who are at least 40 years of age . . . shall be made free from any discrimination based on age." The court interpreted this provision's prohibition of "discrimination based on age" as likewise proscribing retaliation. In its decision, the court followed the reasoning of prior decisions ruling that retaliation is covered by similar language in other antidiscrimination statutes. For example, in *Jackson v. Birmingham Bd. of Ed.*, 544 U. S. 167, the court held that Title IX of the Education Amendments of 1972, which prohibits "discrimination" "on the basis of sex" in educational programs receiving federal aid, reached retaliation against a public school teacher for complaining about sex discrimination in his school's athletic program.

The court noted that the presence of an ADEA provision specifically prohibiting retaliation in private-sector age cases and the absence of a similar provision in the federal sector provisions did not require a different result. The court also noted that the provisions were enacted seven years apart rather than simultaneously, and they are written very differently: the private sector provision lists forbidden employer practices

The Illuminator

7-2008



while the federal sector provision contains a broad prohibition of "discrimination." The court found that the statute's wording is broad enough to encompass retaliation, particularly since the federal sector statute was modeled after Title VII, not after the private sector statute.

The dissent disagreed with inferring a cause of action not found explicitly in the statute. Justice Roberts wrote: "The Court today holds that the federal-sector provisions of the [ADEA] encompasses not only claims of age discrimination--which its language expressly provides--but also claims of retaliation for complaining about age discrimination--which its language does not. Protection against discrimination may include protection against retaliation for complaining about discrimination, but that is not always the case. The separate treatment of each in the private-sector provision of the ADEA makes that clear. In my view, the statutory language and structure, as well as the fact that Congress has always protected federal employees from retaliation through the established civil service process, confirm that Congress did not intend those employees to have a separate judicial remedy for retaliation under the ADEA."

As a result of the majority decision, federal employees will be able to pursue their allegations of retaliation due to filing an EEO claim of age discrimination through the EEOC as well as in the federal courts. However, federal employees alleging age discrimination or reprisal for asserting age discrimination are not eligible to receive compensatory damages for pain and suffering and cannot receive attorney fees in the administrative process.

* This information is provided by the attorneys at Passman & Kaplan, P.C., a law firm dedicated to the representation of federal employees worldwide.

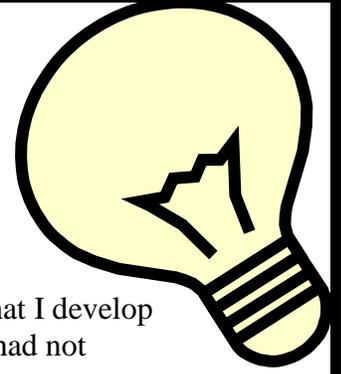
Find Ways to Open Doors to a New Career. Are you yearning to pull a professional U-turn that will take you into an entirely new field? Some ways to earn potentially pivotal experience to help you do so:

- Read everything you can about your target field and interview experts about it.
- In your current job, identify projects that would fill neglected needs in your office and, at the same time, give you experience in your target field. Pitch those projects to your boss — emphasizing how those projects would advance your office's agenda and offering to manage them yourself.

I have used this technique several times. For example, some years ago, I worked as a writer for the Plain Language Initiative (PLI) — a government-wide campaign to improve federal communications.

The Illuminator

7-2008



Because I am interested in science communication, I suggested to my boss that I develop communications training for various science-based agencies, which the PLI had not previously addressed.

My resulting projects helped me land my next job as a trainer and then helped me land my current job as a public affairs officer at the National Science Foundation.

- Pinch-hit by covering the ongoing projects of colleagues who quit or go on extended leave. I know, for example, an accountant who volunteered to help manage cases for her agency's alternative dispute resolution (ADR) program. When the ADR director went on maternity leave, the accountant slid into the director's job as a temporary substitute. After the director ultimately decided not to return from maternity leave, the accountant permanently replaced her.

Vigilantly look for such pinch-hitting opportunities created by the churn of the ongoing federal retirement wave and the presidential transition.

- Use your office's training funds to attend conferences, take classes, or earn certifications or degrees. For example, while working as an acquisitions professional at the Navy, Cara Spiro worked toward her master's in business administration with a focus on organizational management through a night program at The George Washington University. The Navy covered Spiro's tuition. Two years after earning her MBA, Spiro landed an HR job at the Defense Department addressing organizational and employee development, training and Lean Six Sigma.

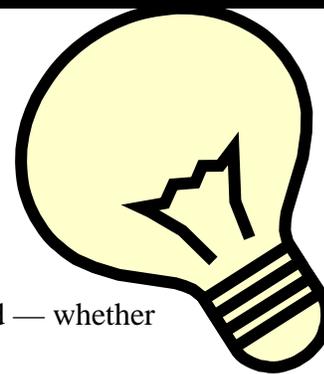
- Because volunteer experience can count as much as paying experience, volunteer to do your target job with professional organizations, nonprofits and community organizations, such as your condo board, alumni groups, the PTA or neighborhood watch groups. If necessary, switch to an alternative work schedule and devote your resulting days off to volunteering.

As Janet Hanson, the founder of a billion-dollar investment firm and a networking guru, told *Elle* magazine, "Volunteering is one thing you don't have to ask permission to do. You can go beyond your job description — there are no boundaries, roadblocks or glass ceilings."

- Contribute to professional organizations. Even if you have no experience in your target field, join professional organizations devoted to your target field and help manage events, communications, budgets, computer networks, social networking and strategic planning. By doing so, you will generate references, impress potential hiring managers, learn about openings and earn relevant experience. Also, work to get published in an organization's

The Illuminator

7-2008



publications. You will help establish yourself as an expert in your target field — whether or not you actually are one.

- Supervisory experience is an excellent credential for advancing in any field — even if it is only informal experience that does not involve serving as a first-line supervisor.

You can amass supervisory experience by seizing opportunities to mentor your office's interns, newcomers or experienced professionals; serve in "acting" management positions; or supervise and mentor other professionals and manage projects in nonwork venues such as professional organizations, community organizations and volunteer jobs.

The Benefits of Social Security. This article is written by Tammy Flanagan. It was posted in the National Institute of Transition Planning. Any references to "I" pertain to Tammy Flanagan as the author.

We all know that Social Security provides benefits for workers -- that is, people who have paid Social Security taxes on their own earnings. But do you understand how Social Security also benefits workers' families?

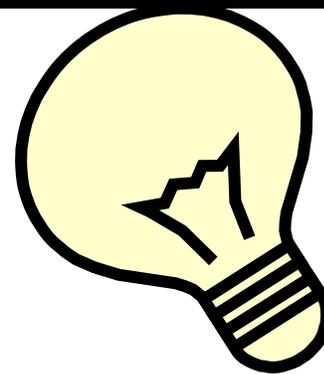
When you start receiving your own Social Security retirement benefits, your spouse, dependent children and former spouse also may be eligible for benefits based on your work record. When you die, certain members of your family may be eligible for Social Security survivor's benefits. These include widows, widowers (and divorced widows and widowers), children and dependent parents. Likewise, you may be the beneficiary of someone else's Social Security payments.

I've listed some of the basic eligibility rules for spouses, widows and widowers, former spouses and children below. You can learn more about these benefits by visiting the Social Security Web site <<http://www.ssa.gov>> . If you think you are eligible for benefits based on someone else's record, you should contact SSA at 800-772-1213 to make an appointment to discuss the options that are available to you. Because of reductions and credits based on your age and the age of the worker, the timing of your application can affect the value of your lifetime benefits. If you are eligible for benefits, you should not delay applying since the benefits are not always payable retroactively.

But before we go any further, here's a note for those covered by the Civil Service Retirement System: Under CSRS, the Social Security spousal benefits you may be entitled to can be reduced or eliminated because of the Government Pension Offset <<http://www.govexec.com/dailyfed/0606/060906rp.htm>> . The GPO does not affect your spouse's entitlement to their own earned Social Security benefits or the Social Security spousal benefits that you've earned for them as long as they are not entitled to a CSRS benefit of their own.

The Illuminator

7-2008



Spouses and Families

Suppose Bob, 55, married Lorraine, 42, and they had two children, Megan and Travis. If Bob retires at age 66 and applies for his Social Security retirement benefits, Lorraine (now 53), Megan (11) and Travis (9) all will be eligible to receive Social Security benefits based on Bob's work record. Each will be eligible for up to 50 percent of Bob's earned benefit. (If Lorraine is working, her benefits may be reduced by an annual earnings limit.) When Megan and Travis turn 16, Lorraine's benefits will stop until she turns 62. Megan and Travis will be eligible for benefits until they graduate from high school.

Even if he or she has never worked under Social Security, your spouse:

- * Can begin collecting a reduced benefit as early as age 62.
- * Can qualify on your record for Medicare at age 65.
- * If caring for your child who is receiving benefits, can receive the full one-half benefit amount no matter what his or her age is.

If your spouse is eligible for retirement benefits on his or her own record, Social Security will pay that amount first. But if the benefit on your record is a higher amount, he or she will get a combination of benefits that equals that higher amount (reduced for age).

A spouse who has reached full retirement age (65 to 67, depending on year of birth) and is eligible for a spouse's benefit and his or her own retirement benefit can choose to receive only the spouse's benefits and delay receiving retirement benefits until later.

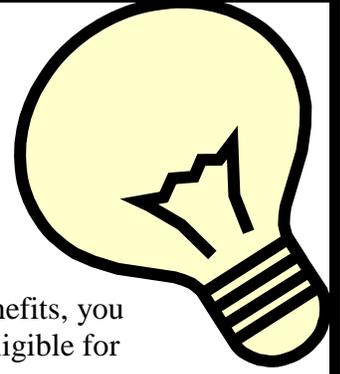
When you choose to start your retirement benefits also affects the amount your surviving spouse may receive. If you start your benefits before full retirement age, Social Security doesn't pay your surviving spouse the full benefit amount from your record. Also, if you choose to receive a reduced benefit before full retirement age on your own record, you are not entitled to the full spouse's benefit rate upon reaching full retirement age.

Widows and Widowers

About 5 million widows and widowers currently receive monthly Social Security benefits based on their deceased spouse's earnings record. Widows and widowers who have not remarried can receive full benefits at their full retirement age or older, or reduced benefits as early as. They can begin receiving benefits as early as age 50 if they are disabled.

The Illuminator

7-2008



If you are receiving widows, widowers, or divorced widows or widowers benefits, you can switch to your own retirement benefit as early as 62, assuming you are eligible for benefits and your retirement rate is higher than your rate as a widow or widower.

In many cases, a widow or widower can begin receiving one benefit at a reduced rate and then, at full retirement age, switch to the other benefit at an unreduced rate.

Divorced Spouse

If you are divorced (even if you have remarried), your ex-spouse may qualify for benefits on your record if you are 62 or older. To do so, your ex-spouse must have been married to you for at least 10 years, be at least 62 years old, be unmarried and not be eligible for an equal or higher benefit on his or her own Social Security record (or someone else's).

