

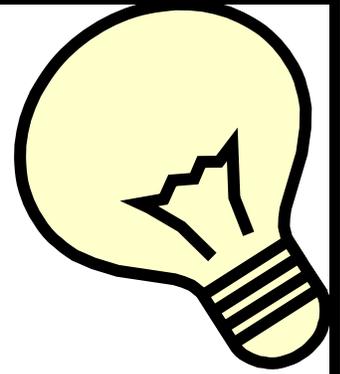
The

Illuminator

Shedding Light on the HR World

2-2010

Article Directory



Page

Retirement, Life/Health Insurance, TSP, Social Security and Such

Should You Elect a Survivor Benefit for Your Spouse?	3
Lawmakers Include Feds in Excise Tax Relief	5
Special TSP Considerations Apply in FERS	6
Medicare Part B Premiums	7

Employment-Related News

Rehiring Retired Federal Employees	8
Report Sees Lessons in NSPS Experience	9
Does Pay-for-Performance Harm Women?	15
Transition Office Established to Hasten End of Pay for Performance	16
Officials Plan to Expand Federal Hiring Despite Spending Freeze	17

Management-Employee Relations

If You Get Sued: Liability, Loopholes, Policies, and Politics	19
Denial of Reasonable Accommodation	24
Discipline for Off-Duty Conduct	25

Training, Self-Development, and Personal Improvement

Human Resources (HR) for Supervisors Course	27
RPA and ART Workshop	27
Job Aids Available on the Web	28
National Security Personnel System (NSPS) Sustainment Training	28

The NAF Corner

Background Investigations and Security Requirements for NAF Employees	29
NAF HR for Supervisors Training Course	30

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, the fate of NSPS, the Maneuver Center of Excellence (MCOE) civilian transition, etc.).

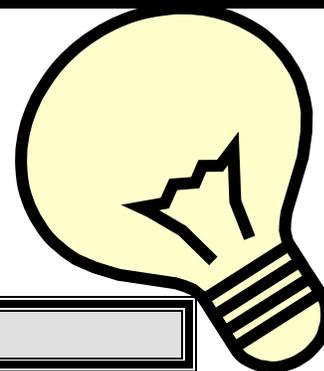
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The Illuminator

2-2010



Retirement, Life/Health Insurance, TSP, Social Security and Such

Should You Elect a Survivor Benefit for Your Spouse? Whether or not to elect a survivor benefit for a spouse is a decision faced by retiring federal employees. It's not something to worry about if you are many years away from retirement.

This article will provide general information on survivor benefits. A follow-up article will take a look at the question "Should I elect a survivor benefit or not?"

You must pay for survivor benefits out of your annuity.

Both CSRS and FERS employees who are considering retiring should be aware that the law (the Spouse Equity Act of 1986) gives their spouse a right to a full survivor annuity. For any choice other than a full survivor annuity, the spouse's signed, notarized consent is required.

Another fact to keep in mind has to do with health insurance. In order to ensure that a spouse has access to FEHB coverage after an annuitant's death, a survivor annuity of some level must be chosen. In addition, the spouse would have to have been covered on a self and family policy as of the date of the annuitant's death. This is something of which financial planners need to be made aware.

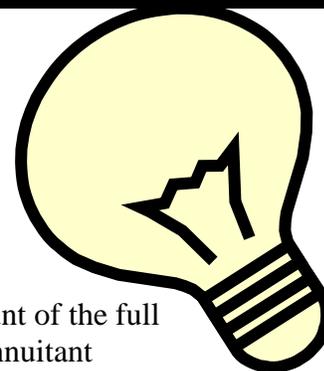
The rules for CSRS and FERS differ somewhat on survivor benefits. An employee who transferred from CSRS to FERS during an open season, or who chose FERS when returning to work after a break in service of over 365 days, would be governed by FERS rules.

For CSRS purposes, a full survivor annuity represents 55% of the annuitant's full and unreduced annuity. The cost is 2.5% of the first \$3,600 of the annuity and 10% of the rest. Here's an example that uses an unreduced annuity of \$45,000.

Unreduced Annuity		\$45,000
2.5% of first \$3,600	\$ 90	\$ 4,230
10% of remaining \$41,400	\$ 4,140	
Reduced Annuity		\$40,770
Survivor annuity amount		\$24,750

The Illuminator

2-2010



Under CSRS rules, a less than full survivor annuity is 55% of any base amount of the full annuity that the retiring employee chooses. This example assumes that the annuitant chooses (and the spouse agrees) a base amount of \$35,000 from the above \$45,000 full and unreduced annuity.

Base Amount Chosen		\$35,000
2.5% of first \$3,600	\$ 90	\$ 3,230
10% of remaining \$31,400	\$ 3,140	
Reduced Annuity		\$31,770
Survivor annuity amount		\$19,250

There is no restriction as to how small a base amount can be chosen, as long as spousal consent is given.

FERS is less generous than CSRS and gives less flexibility as well. A full survivor annuity under FERS is 50% of the annuitant's full and unreduced annuity and the cost is 10% of the annuity.

Unreduced Annuity	\$45,000
10% of unreduced annuity	\$ 4,500
Reduced Annuity	\$40,000
Survivor annuity amount	\$22,500

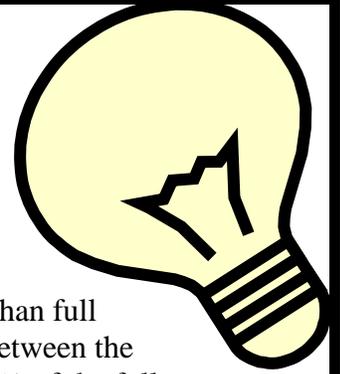
A less than full survivor annuity under FERS is 25% of the annuitant's full and unreduced annuity and the cost is 5%.

Unreduced Annuity	\$45,000
5% of unreduced annuity	\$ 2,250
Reduced Annuity	\$42,750
Survivor annuity amount	\$11,250

Under both CSRS and FERS there is an option called an *Insurable Interest Survivor Annuity* that allows a retiree to choose a survivor annuity for someone who has a reasonable expectation of financial benefit from the continued life of the retiree. An

The Illuminator

2-2010



insurable interest survivor annuity is a full survivor annuity; there is no less than full option. In addition, the cost of the annuity is based on the difference in age between the annuitant and the individual with the insurable interest. The lowest cost is 10% of the full and unreduced annuity for someone who is older, the same age or less than five years younger than the annuitant. The highest cost is 40% of the full and unreduced annuity for someone who is 30 or more years younger than the annuitant.

In order to have an insurable interest annuity approved, the retiree must be in good health and must not be retiring on disability. The Office of Personnel Management (OPM) has presumed an insurable interest for several relationships, thereby obviating the need to prove expectation of financial benefit. Those relationships are:

- Spouse
- Former spouse
- Common law spouse
- Engaged to be married
- Blood or adoptive relative closer than first cousin

A former spouse can also be entitled to a survivor annuity. An annuitant could choose to elect a survivor annuity for a former spouse, or a valid court order could require it. For a court order to be considered valid:

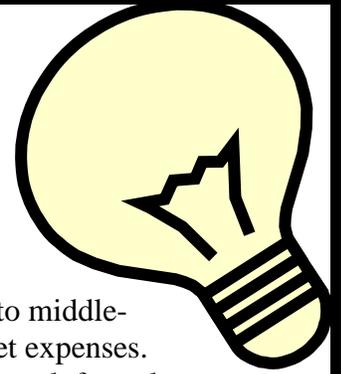
- It must be issued by a US Court; and
- It must be both reviewed and approved by OPM; and
- For CSRS the divorce must have taken place after 5/7/85; and
- The former spouse must not have remarried before the age of 55 (unless the marriage lasted 30 years of longer; and
- The marriage to the federal employee must have lasted at least nine months.

Lawmakers Include Feds in Excise Tax Relief. Lawmakers agreed to include federal employees and retirees in a health care compromise that provides short-term protection from an excise tax on insurance plans. The deal excludes members of Congress and political appointees, according to the office of Rep. Gerry Connolly, D-Va. Connolly and the National Treasury Employees Union both confirmed that federal employees and retirees now are part of the excise tax compromise. Connolly said it was a "glaring oversight" that federal workers initially were left out.

The excise tax, included in the Senate's health care bill, would impose a 40 percent tax on the value of health care plans that exceed a set premium threshold. While the tax would

The Illuminator

2-2010



be levied on insurance carriers, critics claimed those costs will be passed on to middle-class policyholders and lead to decreased benefits and increased out-of-pocket expenses. In response to that criticism, the White House and congressional leaders last week forged a compromise that pushed back the tax's start date for certain health care plans from 2013 to 2018. But that deal did not include federal employees initially because, in all but a few cases, their health care plans aren't part of collective bargaining contracts. In addition, lawmakers expressed concern that if the five-year delay of the tax was applied to health care plans in the [Federal Employees Health Benefits Program](#), it would appear to be a conflict of interest. Members of Congress are enrolled in FEHBP as employees of the federal government.