If you are eligible for retirement benefits but have not yet applied and have been divorced for at least two years, your divorced spouse still may be able to collect benefits on your Social Security record.

Children

About 3.8 million children receive approximately \$1.6 billion each month because one or both of their parents are disabled, retired or deceased. Your biological or adopted children and dependent stepchildren are eligible for such benefits. (In some cases, your child also could be eligible for benefits on his or her grandparents' earnings.)

To get benefits, a child must have a parent who is disabled or retired and entitled to Social Security benefits, or a parent who died after having worked long enough in a job where he or she paid Social Security taxes.

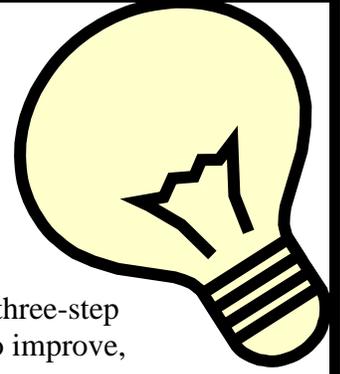
Also, the child must be unmarried, under 18 (or 18 to 19 years old and a full-time student at no higher than grade 12), or 18 or older and disabled.

Don't Delay Dealing with Problem Employees. Managing a problem employee is never easy, and the bureaucracy of the federal workplace doesn't make it any easier. As a result, many managers ignore problems until they become severe.

There are options for dealing with the situation early on that can create a positive result for both the employee and manager. And when these resolutions don't work out, there are steps you need to take to ensure that neither you nor your agency could be held liable if the employee files a grievance against the termination.

The Illuminator

7-2008



According to the Office of Personnel Management, managers should have a three-step process in addressing performance problems: counsel, provide opportunity to improve, and take removal action.

Communicate expectations

A counseling session is an opportunity to clarify expectations and discuss performance issues.

Keep in mind that issues such as tardiness fall more in line with workplace misconduct and formal counseling may not be the most effective form of communication. Poor performance is the failure of an employee to do his or her job at an acceptable level. This level of expectation should be documented in written performance standards and is typically defined in terms of quality, quantity or timeliness.

Conduct the counseling session in a private place so that co-workers will not overhear the conversation. Be sure to reference the employee's performance standards and explain your expectations. Provide clear examples of where the employee is failing. Choose several points throughout your comments where you can stop and get confirmation from the employee that he or she understands the problems and your expectations. Providing opportunities for a response allows the employee to be active in the discussion and may lessen the negative connotation of a "lecture" from the boss. Document the date of the discussion and any agreements you reach with the employee regarding changes to the way work is assigned or structured. Provide the employee with a written summary of these details.

Provide an opportunity to improve

After counseling an employee, provide a formal opportunity period to assess the improvement of his or her performance. This period is designed to give the employee an opportunity to bring his or her performance up to the level outlined in the counseling session.

Inform the employee in writing of the critical elements in which he or she is failing and what is needed to bring performance up to an acceptable level, what assistance will be provided, and the consequences of failing to improve during the opportunity period. Be sure to outline how long the period will last.

It may be appropriate to offer assistance in a variety of ways. For example, an employee may be given a checklist, paired with another employee, or given closer supervision. Not every employee will require every type of assistance, but once assistance is offered, be sure to follow through with it.

The Illuminator

7-2008



Document successes and failures, slip-ups and exceptional moments. These documents will protect your liability if the employee's performance does not improve and you are forced to seek further action.

Taking action

Deciding what comes next depends on the employee's performance at the conclusion of the opportunity period. If the employee reaches an acceptable level of performance, be sure to provide positive feedback and encouragement for the job well done.

However, if an employee is still performing unacceptably, you must determine the best solution.

According to OPM, your options include reassignment, demotion or removal. Your agency's internal rules may differ. For example, you may need to reassign employees to other positions before demoting or terminating them.

Speak with your agency's personnel office to see what your responsibilities are before reaching a decision or taking final action.

HR Managers Work to Smooth the Way for New Employees. Making new employees feel at home takes more than handing them a few pens and a notepad when they arrive.

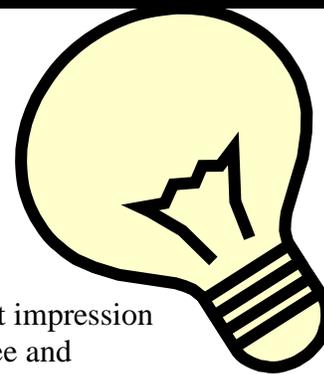
Agencies have to coordinate various offices that need to prepare for an employee's first day, teach him what to expect from his new job, and collect his personal information as efficiently as possible, according to the Partnership for Public Service.

A good strategy for onboarding, or integrating new employees into the work force, takes both advance preparation and months of follow-ups, human resources officials said at a May 12 panel discussion. "Onboarding is a process and not an event," said Candace Irwin, the director of NASA's work force systems and accountability division. "It's something that has to happen well before the person accepts the job."

That might sound simple enough, but many federal agencies do not put enough thought into it, the partnership said in its May 12 report, "Getting On Board: A Model for Integrating and Engaging New Employees." The report found that the government has no consistent approach to bringing new employees on board; new employees often aren't taught about and initiated into their new agency's culture; and technology that could ease the process and improve collaboration is underused.

The Illuminator

7-2008



Proper onboarding could mean the difference between making a positive first impression that will entice a new employee to remain for years, and souring the employee and leading him to look elsewhere for work, officials said.

“It’s more than just an orientation,” said Leslie Ann Pearson, a senior associate at Booz Allen Hamilton, which helped conduct the study. “In your first six months, you’re going to decide: Do I want to stay here?”

The Treasury Department’s Office of the Comptroller of the Currency (OCC) sees its onboarding processes as a crucial part of retaining the 150 new bank examiners it hires out of college each year.

“It will take five years to prepare these folks for their role as certified bank examiners,” said Joyce Cofield, OCC’s director of recruitment, retention and diversity. “If we start losing them, we’re just wasting time and energy.”

The process begins even before new employees are hired, Cofield said. During its recruitment process, OCC has its bank examiners act as sponsors for job candidates who visit its district offices. Those sponsors do everything from talking about what life as a bank examiner is like to showing them where the restrooms are, she said.

Once onboard, OCC’s new bank examiners spend their first week meeting with their trainers and other veteran examiners to learn details about what the new job entails. These meetings cover things such as how to handle the job’s frequent travel requirements, what to expect in training, and how to prepare for the relocation to a field office once training is complete, Cofield said.

The Government Accountability Office has its chief learning officer administer an oath of office to new employees during their first week, and talks to them about GAO’s core values as an investigative agency.

“It helps the assimilation process, especially if they’re coming” from another federal agency, said Cynthia Heckmann, GAO’s chief human capital officer. “Senior people in particular sometimes have an acculturation issue.”

GAO and NASA have each developed case management systems to track new hires from the moment they accept a job offer.

The system alerts information technology offices to set up a computer, network access and e-mail account for a new employee; facilities staff will prepare an office and desk; and security staffs work in advance to arrange needed clearances.

The Illuminator

7-2008



Irwin said the Interior Department's National Business Center, which provides payroll services for NASA and other agencies such as the Education and Transportation departments, plans to adopt NASA's system, called the work force transformation and tracking tool, and make it available to its customer agencies.

"When they come to our site, it knows if they're transferring from another agency, if they're a new fed, or if they're transferring from elsewhere in NASA, and it gears their forms to the kind of information they'll need to provide," Irwin said.

The system also provides links to NASA's strategic plan, IT security training, and information for families on day care centers and housing.

OCC's Cofield said little touches go a long way to making the office's new hires feel welcome — after someone accepts the job, the agency sends him or her a welcome basket with an agency-branded T-shirt, umbrella, luggage tags and chocolates.

"I get lots of comments from new hires, who say I was [already] pretty sure I made the right decision, but when I got the basket, it sealed the deal," Cofield said.

Getting a Handle on Leave: 15 Things Every Federal Manager Can Do to Improve Managing Leave and Attendance Issues. This article was written by Bob Gilson. It is copyrighted and posted in FEDSmith. Permission was sought and granted to use the article in its entirety. Further duplication requires permission from the author.

Just about every supervisor will face an attendance problem of one kind or another and that problem is more likely to involve attendance than any other issue. Whether its tardiness, unscheduled leave, leave abuse or whatever, there are some simple steps you can take to educate and prepare yourself to deal with attendance issues. If you follow these steps, you are much more likely to minimize the problems and achieve a satisfactory solution than if you use a react and learn as you go approach.

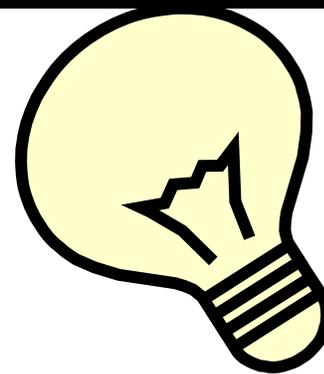
1. Learn the Basic Rules.

For almost all Feds, the fundamental regulation is [OPM's 5 C.F.R. 630, Sections 101 to 1309.](#)

In addition, you must get familiar with your Agency's policies on leave which supplement those issued by OPM. OPM has a home page on [Leave Administration](#). Also look for any contract provisions if your staff is represented by a union.

The Illuminator

7-2008



2. Get a Grip on FMLA.

The Family and Medical Leave Act which prompted Sections 630.1201-1211 of OPM's Regs is critical to your understanding of today's leave environment. In fact, most supervisors I've met will tell you that FMLA is the cause of many leave problems because it creates a right to leave that trumps an Agency's right to assign work. Be that as it may, understanding FMLA's provisions should be high on your to do list. Check out [OPM's Page on FMLA](#).

3. Keep a Paper or E Copy of Applicable Rules

Whether in your computer in a folder called "Leave Rules" or in one of those ubiquitous government knubblely black 3 ring binders, make sure the leave rules and related documents are where you can reach them in a hurry.

4. Set Clear Expectations

Make sure each of the people you supervise has a copy of the Agency's leave rules along with a memo from you emphasizing the important provisions including requesting and calling in procedures, forms to use and other day to day essential information. If your employees are covered by a contract, be sure to emphasize that as well.

5. Remind Staff of Expectations

Make yourself a note to regularly remind people of the requirements in staff meetings. It's a bad idea to discuss a specific employee's problems in a general meeting but a good idea to encourage employees to know and follow attendance rules.

6. Enforce Rules

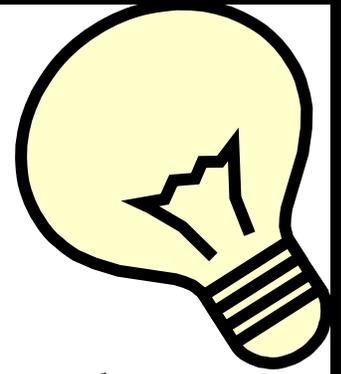
Make sure each employee who evidences any kind of attendance problem gets a response from you. Always take circumstances into consideration but also always let them know that you know the rules and are willing to enforce them. You will always have problems with inconsistent or lax enforcement but they'll be minimized with prompt and consistent attention when that attention is warranted.