NTEU President Colleen Kelley said implementing the tax for feds in 2013 could have hurt federal recruiting.

"The imposition of such a tax in the immediate future -- which would have been passed on by insurance carriers in the form of higher premiums, co-payments and reduced benefits -- would make it more difficult for federal agencies to recruit and retain the high-quality employees so critical to the effective performance of their missions," she said in a statement.

The Senate bill contains premium threshold levels of \$8,500 for an individual plan, and \$23,000 for a family plan. According to the AFL-CIO, the deal will raise those limits to \$8,900 and \$24,000 respectively, and also will exclude dental and vision coverage from the tax.

Lawmakers had hoped the Senate would approve the compromise and send it to President Obama's desk to become law. But with the election of Massachusetts Republican Scott Brown to the Senate and the end of the Democrats' filibuster-proof majority on Tuesday, it's not clear how the compromise will be implemented. Brown has vowed to vote against the health care bill. One option would be to change the taxes through the Senate's reconciliation process -- a procedural maneuver for budgetary legislation designed to avoid a filibuster. Connolly said, however, that option was becoming less likely.

"I just think more and more members of the House Democratic Caucus are uncomfortable with that approach," Connolly said. "Given the glacial pace of activity in the Senate, trusting our future to Senate reconciliation is a dicey business."

Other options include passing the bill in smaller parts, or forging a deal to win Republican votes in the Senate, he said. But Connolly and the NTEU both vowed that the excise tax would include the exemption for federal employees if it were part of the final legislation.

Special TSP Considerations Apply in FERS. Employees under the FERS system especially might need to double check that their investment rates, following the raises,

The Illuminator

2-2010



are structured to their best benefit. In order to capture the maximum government contributions, FERS employees need to pace investments so that they are able to invest at least 5 percent of salary each pay period throughout the year. If they hit the \$16,500 limit before the last pay period, their regular investments will shut off, and so will agency matching contributions (although the automatic 1 percent of salary contribution would continue); once lost, matching contributions can't be recouped. That is not a consideration for CSRS employees, who get no government contributions. In theory, at least, they could invest all of their salary, after taxes and insurance and other withholdings, in the TSP until they reach their limit, in order to get the money into their accounts early and start the tax-deferred growth as soon as possible. There are no matching contributions on catch-up investments under either system.

Medicare Part B Premiums. Retirees and survivors who have elected to be covered by Medicare Part B are confused. That's because some of them aren't seeing increases in their premiums and others are. What's up? Well, here's the story.

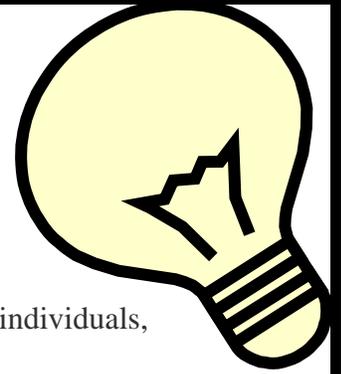
In 2010 retirees and survivors won't be receiving a cost-of-living increase in their annuities. Normally, that fact would have no bearing on the amount on Medicare Part B premiums. However, this isn't a typical year. Because of a "hold harmless" provision in the Social Security Act, beneficiaries can't have their Social Security benefits reduced. While that provision was intended to prevent those with modest incomes from having their Social Security benefits reduced, this year it is also has the unintended – but welcome – consequence of protecting them from having to pay increased premiums for their Part B coverage. Thus, the premium is remaining at \$96.40 a month.

According to Medicare, this means that 73 percent of Medicare beneficiaries will be protected from an increase in their 2010 Part B monthly premiums. However, approximately 27 percent of them will see an increase because they aren't covered by the "hold harmless" provision. These include new enrollees (3 percent), those who are subject to the income-related additional premium amount (5 percent), and those who don't have their Part B premiums withheld from Social Security benefit payments (19 percent).

The latter category includes those who qualify for both Medicare and Medicaid and have their Part B premiums paid on their behalf by Medicaid (17 percent). Many of the rest are retirees who are not eligible for Social Security, such as many of those retired under CSRS. For them, the monthly premium is \$110.50—unless they are subject to the higher

The Illuminator

2-2010



rates for higher-income people, which start at \$85,000 in taxable income for individuals, double that for joint filers.

The House last year passed a bill to extend the "hold harmless" provision to all categories of beneficiaries but the Senate didn't take it up. A retroactive change is possible but that's not something you would want to count on, if you're among those not held harmless.

So there you have the answer for 2010. As for 2011, if there isn't any COLA payable in 2011, as predicted by the Social Security Administration, there won't be any increase in Part B premiums either.

Employment-Related News

Rehiring Retired Federal Employees. Since the authority to rehire retired federal employees without a loss in their pension benefits, a number of readers have asked about the implementation of this new provision.

The changes are important to federal retirees because the new law allows them to earn an additional salary on top of their federal pensions.

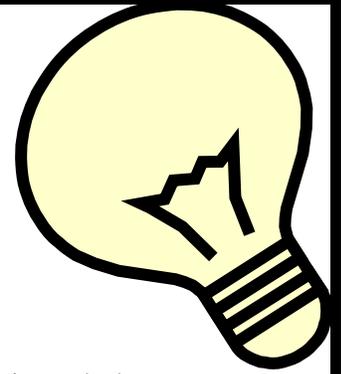
The Office of Personnel Management has issued a memo to agencies with this subject: "Reemployment of civilian retirees under the National Defense Authorization Act for Fiscal Year 2010".

The OPM memo says that agencies may begin using the new authority granted by the National Defense Authorization Act. When agency uses this authority, it must adhere to the following:

- Agencies must report to OPM on their use of this authority no later than February 1, 2010, and no later than February 1 of each year through 2015;
- Appointments are limited to one-year or less;
- Hours worked by any annuitant reemployed under these provisions are limited to 520 during the first 6 months of retirement, 1,040 during any 12-month period, and 3,120 for total hours worked during any period;
- Reemployment may not exceed 2.5 percent of the full-time workforce at any time, and if 1 percent is exceeded agencies are required to provide an explanation and justification to the Congress and OPM.

The Illuminator

2-2010



The authority for this program expires on October 27, 2014.

OPM does plan to issue regulations on the topic. Before these regulations are issued, they will be published in the *Federal Register* for comments.

The new regulations will require agencies to do keep this information:

- The name of the individual for whom the waiver is being requested;
- The appointing authority the agency intends to use to reemploy the annuitant;
- The position to which the agency intends to reemploy the annuitant.

Since the agencies have not been told they can use this authority, and the records they have to keep when they use the authority, OPM wants agencies to begin maintaining their case files immediately, and report to OPM on February 1, 2010 on use of this authority through December 31, 2009.

Report Sees Lessons in NSPS Experience. Following is a portion from a CRS report that says that Congress and the executive branch should look to the experience of the DoD NSPS personnel system for lessons during any consideration of revamping personnel policies in general.

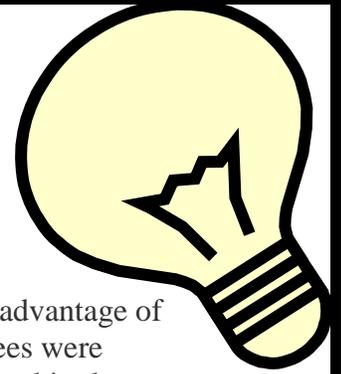
DOD is one of many federal departments and agencies seeking to create a more effective workforce. The elimination of NSPS will affect the pay system of more than 200,000 federal employees, all within DOD. Modifying Title 5 of the *U.S. Code*, another approach, could affect more than 2 million federal employees. Although Congress has mandated the elimination of NSPS, it has not eliminated all performance-based pay systems across the federal government. Congress may choose to keep the GS as the primary pay system for federal employees, or it may choose to create a new performance-based pay system in the future. This section analyzes possible legislative, oversight, and policy options for the future of performance-based pay, using examples from DOD's experience with NSPS.

Flexibilities

DOD officials have stated that one particularly beneficial flexibility of NSPS is the ability of the department to use higher starting salaries than are available under the GS scale to attract a higher caliber of college graduates to the workforce. Under Title 5 statutes, federal agencies and departments may offer a one-time lump sum recruitment bonus to employees "if the agency has determined that the position is likely to be difficult to fill in the absence of an incentive." In contrast, the pay banding system under NSPS allows a department or agency to offer a new recruit a higher starting salary because the bands include a range of pay options that are much wider than the spectrum within

The Illuminator

2-2010



individual GS pay grades. Although DOD has cited this pay flexibility as an advantage of the NSPS, the department has presented no data on how many DOD employees were recruited under the NSPS flexibility, the pay levels at which such recruits were hired, or whether these recruits received higher performance appraisal ratings than similar employees hired without (or prior to) use of the NSPS pay flexibilities.