7. Require a Written Request

OPM publishes a [Standard Form \(SF\) 71](#) that may be filled out on the computer. Some Agencies use this, others may have their own, but all have some written form. Using a form is habit forming and keeps everybody straight.

The Illuminator

7-2008



8. Track Leave Usage

Keep or be able to locate employee time, attendance and leave records. If, for example, sick leave of a single day unconnected to a chronic, documented condition is regularly used or requested on Mondays, Fridays, days before or after holidays, etc., you may be looking at a problem. Talk to you HR advisors about how to recognize leave abuse problems. Documentation is key to problem resolution.

9. Question Inconsistent Requests

Call employees on it if sick leave requests appear inconsistent with documented conditions, if annual leave is requested at the last minute when workload is heavy or deadlines imminent and the like. Letting people know you are paying attention will head off potential problems in the vast majority of cases.

10. Act on a Failure to Call In

I recommend that any failure to call in an unscheduled absence requires a piece of paper in response. Whether that piece of paper is advisory, a warning or discipline depends on the circumstances but no employee at any level should be unaccountable for their attendance. Otherwise chaos, instead of management, will rule.

11. Discourage Last Minute Requests

Obviously, stuff happens and employees have lives outside of work. However, if work responsibilities appear on the way to being a minor consideration with an employee, it's time to remind them where the paycheck originates. Most leave can and should be planned. Encourage it.

12. Require Documentation of Sick Leave Usage Consistent with Policy

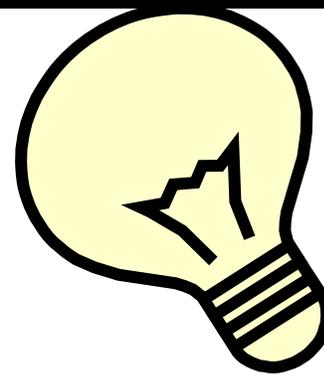
Getting a medical baseline for chronic conditions or those that will required repeated sick leave use is essential. This is a series of articles in itself but I can tell you from years of experience that a supervisor will regret failing to require documentation more often than not.

13. Get Help With Medical Issues

Following up on the last point, sit down with your HR advisor early on and get help addressing medical issues. Medical issues are without doubt the most complex you're likely to face. They're not impossible ore even difficult to deal with if you get off on the right foot to start with and stay on top of problems as they develop.

The Illuminator

7-2008



14. Get a Copy of a Sample Leave Restriction Letter

Every Federal Agency issues leave restriction letters routinely. If they don't, someone is asleep at the switch. Get a sanitized (for Privacy Act reasons) copy of recent ones from your HR advisors and get familiar with the provisions. Ask questions if you need to.

15. Take Formal Action if Informal Action Doesn't Work

Leave restriction is not disciplinary in nature but can be enforced with discipline if an employee decides not to comply. When you deal with leave problems as a routine matter, eventually you'll come upon a situation requiring discipline. I've heard it said that discipline is good for morale because employees who follow the rules can become dissatisfied when those who don't are not dealt with by management. It's your call.

Obviously there's much more to dealing with attendance problems than we've covered here. But the above is a good start.

Missing a Required Security Clearance is a Valid Basis for Removal. The Federal Circuit has upheld the removal of an employee based on his required security clearance being revoked. (Robinson v. Department of Homeland Security <<http://www.fedsmith.com/articles/references/Robinson06-3123.pdf>> , C.A.F.C. No. 2006-3123, 8/30/07)

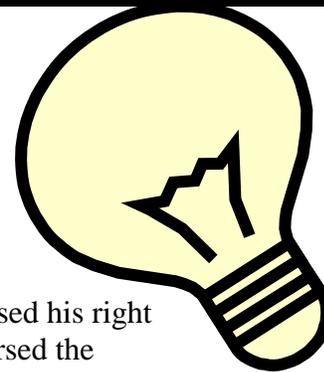
In doing so, the court apparently felt the need to clarify the standards for reviewing a revocation of a security clearance: "For the reasons explained below, we conclude that the MSPB's decision should be affirmed. We explain these reasons in some detail in hopes that the MSPB and litigants before the MSPB will better understand the applicable law." (p. 2)

Robinson was employed as a special agent by the Secret Service in its Little Rock Field Office. This position required that he have a top secret security clearance. The agency suspended his clearance and launched an investigation. (The court's opinion vaguely references his work hours and "questions about his personal and possible criminal conduct.") (p. 2)

The agency sent Robinson a Notice of Determination that his clearance should be revoked and explained the specific reasons. The notice also identified the deciding official in his case and informed him of his rights, which included a right to appear personally before the deciding official. Robinson's attorney made a written reply, which declined the opportunity to appear before this official since he believed the outcome "appears to be predetermined." (pp. 2-3)

The Illuminator

7-2008



Eventually the decision was made to revoke Robinson's clearance. He exercised his right to appeal the decision to the USSS Security Appeals Board. The Board endorsed the decision to revoke his clearance. At this point the agency took action to remove Robinson. (p. 4)

Robinson appealed to the MSPB. He requested a witness he claimed would testify that the decision to revoke his clearance has been predetermined by the agency. The Administrative Judge denied this witness request since the only issue was whether Robinson had received minimum due process protection. (pp. 4-5)

The Board concluded that Robinson had received the minimum due process and his removal was affirmed.

Robinson argued to the court that the Board erred in not considering the evidence relating to his "predetermination" argument. He insisted that this predetermination meant that he did not receive minimum due process and therefore his removal should be overturned. (p. 6)

The court disagrees with Robinson. Also, it apparently feels the need to set the MSPB straight on the standard of review in these cases: "As the Government notes, and contrary to Mr. Robinson's argument and what appears to be the MSPB's view, security clearance decisions are not reviewable for 'minimum due process protection.' We consistently have held that a federal employee does not have a liberty or property interest in access to classified information." (p. 7, citations omitted)

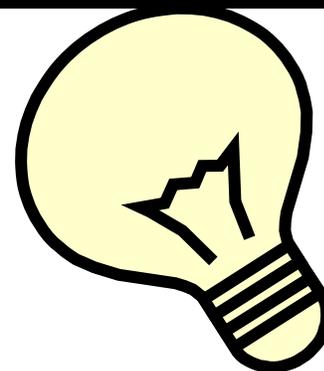
The court goes on to say that in Robinson's case the clearance was revoked in a process in which he fully participated. The fact that he did not have a clearance and hence could be removed as a result was therefore "a matter of record before the MSPB on which the MSPB could rely." (p. 8)

Retirement Planning To Do List. This article is written by Tammy Flanagan of the National Institute of Transition Planning. Any references to "I" pertain to Ms. Flanagan as the author.

Many of you may be at the point of setting a date for your retirement and wondering what needs to get done before you go. One of my readers came up with a "countdown checklist" to help prepare for the big day. (She doesn't want to take credit for it publicly, since for her, the cat isn't out of the bag yet.) I've gone through the list, adding to it and rearranging things in the hopes of making it as useful to you as possible.

The Illuminator

7-2008



Gather Forms and Publications

Item	Location
Application for Retirement SF 2801 (CSRS), SF 3107 (FERS)	www.opm.gov/forms
Retirement and Insurance Publications	www.opm.gov/asd/htm/PUB.htm
Application to Make Service Credit Payment (if you owe a deposit) SF 2803 (CSRS), SF 3108 (FERS)	www.opm.gov/forms
SF 2804 Voluntary Contributions Election Form RI 38-124 Form to Elect Payment of Voluntary Contributions (CSRS only)	www.opm.gov/forms
Designation of Beneficiary (if you need to update) SF 2808 (CSRS) SF 3102 (FERS) SF 2823 (Federal Employees Group Life Insurance) TSP 3 (Thrift Savings Plan)	www.opm.gov/forms www.tsp.gov
CSRS and FERS Handbook/Chapter 40/Planning and Applying for Retirement	www.opm.gov/asd/htm/HOD.htm
Application to Make a TSP Withdrawal (when separated) TSP 77 (partial withdrawal) TSP 70 (full withdrawal)	www.tsp.gov/forms/index.html

Change of Address for TSP (after separation) TSP 9 Change of Name for TSP (after separation) TSP 15	www.tsp.gov/forms/index.html
Publication 721, Tax Guide to U.S. Civil Service Retirement Benefits	www.irs.gov/publications
W-4P Withholding Certificate for Pension or Annuity Payments	www.irs.gov/publications
SF 1199A Direct Deposit Sign Up Form	www.fms.treas.gov/eft/1199a.pdf

To Do: Before Retirement

Time Frame	Item	Contact/Comments
6 months - 1 year	Request a retirement estimate and/or consultation with retirement specialist.	Your agency human resource office can provide you with contact information.
4 - 6 months	Request retirement application package from your benefits office.	Most forms are available online (see above Web sites).
1 - 3 months	Turn in retirement application package to HR. (Keep copies of everything and be sure you've signed all forms.)	The larger and older the agency, the sooner you should do this to avoid delays.
3 months	Contact Social Security Administration.	www.ssa.gov or 1-800-772-1213
3 - 6 months	Contact TSP if you are in the process of paying back a loan and won't finish prior to your retirement date. In addition, consider accelerating your TSP contributions to take full advantage of the tax deferral of your final salary.	Go to www.tsp.gov to download the loan booklet. Use Form TSP 1 or your agency's electronic system to change your allotment to the TSP.
Final days on the job	Request final consultation for last questions. Get contact info in case you have questions for HR or Payroll after you leave. Find out when to expect lump sum annual leave payment. Be sure to notify time and attendance, security and others who may need to know of your separation.	