Recruitment and Retention

Prior to the phase out of NSPS, Congress may choose to require DOD to collect data on how it used pay flexibilities to recruit—and possibly retain—effective and efficient federal employees under NSPS. Such information may be useful to Congress in the future if it chooses to authorize a new performance-based pay system. The information could show whether NSPS flexibilities aided in recruitment and retention of effective employees. Measuring effective employee performance, however, is a controversial topic. Sometimes the executive and legislative branches disagree on how an agency's workforce can best achieve its mission. Congress may need to specifically identify how it would want DOD to define the term "effective employee," to ensure that any data collected would reflect the policy designs of Congress.

P.L. 108-136

Employee Resignation

Prior to the NSPS phase out, data could also be collected to determine whether NSPS encouraged employees who did not receive successful performance ratings to leave their positions. NSPS does not give supervisors any additional flexibilities from Title 5 to fire employees. An employee rated a "2" under the NSPS rating system, however, does not receive a performance-based pay increase. An employee who is rated "1" receives neither a performance-based pay increase nor the annual across-the-board pay adjustment that is annually enacted. Mr. Bunn suggested that an employee who does not receive performance-based or other pay increases would be likely to resign from his or her position. Congress may consider requiring DOD to compile records on employees with low ratings, and study whether NSPS's policies to deny such pay increases were, in fact, prompting low performers to resign. Such information may be useful to Congress and the Administration in future determinations of how federal employees should be paid.

Costs

NSPS currently covers approximately one-third of the personnel coverage initially planned. DOD estimated that \$158 million was spent implementing the new pay system from 2005 through 2008. In September 2008, DOD and OPM estimated that \$143 million will be spent on NSPS from 2009 through 2011. According to Mr. Bunn, the NSPS pay system does not receive congressional appropriations in excess of what it would have received if it had remained the GS pay system. Instead, any needed additional funding comes from within the DOD's overall appropriations. Additional costs for NSPS,

The Illuminator

2-2010



therefore, consist mainly of the expenses to run the NSPS resources office in Arlington, VA, and costs to create and install performance appraisal software.

DOD employees are covered by a variety of pay scales. The complete cost of running several pay systems within one department has not been calculated. Congress might consider requiring DOD to calculate the costs of creating software for, and implementation of, each unique pay system. This cost could then be compared to costs for pay systems of other agencies (e.g., the Department of Veterans Affairs, the Department of Homeland Security, the Department of Treasury, or the Department of Transportation). Congress would then have more thorough information on the costs of running a variety of pay systems, and may gain a greater understanding of which pay systems are more efficient and effective for the federal workforce.

Pay Pools

The 211,000 employees currently in NSPS are divided into roughly 1,600 "pay pools." Each pay pool consists of between 35 and 150 employees. Employees assigned to a pay pool draw their performance-based pay increases from the same funds. In NSPS, pay pool managers have the authority to increase the size of the funding pot by adding an overall performance bonus to the pool if, for example, the pool's members as a whole accomplish pre-set goals as a unit. The bonus increase may be small, but could increase the pay of all employees who qualify for performance-based pay increases at the end of the year.

Authorities granted to pay pool managers can help the manager use pay to further motivate employees to perform their jobs. Allowing individual pay pool managers to influence the size of the pay pool pot, however, may prompt employees to believe the payout process is unfair – especially if they are in a pay pool with a manager that does not increase the funding pot. Moreover, if an employee is assigned to a pay pool with colleagues who have disparate job assignments, it may be difficult for a pay pool manager to define overall pay pool goals to which all employees could contribute equally. Some employees may believe that their job assignment may not affect whether pay pool goals are reached. Other employees may believe that their job assignment carries most of the burden toward reaching their assigned pay pool's goals. If Congress decides to authorize a performance-based pay system in the future, it may choose to remove the ability of pay pool managers to change the size of the funding pot for employees.