	Request information regarding any post-retirement employment restrictions.	
1 - 3 months	Continue coverage under Federal Employees Dental and Vision Insurance Program.	www.benefeds.com
6 months - 1 year	Deal with balances in flexible spending accounts. Balances in your health care FSA, Limited Expense HCFSA and Dependent Care FSA are treated differently if you separate or retire before the end of the benefit period. Your HCFSA or LEX HCFSA will terminate as of the date of your separation. You can continue to use the remaining balance in your DCFSA to pay for eligible dependent care expenses until the end of the benefit period or until your account balance is used up, whichever comes first.	www.fsafeds.com
1 - 3 months	Continue long term care insurance. Coverage is fully portable --- you can keep it as long as you pay your premiums.	www.ltcfeds.com 800-582-3337
1 - 3 months	Make health and life insurance coverage choices. You must meet certain requirements. Your agency will transfer your health benefits coverage into retirement for you if you are eligible. Fill out form SF 2818 to continue life insurance.	FEHB and Retirement FEGLI and Retirement

To Do: After Retirement

Time Frame	Item	Contact/Comments
Within 8 months	Contact Social Security if you or your spouse is 65 or older. If Medicare has been your secondary insurance while you were working, it may now become your primary insurance. If you (and your spouse, if eligible) enroll in Part B within eight months of your retirement, you may avoid the late enrollment penalty for Part B.	1-800-772-1213 www.ssa.gov www.medicare.gov
30 days or	You should not submit a withdrawal	www.tsp.gov

more	request to the TSP until you are taken off the payroll of your agency. This may take up to 30 days after you retire. Review the TSP withdrawal booklet and tax notices to help you to understand your choices. The TSP Web site has easy to use calculators to help you determine a pay out option. You may also choose to transfer your TSP account to another retirement savings plan such as an IRA.	
Ongoing	The Office of Personnel Management will be your primary contact for retirement and insurance information after you retire. You will receive a Civil Service Annuitant Number to use as your identification when contacting OPM.	www.opm.gov/retire/ 888-767-6738
Before or after retirement	Consider becoming a member of the National Active and Retired Federal Employees Association.	www.narfe.org

Revisiting the Probationary Period One More Time. In a case involving the Air Force Reserves (Fitzgerald v Department of the Air Force <<http://www.mspb.gov/netsearch/viewdocs.aspx?docnumber=332016&version=332523&application=ACROBAT>> , Docket No. SF-315H-08-0119-I-1, May 12, 2008) provides additional interpretation to the definition of an "employee" under 5 U.S.C. § 7511(a)(1)(A)(ii). This issue adds to the body of cases regarding proper procedures to follow for termination of employees serving a probationary period.

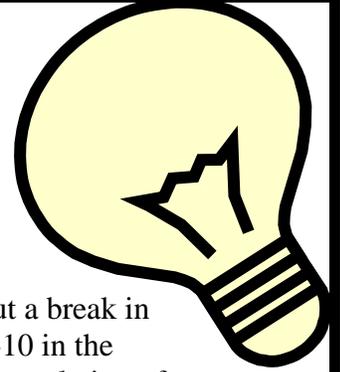
It is widely accepted that the termination of employees serving a probationary period are generally accomplished with limited appeal rights. However, as we have seen from numerous cases over the past 9 years, the appeal rights of employees who have previously completed a probationary period deserve a closer look to properly assure employee appeal rights are not being violated.

This latest case involves service as a National Guard Technician (NGT) wherein the employee satisfactorily completed a probationary period. While the Board acknowledges that service as an NGT does not confer rights of appeal under 5 U.S.C. § 7511(b)(5) , the rights of the appellant as a NGT are not at issue here.

In this case, the appellant was terminated from a position of Air Reserve Technician (ART), a position to which the appellant transferred after completing his probationary period with the National Guard. He was originally appointed as an Aircraft Mechanic, WG-10 on an excepted service appointment and converted to a career-conditional appointment in the same position after satisfactorily completing a one-year probationary period.

The Illuminator

7-2008



The appellant was then appointed to a like position with the Air Force without a break in service. The Air Force appointment was made as an Aircraft Mechanic, WG-10 in the competitive service. This Air Force Technician position was "subject to the completion of a 1-year probationary period." He was subsequently terminated from this position during the 1-year probationary period and appealed to the MSPB. In reviewing this case, the Board determined that the appellant met the definition of an employee under 5 U.S.C. § 7511(a)(1)(A)(ii) which affords the appellant appeal rights to the MSPB.

For Employee Relations Specialists, this is another case to closely review when determining appeal rights of an employee being terminated during a probationary or trial period. The case law has consistently provided full appeal rights when an employee has satisfactorily completed a probationary period in a similar position and transferred to the current position without a break in service. Even though the SF-50 on the latest appointment requires a probationary period, the employee may have full appeal rights on the termination because of a previously completed probationary period.

New COLAs for Feds in Hawaii, Puerto Rico. White-collar federal employees and U.S. Postal Service employees in Puerto Rico and Hawaii County, Hawaii, will receive a boost to their cost-of-living allowance rates on June 30.

The Puerto Rico COLA will increase from 10.5 percent to 13 percent; the Hawaii County COLA will increase from 17 percent to 18 percent.

The Office of Personnel Management said in a *Federal Register* notice that Puerto Rico is receiving a larger increase because of its new sales tax.

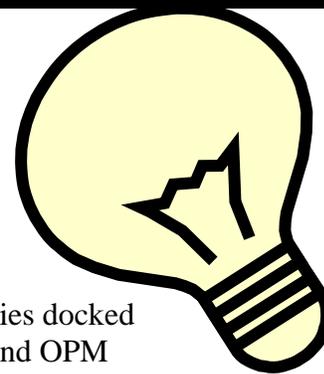
'Time is Running Out' for Rehired Annuitant Bill. Lawmakers have all but doomed chances for a bill to pass that would allow rehired federal retirees to earn both their full salaries and pensions.

The rehired annuitant bill — the Office of Personnel Management's top legislative priority — was already facing opposition from leading federal unions, a lack of enthusiasm from Congress' Democratic leadership, and a legislative calendar shortened by this fall's election.

And on May 20, lawmakers said they want more information about how similar rehiring flexibilities have been used at the Defense Department before taking further action. "It may be difficult to do it before the year's over," said House Oversight and Government Reform subcommittee chairman Danny Davis, D-Ill. "We're going to look at the question of the DoD's experience. But time is running out" with the upcoming Memorial Day, Fourth of July and August recesses.

The Illuminator

7-2008



Today, most retirees who are rehired by the government have their new salaries docked by the amount of their annuities. This means they essentially work for free, and OPM says many choose instead to come back as expensive contractors — where they can earn full salaries and annuities — or don't come back at all. OPM says agencies sometimes need to bring back retirees to mentor and train new employees or finish up important projects.

Two bills before Congress — HR 3579 and S 2003 — would allow rehired annuitants to earn both full salaries and pensions for a limited period of time.

Defense has had such flexibilities since 2004. Davis and Del. Eleanor Holmes Norton, D-D.C., said the subcommittee on the federal work force, Postal Service and District of Columbia will ask the Pentagon how many and what kind of positions have been filled in this way.

“I'd feel more comfortable knowing something about the experience that they already have had,” Norton said. “We can also find out if they've abused their authority.”

The National Treasury Employees Union is concerned that agencies would abuse this flexibility. The union fears agencies will rehire retirees — rather than recruit and develop new generations of federal employees — because hiring retirees is a cheaper option since agencies would not have to pay their retirement benefits.

OPM said limitations in the bills would keep agencies from abusing the flexibilities. Rehired employees would only be able to work the equivalent of 13 weeks in their first six months of retirement, 26 weeks in any one year, or the equivalent of three years total for the rest of the employee's life while avoiding the offset.

Nancy Kichak, OPM's associate director for strategic human resources policy, said the ability to rehire retirees will be crucial for agencies as larger numbers of baby-boomer employees retire in coming years.

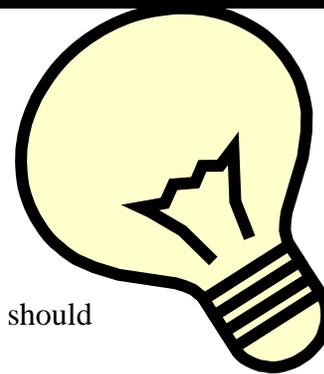
“This legislation would make re-employment both attractive to annuitants and easy for agencies to use, and it is designed to avoid abuse,” Kichak said.

Protecting Your 2009 Federal Pay Increase. This article was written by Ralph Smith and posted in FEDSmith. Permission was sought and granted to use this article its entirety. Further reproduction/dissemination will require permission.

Federal employees know that the process of determining the next year's pay raise is a year-long process. Some readers send in comments complaining that their "COLA" does

The Illuminator

7-2008



not keep up with the cost of living while contending that the next year's raise should exceed the cost of living increase.

The reality is that federal employees get a raise; federal retirees get a cost of living adjustment (COLA). The issue comes up each year and as often happens, several events may occur that will impact the 2009 federal pay raise.

First, the current projected COLA (so far anyway) for next year is 3.5%. That will change before it becomes final. In all likelihood, the final figure will be higher than 3.5%. Benefits awarded under the Federal Employees Compensation Act (FECA) to individuals who left the workforce due to work-related injuries or illnesses are adjusted according to each calendar year's percentage change in an inflation index. April's index is 2.4 percent higher than the December 2007 base. The COLA calculation varies between retirement systems and of the differences.

Second, President Bush has proposed an average 2009 federal pay raise of 2.9%. That figure could--and probably will--be changed by Congress before all is said and done. He proposed to raise military pay figures by an average of 3.4%. The 2009 Defense authorization bill recently passed by the House Armed Services Committee would require military pay raises from 2010 to 2013 to be a half-percentage point higher than the employment cost index (ECI) — the annual increase in wages and salaries for workers in the private sector. It already looks like Congress may give military personnel a higher pay raise for next year, probably about 3.9%, as the bill that has been passed by this committee would provide a 2009 pay increase in this amount.

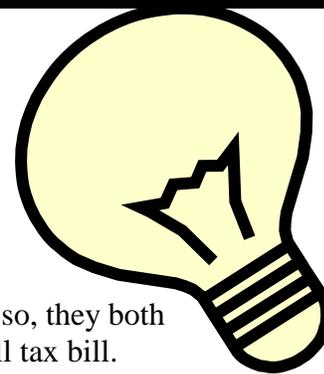
Third, the reality is that the concept of "pay parity" has been successful. When troops are being killed in a combat zone, the military pay tends to go up and federal civilian employees have been successful for a number of years in riding the coattails of the military and getting the same level of pay increase as the military in most years.

Fourth, it is also possible that, because of how the pay system is structured, federal retirees could get a larger increase in 2009 than active federal employees will receive. With the potential COLA for retirees standing at 3.5% as of April, and with another five months to go before the final figure is computed, the increase for federal retirees could be 4% or higher. There is no requirement that active federal employees get the same or higher increase than retirees. For example, in 2006, retirees generally received a 4.1% increase while active federal employees generally got less than 4%.

A lot will happen between now and your pay increase next year. And, with an election coming in November, there may be even more surprises than usual. But, going out on a limb, here is my prediction for 2009: An average federal pay increase of 3.9% for current federal employees. That would mean that federal employees in some areas would get quite a bit more than that and some would get much less.

The Illuminator

7-2008



Savvy Singles. Some couples live together but can't or won't get married. If so, they both file tax returns as single taxpayers. Some savvy planning may trim the overall tax bill.

* Charitable donations. The individual with the higher income generally should write the checks for contributions to charity. In a higher tax bracket, the deduction will save more tax.

* Mortgage interest. Similarly, these deductions will be worth more in a higher tax bracket so the individual with more income should write the checks. That person should be liable for the mortgage and should be the person on record with the lender as the primary borrower, to clarify reporting to the IRS.

* Property taxes. Again, the high-bracket partner will get more value from writing the checks and taking the tax deductions. However, state and local tax payments, including property tax, provide no benefit if the taxpayer owes the alternative minimum tax (AMT). In that case, the low-bracket partner should be an owner of the home, and should pay the property tax bill.

Loan Arrangers. Home buyers can seek financing from either of two sources:

* Mortgage brokers. These firms will go to many different potential lenders, which might provide you with a home loan.

* Mortgage lenders. Alternatively, you can go directly to a bank, S&L, or credit union that will make you a loan, if you qualify.

A broker may be more willing to work on getting you the best terms for your loan. A broker also might be more accessible, after hours, than traditional lenders.

Lenders, on the other hand, may have more resources. You can work with a loan officer who'll bring in specialists, when appropriate.

Today, most mortgages are arranged through brokers, who may be able to help you negotiate an increasingly complex mortgage market.

However, you shouldn't ignore the possibility of working directly with a lender, who likely will have more control over the entire process. A bank's loan officer may be better able to deal with any problems as they come up.

Up, Not Down. With a fixed annuity, you are guaranteed a certain yield for a certain period of time, after which the yield is re-set. Your account balance always goes up and not down. Other advantages include:

The Illuminator

7-2008



* Tax deferral. The interest earned on a fixed annuity won't be taxed until money is withdrawn. Unlike IRAs, 401(k)s, etc., most fixed annuities never require any distributions so the tax deferral may go on as long as you wish.

* Reasonable returns. Yields on fixed annuities may be higher than the yields on bank CDs and money market funds.

* Flexibility. You can exchange one annuity for another, tax-free, under Section 1035 of the Internal Revenue Code.

* Annuitization. You can convert a fixed annuity into a series of payments that will last a lifetime. Those payments will be partially tax-free, as a return of your investment, until you have received all of your original outlays.

The catch? Fixed annuities impose a 10 percent penalty on withdrawals before age 59 1/2. Surrender charges may be in effect for several years, so find out before you invest.

Care Coverage. According to a new survey by Genworth Financial, the national average annual cost of a private room in a nursing home is \$76,460: over \$200 per day. In some areas, the average cost is over \$100,000 a year.

You can reduce your exposure by buying long-term care (LTC) insurance, but LTC insurance can be very expensive. For a 55-year-old female who wants a policy with a \$200 daily benefit, the cost might range from \$2,000 to \$7,000 per year, depending on specific features she chooses.

Fortunately, most LTC insurance policies now are "tax-qualified," as defined by federal law. With a tax-qualified policy, some of the premiums you pay may be deducted on your income tax return. For someone in their 50s, the maximum deduction is \$1,150 this year. That scales up to \$3,850, for people over age 70.

To get the deduction, total medical expenses must exceed 7.5 percent of adjusted gross income (AGI). That is, someone in his or her 50s can include up to \$1,150 in LTC insurance premiums this year, as a medical expense. If your total medical expenses this year are over 7.5 percent of your AGI, you can deduct the excess amount.

Now Or Later. There are basically two kinds of trusts:

* Living trusts. These are trusts you establish during your lifetime.

* "Testamentary" trusts. These trusts go into effect at your death. Such a trust may be created via a will or through language in a living trust.

The Illuminator

7-2008



Many living trusts are revocable. That is, they can be changed or canceled while you're alive. You also can create a permanent ("irrevocable") trust while you're alive.

If a revocable trust is to continue past your death, it will then become irrevocable. A testamentary trust must be irrevocable.

Different types of trusts have different benefits.

Revocable trusts allow you to keep control of trust assets and collect trust income. The main benefits are protection from possible incapacity and probate avoidance.

Irrevocable trusts offer the same incapacity and probate protection in addition to possible tax savings and creditor protection. However, you often must relinquish control of the assets transferred to an irrevocable trust and such transfers may trigger gift tax.

Bill Would Establish ROTC-Like Program for Federal Service. Reps. David Price, D-N.C., and Christopher Shays, R-Conn., have introduced legislation to establish a scholarship program to fully fund graduate-level study in exchange for a civil service commitment in targeted, mission critical occupations.

The Roosevelt Scholars Act would also establish a foundation to administer the application process, selection of scholars, and ongoing support activities associated with these scholarships.

Upon graduation, Roosevelt Scholars would complete an internship with a federal agency, then begin a three-year service commitment -- similar to a requirement for federal student loan repayment authority already on the books.

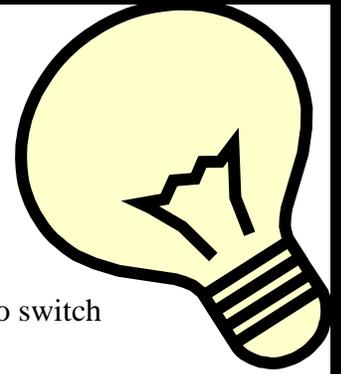
"The Roosevelt Scholars program has the potential to do for the civilian service what the successful college-based ROTC recruiting program has done for the Armed Forces -- generating nearly 40 percent of all active duty officers," said the president of the Partnership for Public Service, Max Stier.

Price and Shays said the program would help the government meet projections that it will have to fill 193,000 mission-critical positions by 2009, as well as respond to OPM projections that one third of top government scientists, engineers, physicians, mathematicians, economists, and other professionals will be retiring in the next five years.

Lawmakers Discuss Expanding Locality Pay to Areas Covered by COLAs. The Office of Personnel Management [raised](#) cost-of-living allowance rates for federal employees in Puerto Rico and Hawaii County on Thursday, but the Bush administration,

The Illuminator

7-2008



Democratic lawmakers and federal employee groups are pushing proposals to switch from a COLA system to locality pay for employees in far-flung locations.

"It has become increasingly clear that the non-foreign COLA is dated and in need of reform," said National Treasury Employees Union President Colleen Kelley. "Such an initiative must be done in a way that is fair to employees and does not make sudden, unplanned changes in their pay and compensation."

OPM sets COLAs by conducting cost-of-living surveys to determine the difference in costs between Washington, D.C., and Alaska, the Pacific region and the Caribbean. Each region is surveyed once every three years. Almost 50,000 employees in those areas receive COLAs ranging from 13 percent to 25 percent. OPM raised Puerto Rico's to 13 percent and Hawaii County's to 18 percent.

Proponents of a shift to locality pay cite a number of reasons. COLA payments do not count toward federal retirement benefits. They also do not count as part of basic pay eligible for Thrift Savings Plan matching funds, but COLAs also are not taxed as part of employees' income.

Michael Fitzgerald, president of the Federal Managers Association Chapter 187 in Hawaii, said COLAs were less competitive than locality payments in West Coast cities such as San Francisco and Los Angeles.

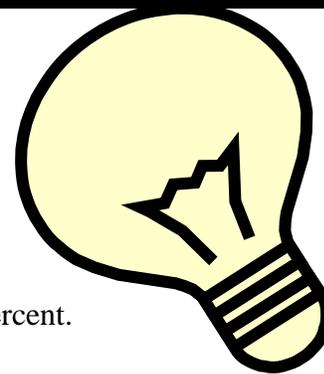
"It is easy to see why employees would be looking to complete their final three years [of federal employment] in these cities," he told lawmakers at a Senate Homeland Security and Governmental Affairs Federal Workforce Subcommittee field hearing on Thursday in Honolulu. "Specific data to document this migration is hard to come by, but the stories are endless. In my office alone, a husband and wife have separated for their careers...They plan to retire in the islands, but must endure a long-distance relationship in order to properly plan for their retirement."

At the president's direction, OPM in May 2007 [proposed legislation](#) to phase in locality pay and phase out COLA payments during a seven-year period. This May, Sen. Daniel Akaka, D-Hawaii, introduced a [competing bill](#) that would shift federal employees from COLAs to locality payments by 2012. The legislation is co-sponsored by Sen. Daniel Inouye, D-Hawaii, and Alaska Republicans Lisa Murkowski and Ted Stevens.

The time frame for the adjustment is not the only difference between the two bills. The OPM legislation would decrease COLAs by 85 cents per dollar of locality pay to compensate for the increased taxes employees would pay on locality payments. Unlike COLAs, locality payments are taxable income. The Federal Managers Association said at

The Illuminator

7-2008



the Thursday hearing that the COLA reduction should be no more than 75 percent. Akaka's legislation sets a 65 percent reduction.

The Senate bill would allow federal employees to opt out of transitioning to locality pay. But they would not be allowed to opt back in.

Both NTEU and the Federal Managers Association said switching to locality pay would be critical for recruiting a new generation of federal employees to locations covered by the non-foreign COLA.

"Cutting the pay of federal workers simply because of where they live is unfair," Kelley said.

Deciding an Adverse Action: The Process and the Proposal. This article is written by Bob Gilson, so the references to "I" pertain to him as an author. Mr. Gilson is a consultant with a specialty in working with and training Federal agencies to resolve employee problems at all levels. Both before and since retiring, Mr. Gilson has negotiated on behalf of Federal clients. A retired agency labor and employee relations director, Bob has authored or co-authored a number of books dealing with Federal issues. Permission was sought and granted to use this article in its entirety. Subsequent use/reproduction will require permission.

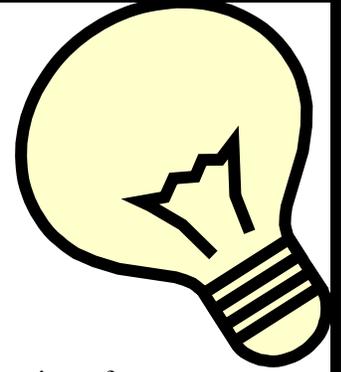
I am going to this article as simple and non-legalistic as a complex and legalistic subject can get. If you have the responsibility to decide whether an employee gets a disciplinary or adverse action, it's likely you have already been inundated by advisors telling you what you can and cannot do.

The good news is that the Agency responsible for hearing employee appeals of adverse action decisions (the Merit Systems Protection Board) has been doing so for almost thirty years. I like to think of them as the Emeril Legasse or maybe Julia Child, in some cases, of adverse actions. The Board has provided Agencies a detailed cookbook to follow, full of suggestions on which ingredients will improve or spoil the pudding. You'll occasionally hear some whining that the Board favors Agencies because it denies employee appeals in 80 or some years 90 some percent of the cases it hears. It should come as no surprise that Agencies generally prevail. If they didn't, with 30 years of recipes to follow on almost every conceivable issue addressed, someone should conduct an investigation to find out what ingredients they missed in the cookbook.

This article will come to you in three parts, the first on the overall process and thoughts on reviewing a proposed action; the second on conducting a reply meeting; and the third, which will focus on each aspect of your decision making.

The Illuminator

7-2008



Some Basics

In Federal service, disciplinary actions include a written reprimand or a suspension of fourteen days or less. An adverse action is a removal, suspension of more than fourteen days or a change to lower grade. This series of articles will only address adverse actions for misconduct and not discipline or actions taken for poor performance although the thought processes are much the same. In fact, a number of Agencies follow the practice of using the misconduct process to deal with performance problems because the system for dealing with performance is a horrendous example of red tape and obfuscation at its absolute worst.

The decision to take a disciplinary or adverse action requires compliance with law, regulation and Agency policy. If you want to read the law, you can [click here](#). If you want to read OPM's regulations, [click here](#). You can likely find your Agency's policies on your intranet. My bet is that your Agency's policy is the easiest to follow of the three so read it first if you're inclined to read the others.

The Process

The actual process of taking an adverse action is pretty simple. It is, in essence, a three step process involving a notice to the employee, an opportunity for the employee to reply and a decision. Of course, the proposal, reply and decision have rules that must be followed both in terms of time and of specific requirements on the Agency or entitlements of the employee.

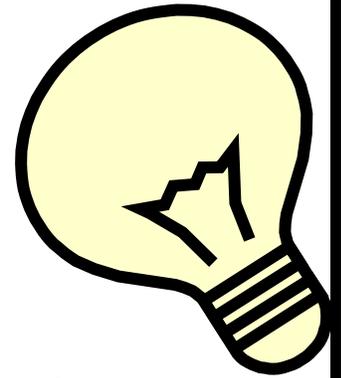
Terms are pretty simple also. The manager initiating the action is called the "Proposing Official". The manager deciding is called (no kidding) the "Deciding Official". Almost always the proposing and deciding officials will be in the employees direct line of supervision (chain of command, for you DOD folks) and the proposing official will be of a lower rank and position in the organization than the deciding official. There are exceptions but they are rare. What is important is that the deciding official may not direct or unduly influence the proposed action.

It's the job of the proposing official to investigate allegations, direct an investigation or address the results of an investigation. In an earlier article, [*Proposing Discipline: A Worksheet for Managers*](#), we suggested a process by which a proposal could be developed. It's worth a read.

It's the job of the deciding official to hear the reply, if one is made, and decide whether to sustain the proposal, lower the remedy or cancel the proposed action altogether.

The Illuminator

7-2008



Reviewing the Proposal

In advising managers, I've always sought to caution them that regardless of the advice given, the research done, the drafts written, the issues discussed or anything else, it's their decision and their's alone. A staff person (and I've been one for over 30 years) is not accountable for the decision, the manager is. As a result they should learn enough to do it right and treat the decision with the serious attention it deserves. To help with this, I have included a [Proposal Review Worksheet](#).

Each succeeding article will also include a worksheet, one for the reply process and the other addressing decision development.

You should get a properly prepared proposal. The law considers that the deciding official is literally the first judge to hear the matter. In fact, the Merit Systems Protection Board is charged by law not to substitute its judgment for that of the Agency deciding official absent a determination that, all things being equal, the decision was arbitrary and capricious. More on this later.

If you are going to decide a case, determining the adequacy and proper development of the proposal is the place to start. As you go through the worksheet, satisfy yourself that each question is appropriately answered before you move on to the reply and decision. Send the proposal to be reworked back if there are mistakes in it or if it fails to properly address a matter.

General advice on handling personnel problems may not be applicable to specific situations. Be sure to check with your servicing HR Specialist for guidance on your particular personnel situation

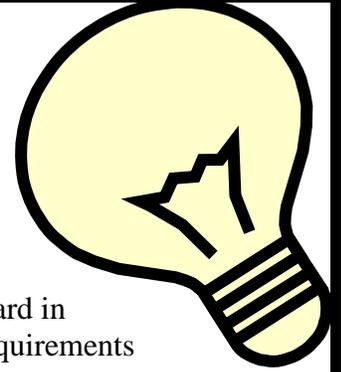
The NAF Corner:

Incentive Awards. All Army NAF employees to include military personnel employed during off-duty hours are eligible to participate in the NAF Incentive Awards Program. The Program includes cash (special achievement and on-the-spot), honorary, suggestion, and time-off awards. A brief description of each and the circumstances under which they may be granted is highlighted below.

Special Achievement Awards – An employee with exceptional work performance over the course of one year may merit a lump sum cash award or a permanent increase in pay known as a performance based adjustment.

The Illuminator

7-2008



On-The-Spot Awards - An employee may be granted an on-the-spot cash award in recognition of a one-time special effort or service that exceeds the normal requirements of their job.

Honorary Awards - Honorary awards may be given for outstanding performance and achievement and are accompanied by a medal, certificate, and pin. Other items, such as a plaque, may also be presented in conjunction with this award.

Suggestion Awards - An employee may receive cash or honorary recognition for a suggestion that contributes directly to the realization/implementation of economies/efficiencies whether improvement within an activity or entirely outside an employee's present job. The cash award is in proportion to the derived benefits of the suggestion.

Time-Off Awards (TOA)- A time-off award may be given in lieu of a cash award for special achievements/acts or exceptional performance. The amount of time off should be appropriate to the value of the contribution being recognized. A single TOA may not exceed 40 hours and the amount of time off granted an employee may not exceed 80 hours during a 12-month period.

NAF Pay Systems. The Non-Appropriated Funds Pay System is comprised of three pay systems which include the NAF Pay Band Systems, the Care-Giving Personnel Pay Program System, and the Federal Wage System.

Positions covered under the NAF Pay System consist of all managerial, professional, administrative, clerical, sales, and technical services occupations and are identified as "NF" with pay levels ranging from NF-1 through NF-6. Each year local wage surveys are conducted for NF-1 and NF-2 pay band levels and based on the data collected from local businesses, pay band rates are determined by the Department of Defense Wage Setting Division. Pay increases for NF-3 through NF-6 are adjusted based on the General Schedule (GS) and the Senior Executive Service (SES) pay schedule.

Care-Giving Personnel Pay Program System positions are characterized by childcare (CC) pay band levels. This Program includes all positions that provide direct care or supervision of children and are comprised of two pay bands, CC-1 and CC-2. CC-1 pay band rates of pay are equal to the hourly rate of GS-2, step 1 through GS-3, step 10. Pay band CC-2 pay rates are equal to the hourly rates of GS-4, step 1 through GS-5, step 10.

Occupations identified in the Federal Wage System (FWS) are designated as NA (Worker), NL (Leader), and NS (Supervisor) and include all positions recognized in crafts, trades or manual labor family. The salaries for this category are fixed and adjusted annually based on rates paid by private employers to full-time employees in wholesale,

The Illuminator

7-2008



retail, services, and recreational establishments in the locality of employment. Data collected from the DoD Wage Fixing Authority is also used to compose NAF Wage Schedules for NA, NL, and NS grades 1-15.

For more information relating to the various NAF Pay Systems, please contact your servicing NAF Human Resources Office at (706) 545-1610.

Pentagon Issues Regulations Applying Federal Labor Relations Rules to Pay System. The Defense Department has released proposed regulations that would require its controversial pay-for-performance system to operate under government-wide labor relations rules.

The draft regulations, published by Defense and the Office of Personnel Management in the [Federal Register](#), call for modifications to the National Security Personnel System as mandated by the fiscal 2008 Defense Authorization Act.

Specifically, the proposal brings NSPS under federal regulations covering such subjects as labor relations, adverse actions, and employee appeals. Congress mandated the changes after years of litigation by federal labor unions against the Pentagon's proposed rules for NSPS.

The foundation of NSPS -- pay for performance -- will remain intact, but with some limits. The draft rules mandate that employees with ratings above unacceptable receive 60 percent of the annual pay increase, with the remaining 40 percent allocated to pay pools and distributed based on performance.

The proposal also exempts all federal wage system employees from NSPS, and requires the Government Accountability Office to conduct an annual review of employee satisfaction with the system -- both requirements of the 2008 law. The regulations also limit those employees converting to NSPS to 100,000 per year.

Defense has added more than 181,500 employees to NSPS since 2006. With wage grade employees exempted, the department is unlikely to meet its goal of converting more than 700,000 employees to the system.

Brad Bunn, program executive officer for NSPS, said last week that the proposal also adjusts and clarifies some existing regulations "to ensure uniform and consistent application of NSPS program principles."

For example, the department added regulations that provide a process for converting employees who leave their NSPS positions for non-NSPS jobs in the department. The rules promote setting more equitable pay during transfers to different pay systems.

The Illuminator

7-2008



The draft regulations also would permit coverage under NSPS for temporary employees who are appointed for 90 days or less. "Providing access to NSPS pay-setting flexibilities for these positions enhances DoD's competitive position in the labor market," said the notice.

Labor unions expressed doubt about whether the proposed regulations met the requirements of the 2008 law. "While we are still examining the new NSPS regulations released today, we are skeptical about the new regulations and their intent," John Gage, president of the American Federation of Government Employees, said last Thursday.

Susan Tsui Grundmann, general counsel for the National Federation of Federal Employees, said Tuesday that she had not yet fully examined the proposed changes, but added that the Pentagon seems to have modified portions of NSPS that were of major concern to unions. "They restored labor relations and employee appeals; they've complied with the big pieces of the law," she said. "I don't know what other surprises" are in the regulations.

DoD Redirects Contracting Support Work. Because Defense Department procurement offices are understaffed, contractors are performing many procurement duties that shouldn't be done by contractors, admits the Pentagon's procurement policy chief, Shay Assad.

That's about to change.

Under a pilot program at two of its contracting offices, the department will hire the Interior Department's Acquisition Services Directorate and the General Services Administration to support its contracting operations, Assad told Federal Times.

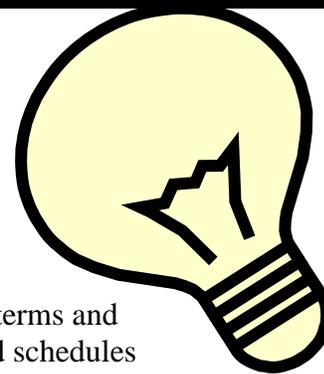
"I'd much rather have folks from the Department of Interior or GSA supporting us than going to the contractor work force to do that stuff that is inherently governmental," he said.

The Army Contracting Center for Excellence at the Pentagon and the Pentagon's Washington Headquarters Service will redirect its "inherently governmental" procurement support from contractors to procurement staffs at GSA and Interior until they hire more staff to take over that work, Assad said.

The Army Contracting Center for Excellence purchased \$1.8 billion in goods and services, such as information technology, advertising and training to support the Army last year. The Washington Headquarters Service purchases support, facilities maintenance, IT and other services for the Office of the Secretary of Defense.

The Illuminator

7-2008



Writing requirements for future contract deals, for instance, and negotiating terms and conditions with contractors, settling on a price, and setting delivery dates and schedules are tasks that should be done by federal employees, Assad said.

The problem of contractors performing inherently governmental is not widespread, Assad said, but “we do have pockets ... that have small numbers of people that are actually performing functions I consider inherently governmental.”

If the pilot program works, it could be expanded to other department contracting shops or become a long-term solution, he said.

Details of the Defense Department agreements with GSA and Interior are being worked out. Assad said they will go beyond traditional interagency partnerships in which Defense sends work to a partner agency to be completed. Instead, Defense and civilian agency employees will work as a team to get the job done, Assad said. This could be done through a temporary detail or through another partnering arrangement, he said.

“This is the next evolution in the interagency contracting environment,” said David Drabkin, acting chief acquisition officer for GSA.

“This holds a lot of opportunity for GSA and our DoD colleagues because we can bring together our capabilities to help them, not just from one geographic location, but from all over the agency,” Drabkin said. GSA assistance could be focused on a functional area, such as nontactical information technology, or it could be focused on a need that Defense doesn’t have an office to handle, he said. There won’t be a clear picture until the agreement is finalized, a process that could take another three months, he said. It’s also unclear how much such an effort would cost or what fees GSA would charge because the requirements are not yet defined, Drabkin said.

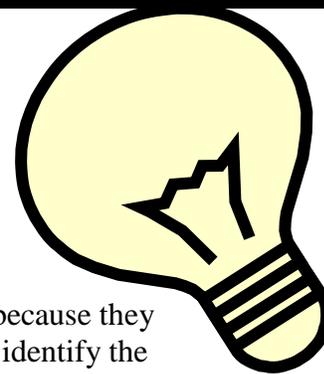
Defense began talking with GSA and Interior three months ago, following a Government Accountability Office report that showed the Army Contracting Center of Excellence had outsourced inherently governmental contracting work.

“When contractors are performing duties closely supporting inherently governmental functions ... risks are present that can result in loss of government control and decision making,” GAO said in the report.

GAO found that contractors made up 42 percent of the center’s contract specialist work force and performed 33,000 hours of work for the department, the equivalent of 16 full-time federal employees. The center spent \$2.8 million on the services last year, and the contractor employees were paid between 17 percent and 27 percent more than federal employees.

The Illuminator

7-2008



The contracting center's managers had told GAO they turned to contractors because they could not fill government employee vacancies. GAO recommended Defense identify the appropriate mix and roles of contractor and government specialists for the long term and develop plans to fill positions that achieve that balance.

In response to that recommendation, Assad told GAO in March that he wanted the Army to eliminate the use of contractors performing inherently governmental and closely associated contracting functions at the center within 180 days. If the center could not perform that work alone, he said he would encourage the Army to transfer the workload to other Defense contracting agencies and civilian agencies to meet the workload that was being handled by contractors.

However, the success of this approach is dependent on the ability of those assisting agencies to take on additional work, according to GAO.

The Defense Department is not alone in its quandary over contracting out of inherently governmental contracting functions, said Colleen Preston, executive vice president for policy at the Professional Services Council.

"They're in the same boat as other agencies are, which is, 'I didn't realize we had so many contractors doing that function,' because agencies have been so strapped to get personnel in," Preston said.

If GSA, Interior or another assisting agency has the personnel available to carry out Assad's proposed solution, "that's great, but it is hard to believe that there are acquisition personnel out there that are not being utilized," Preston said.

But GSA's Drabkin said depending on how the prototype agreement with Defense works out, there could be a similar role for GSA at other federal agencies.

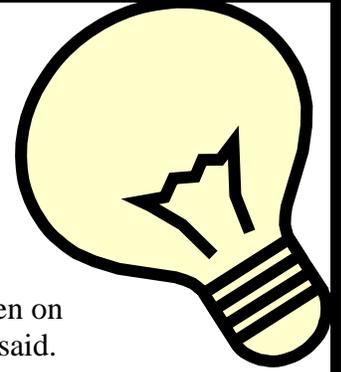
"We're always talking to our customers about how we can support them and looking for better ways to do contracting and maximize the return to taxpayers when we do an acquisition," he said.

While Assad doesn't want contractors performing inherently governmental work, that does not mean there isn't an appropriate role for contractors in assisting with procurements, he said. "We believe there is a role for contractors in a post-award environment," Assad said.

The contract close-out process —primarily administrative paperwork, such as final government property accounting, and ensuring the government's delivery and payment

The Illuminator

7-2008



vouchers match — is a place where contractors could help alleviate the burden on contracting staffs without performing inherently governmental functions, he said.

The Merit Systems Protection Board: Its Purpose and Process. The Merit Systems Protection Board (MSPB) is an independent, bipartisan guardian of the merit systems. The Board has two statutory functions under Title 5 United States Code 7701(a). Its main function is to adjudicate appeals of personnel actions for Federal employees. The other function of the Board is to conduct studies of Federal merit systems and related issues. Through these functions, the Board ensures that employees are managed effectively in accordance with the Merit Systems Principles and free from Prohibited Personnel Practices.

The list of actions and decisions appealable to the Board are located under Title 5 Code of Federal Regulations 1201.3. Some of the appealable cases include the following adverse actions: removals (for cause), suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. Other actions that may be appealable include: performance based removals or reductions in grade, denials of within-grade increases, reduction-in-force actions, final administrative actions or decisions affecting an individual's rights or interests under the Civilian Service Retirement System or Federal Employees' Retirement System, Office of Personnel Management (OPM) employment practices, OPM suitability determinations or suitability determinations by other agencies when that authority has been delegated to OPM, denials of restoration or reemployment rights, and terminations of probationary employees under certain circumstances.

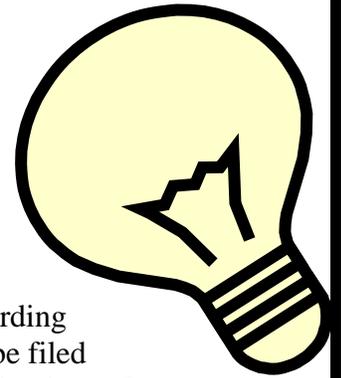
Employees who may appeal adverse actions to the Board include the following:

- Employees in the competitive service who have completed a 1-year probationary or trial period;
- Veterans preference-eligible employees with at least one year of continuous employment in the same or similar positions outside the competitive service;
- Postal Service supervisors and managers, and Postal Service employees engaged in personnel work (other than those in nonconfidential clerical positions), who have completed one year of current continuous service in the same or similar positions; and
- Excepted service employees, other than preference-eligibles, who are not serving a probationary or trial period and who have completed two years of current continuous service in the same or similar positions in an Executive agency.

Appeals must be filed in writing with MSPB's regional or field office of the Board that has jurisdiction over the area where the employee's duty station was located when the agency took the action or with the regional office that has jurisdiction over the area where

The Illuminator

7-2008



the employee lives, if the appeal deals with a final decision by the OPM regarding retirement benefits or an adverse suitability determination. An appeal must be filed within 30 calendar days of the effective date of the action or within 30 calendar days after the date of receipt of the agency's decision, whichever is later. If the 30th day falls on a Saturday, Sunday, or Federal holiday, the filing deadline is extended to the next working day. The employee and the agency may mutually agree in writing to submit the dispute to an alternative dispute resolution process and the 30-day filing time limit is automatically extended to 60 days. Appeals may be filed through the e-Appeal process, by email, by facsimile, by commercial overnight delivery, or by personal delivery. The date of filing by e-Appeal is the date of electronic submission. The date of filing by mail is considered to be the postmark date. The date of filing by facsimile is the date of the facsimile. The date of filing by commercial overnight delivery is the date the employee delivers the appeal to the commercial overnight delivery service.

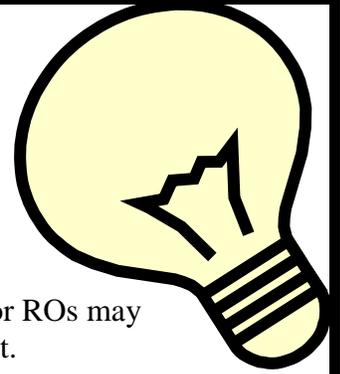
The appellant can choose any person as representative. Typical representatives include private attorneys, union attorneys, and other union representatives. The agency may challenge the representative selection on the basis of conflict of interest or conflict of position. If the representative is disqualified, the appellant will be provided reasonable time to obtain another representative.

Once the appeal is filed, an Administrative Judge (AJ) will be assigned to the case and will issue an Acknowledgement Order to both the appellant (and his or her representative, if any) and the agency. The Acknowledgement Order sends a copy of the appeal to the agency and directs it to submit a statement concerning its reason for taking the personnel action or making a decision, together with all documentation in the agency record on the action. The agency has the right to respond within 20 calendar days of the date of the Board's order acknowledging receipt of the appeal. If a response is not submitted timely, and the agency does not show good cause for an extension, the case will proceed and may be decided based on the available information. The AJ will issue notices and orders on pleadings that must be filed and will conduct one or more pre-hearing conferences to narrow and clarify the issues in the appeal. The agency has the burden of proving that it was justified in taking the adverse action, while the appellant has the burden of proving that the appeal is within the Board's jurisdiction and that it was filed timely. The appellant also has the burden of proving any "affirmative defenses" raised, such as discrimination or reprisal for whistleblowing. After the hearing or close of the record for decisions based on the written record, the AJ will issue an initial decision.

The Board's policy is to adjudicate all appeals within 120 days of receipt by the regional office (RO) except for good cause shown. The 120-day standard alone, however, is not sufficient reason to deny a continuance in the face of good cause. Due process and fairness are paramount in determining good cause. Caseloads and the circumstances of

The Illuminator

7-2008



the RO or AJ are also factors for consideration. Reassignments among AJs or ROs may be used to reconcile due process factors and the Board's 120-day requirement.

The initial decision of the AJ will become the final decision of the Board 35 days after date of the decision, unless a party files a petition for review (PFR). If the appellant is the prevailing party, the agency will grant the appellant any relief provided in the initial decision pending the outcome of any PFR. Interim relief will not be granted if the AJ determines that it is not appropriate. If the decision requires the appellant's return to the workplace, the agency does not have to take the action if it is determined that the return will be unduly disruptive. However, the agency has to restore the appellant to pay and benefits status. The granting of interim relief does not require the payment of back pay or attorney fees.

If the appellant or agency is dissatisfied with the initial decision, either may file a PFR with the Clerk of the Board in Washington, D.C within 35 days after the date of the issuance of the initial decision or within 30 days after the date the petitioner received the initial decision, if the petitioner received the initial decision 5 days after the date of issuance. PFRs are considered by three Board members, who may affirm, reverse, modify, or vacate the decision of the judge, in whole or in part. Where appropriate, the Board will issue a final decision and order a date for compliance with that decision.

The law provides that an agency's decision may not be sustained by the Board if the appellant:

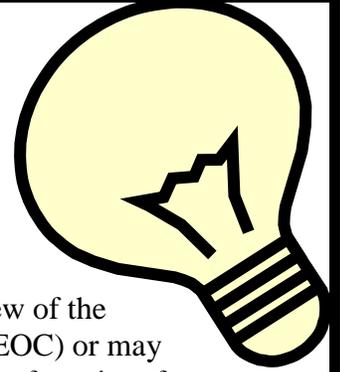
- (A) shows harmful error in the application of the agency's procedures in arriving at such decision;
- (B) shows that the decision was based on any prohibited personnel practice described in 5 U.S.C. 2302(b).
- (C) shows that the decision was not in accordance with law.

Reversal for "harmful error" is appropriate only when the record shows that the procedural error was likely to have caused the agency to reach a conclusion different from the one it would have reached in the absence or cure of the error. An agency action will be reversed as being "not in accordance with the law" only when it is unlawful in its entirety, i.e., if there is no legal authority for the action.

If the appellant is not satisfied with the final decision of the Board, either can seek review of the final decision by the United States Court of Appeals for the Federal Circuit. The court must receive the request for review within 60 days of the receipt of the Board's final decision. The court normally will not waive the time limit, and filings that do not meet the deadline will be dismissed.

The Illuminator

7-2008



In cases involving allegations of discrimination, the appellant may seek review of the final Board decision by the Equal Employment Opportunity Commission (EEOC) or may file a civil action in an appropriate United States district court within 30 days of receipt of the decision. If the EEOC disagrees with the Board's decision on the discrimination issue, the case is returned to the Board. If the Board does not adopt the EEOC decision, then the case is referred to a Special Panel made up of a Chairman appointed by the President, one member of the Board, and one EEOC commissioner. The Special Panel issues the final decision in the case, which then may be appealed to an appropriate United States district court.

Additional information on the Merit Systems Protection Board and the appeals process is available on the web at www.mspb.gov.

Recruitment, Relocation, and Retention Incentives - Three R's

The Federal Government competes with private industry to attract and keep employees with special skills, in staffing hard to fill positions, and in stationing employees at undesirable locations. Incentives available to assist in obtaining and retaining human assets are Recruitment Incentives, Relocation Incentives, and Retention Incentives.

The total amount of an incentive payment may not exceed 25 percent of the employee's annual rate of basic pay at the beginning of the service period. With Office of Personnel Management (OPM) approval, this cap may be raised to 50 percent (based on a critical agency need), as long as the total incentive does not exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period. Adjustments may be made for multiple year periods.

When it has been determined that a position is likely to be difficult to fill in the absence of an incentive, a Recruitment Incentive may be authorized for a newly appointed. In other instances a Relocation Incentive may be paid to a current employee who must relocate to a position in a different geographic area. Employees accepting either Incentive are required to sign an agreement to fulfill a period of service with the Agency of up to 4 years.

Retention Incentives may be paid to a current employee (1) when the Agency determines that the employee possesses unusually high or unique qualifications, (2) the Agency has a special need of the employee's service which makes it essential to retain the employee, or (3) when it is essential to retain an employee in his or her current position during a period of time before the closure or relocation of the employee's office, facility, activity, or organization *and* the employee would likely leave for a different position in the Federal service or the private sector in the absence of a retention incentive.

The Illuminator

7-2008



In order to affect either of these incentives, a Recruitment and/or Relocation Incentive Plan must first be established. The plan should designate the official(s) with authority to review and approve the payment of the incentive; with whom authority to waive the repayment of the incentive rests; establish the categories of employees who are prohibited from receiving recruitment or relocation incentives; the documentation for determining that a position is likely to be difficult to fill; requirements for determining the amount of an incentive; the payment methods that may be authorized; requirements governing service agreements (including criteria for determining the length of a service period, the conditions for terminating a service agreement, and the obligations of the Agency and the employee if a service agreement is terminated); and, documentation and recordkeeping requirements.

The determination that a position is likely to be difficult to fill can be made when OPM has approved the use of a direct-hire authority **or** in consideration of the following factors:

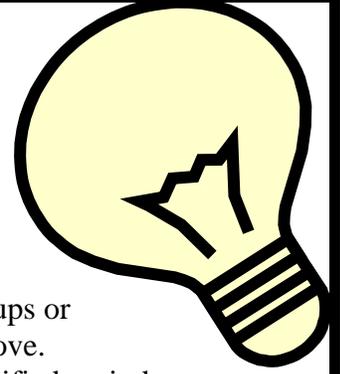
- The availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit candidates for similar positions using indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;
- The salaries typically paid outside the Federal Government for similar positions
- Recent turnover in similar positions;
- Employment trends and labor-market factors that may affect the agency's ability to recruit candidates for similar positions;
- Special or unique competencies required for the position;
- Agency efforts to use non-pay authorities, such as special training and work scheduling flexibilities, to resolve difficulties, alone or in combination with a recruitment or relocation incentive;
- The desirability of the duties, work or organizational environment, or geographic location of the position; and
- Other supporting factors.

Documentation must be in writing and include the following:

- The basis for determining that a position is likely to be difficult to fill;
- The basis for authorizing an incentive; and the amount and timing of the approved incentive payment and the length of the required service period.
- for a Relocation Incentive, that the worksite of the employees new position is not in the same geographic area as the worksite of the position held immediately before the move (or that a waiver was approved under 5 CFR 575.205(b)) and that the employee established a residence in the new geographic area.

The Illuminator

7-2008



Retention Incentives may be authorized for individual employees and/or groups or categories of employees with a performance rating of Fully Successful or above. Retention incentives may be paid in installments after the completion of specified periods of service or in a single lump sum after completion of the full period of service required by the service agreement. Retention incentives are not considered part of an employee's rate of basic pay for any purpose, including severance pay, and are not included in lump-sum annual leave payments. (See 5 CFR 575.309(h) and 5 CFR 550.1205(b).)

As with the Recruitment and Relocation Incentives, in order to utilize the Retention Incentive, a plan must also be established. This Plan should parallel the minimum requirements stipulated above and should also include required documentation for determining that an employee would be likely to leave the Federal service or would be likely to leave for a different position in the Federal service.

The agency must document in writing each determination to pay a retention incentive and the basis:

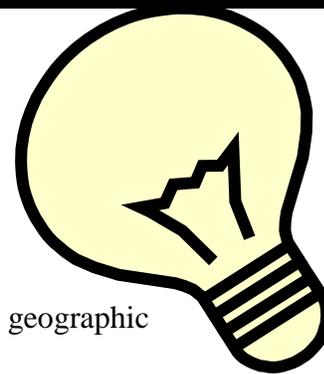
- for determining that the unusually high or unique qualifications of the employee (or group of employees) or a special need of the agency for the employee's (or group of employees') services makes it essential to retain the employee(s);
- for determining that the employee (or a significant number of employees in a group) would be likely to leave the Federal service in the absence of a retention incentive; and
- for establishing the amount and timing of the approved retention incentive payment and the length of the required service period.

In addition the following factors must be considered when making a retention incentive determination:

- Employment trends and labor market factors, such as the availability and quality of candidates in the labor market possessing the competencies required for the position and who, with minimal training, cost, or disruption of service to the public, could perform the full range of duties and responsibilities of the employee's position at the level performed by the employee;
- The success of recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employee for positions similar to the position held by the employee;
- Special or unique competencies needed for the position;
- Agency efforts to use non-pay authorities to help retain the employee instead of or in addition to a retention incentive, such as special training and work scheduling flexibilities or improved working conditions;

The Illuminator

7-2008



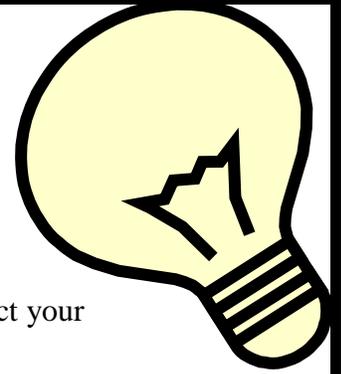
- The desirability of the duties, work or organizational environment, or geographic location of the position;
- The extent to which the employee's departure would affect the agency's ability to carry out an activity, perform a function, or complete a project the agency deems essential to its mission;
- The salaries typically paid outside the Federal Government; and
- Other supporting factors.
- The basis for determining the agency has a special need for the employee's (or group of employees') services that makes it essential to retain the employee(s), based on the agency's mission needs and the employee's (or group of employees') competencies, during a period of time before the closure or relocation of the employee's (or group of employees') office, facility, activity, or organization;
- The basis for determining, in the absence of a retention incentive, the employee (or a significant number of employees in the group) would be likely to leave for a different position in the Federal service; and
- The basis for determining the amount and timing of the incentive payments and the length of the service period.

The following factors must be addressed when documenting a determination to pay a retention incentive:

- The factors for authorizing a retention incentive for an individual employee described in 5 CFR 575.306(b) or for a group or category of employees described in 5 CFR 575.306(c);
- The extent to which the employee's departure for a different position in the Federal service would affect the agency's ability to carry out an activity, perform a function, or complete a project the agency deems essential to its mission before and during the closure or relocation period (e.g., the agency's need to retain the employee to ensure minimal disruption in the performance of mission-critical functions, continuity of key operations, or minimal disruption of service to the public before and during the closure or relocation; to train new employees who will move with the organization to the new geographic location; to assist with the actual closure or relocation of the office, facility, activity, or organization; or to perform similar mission-essential functions before or during the closure or relocation);
- The competencies possessed by the employee that are essential to retain; and
- The agency (which may be in the executive, judicial, or legislative branch) for which the employee would be likely to leave in the absence of the retention incentive.

The Illuminator

7-2008



For additional information/guidance on any of these Incentives, please contact your servicing HR Specialist.

Human Resources (HR) for Supervisors Course. The HR for Supervisors Course has been updated to incorporate instruction applicable to the National Security Personnel System (NSPS). The newly revised course, like the current course is 4.5 days long; includes lecture, class discussion and exercises; and, is designed to teach new civilian and military supervisors of appropriated fund civilian employees about their responsibilities for Civilian Human Resource Management. New supervisors who complete this instruction will not need to complete the 2-day NSPS Course for Supervisors unless they determine the need for additional training. This instruction does not cover supervision of non-appropriated fund (NAF) or contract employees.

The first iteration of this course will be offered **15-19 September 2008**. Additional course dates will be subsequently disseminated. Specific registration information for the Sep 08 course will be issued not less than 3 weeks from the training start date.

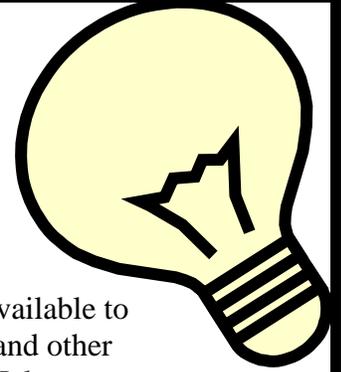
The instruction includes the following modules:

- Introduction of Army CHR which includes
 - Coverage of Merit System Principles and Prohibited Personnel Practices
 - CHRM Life Cycle Functions
 - Operation Center and CPAC Responsibilities
- Planning
- Structuring – Position Classification
- Acquiring – Staffing and Pay Administration
- Developing – Human Resources Development
- Sustaining – Performance Management, Management Employee Relations, Labor Relations
- Equal Employment Opportunity

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.

The Illuminator

7-2008



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 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.

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

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