Anonymous Pay Pool Ratings

Performance-based bonus amounts in NSPS are determined by both a pay pool manager and pay pool panel, which is a collection of higher-level supervisors within DOD. Each pay pool is assigned its own pay pool panel. Employees are informed of which supervisors serve on their pay pool's panel. Some employees may personally know

The Illuminator

2-2010



members of the pay pool panel or the pay pool manager, while other employees may not. NSPS policies do not require pay pool managers or panel members to remove employees' names from performance appraisals when they are using the rating scores to determine individual annual payouts. Keeping the names of employees visible during payout determination may cause certain employees to believe favoritism may influence pay pool panel decisions. If Congress chose to create a performance-based pay system in the future, it may consider removing the employee's name from a performance appraisal to eliminate concerns of favoritism toward a well-known and well-liked employee. Such action may also eliminate concerns of an employee who believes knowledge of his or her identity could harm the payout determination.

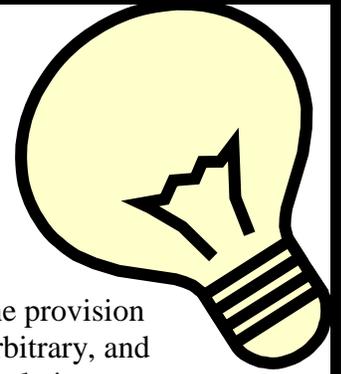
Outlier Ratings

Certain organizations within DOD may be staffed with employees who collectively perform either much higher, or much lower, than average units. These outlier units may be assigned to their own pay pool. If an outlier group consists of extraordinarily high-performing employees, then the performance-based pay increases for these employees may be less than that of employees with similar ratings in pay pools with colleagues who receive average rating scores. The pay pool is a finite amount of money from which to draw pay increases. If every employee achieves high ratings, the size of the pay pool remains the same. The size of an individual's share, however, may be less than an employee with a similar rating in a different pay pool if his or her pay pool colleagues all receive high ratings. The size of the pay pool's funding pot would remain constant whether the pool was high-performing or low performing. A pay pool that received comparatively low ratings (mostly 2s and 3s), therefore, may have members that receive a disproportionately high payout when compared to a colleague with a similar performance rating from an average or high-performing pay pool. An employee who received a rating of 3 in a low-performing pay pool may receive a payout equal to or greater than an employee who received a 4 in a higher-performing pay pool.

Congress may consider NSPS's payout process the appropriate payout process, or it may choose to consider a different payout process if a performance-based pay system is authorized in the future. Performance-based pay system administrators may consider adding or subtracting funding from individual pay pools based on the average performance ratings of the individuals that compose the pay pool. In the case of a comparatively high-performing collection of workers, they could have additional funding added to their pay pool because their ratings were statistically higher than those of average or underperforming divisions. This pay increase would increase the payouts for those high-performing employees. Conversely, employees in comparatively low-performing divisions could have funding removed from their pay pool and decrease the payout for employees with statistically lower performance ratings. Money taken away from pay pools of lower-performing divisions could be reallocated into the pay pools of higher performing divisions. Adding such a provision to a performance-based pay

The Illuminator

2-2010



system, however, may cause confusion and frustration among employees. The provision could prompt employees to believe that payout results are inconsistent and arbitrary, and based more on variations among supervisors' ratings approaches than on the relative strengths of individual pools. If employees do not believe their performance will lead to a pay increase of a sizeable value, the system may not operate properly. Additionally, because employee performance may stay consistent from year to year while payouts vary, employees may fail to see a solid link between their performance and their pay increase.

Opportunities for Employee Grievance

Pursuant to NSPS policy, an employee who is dissatisfied with his or her performance appraisal may request a reconsideration of the employee's rating within 10 days of receiving his or her rating by submitting "a written request for reconsideration to the pay pool manager." The request must include a copy of the rating and a statement clarifying which part of the rating is being challenged. Within 15 days of receiving the request, the pay pool manager is to render a written statement that explains his or her determination. If the employee remains unsatisfied, he or she may—within five days of receiving the pay pool manager's decision—submit a written request for final review with the Performance Review Authority (PRA), which oversees all pay pools and ensures consistency in performance and evaluations across the agency. The PRA has 15 days to respond to the request. Bargaining employees may also file a grievance under the agency's negotiated grievance process.

Congress may consider the NSPS reconsideration process appropriate, or it may choose to consider other options for reconsideration in any future performance-based pay system. Some government agencies have created complaint-handling or internal ombudsman offices. Creation of an ombudsman-like office could serve as a resource for employees who believe the pay system is flawed or treated them unfairly. These offices can be designed in a variety of ways. Among the most essential design decisions are determining the powers and duties of the office, the jurisdiction of the office, and the office's location within a department or agency. The office's location would determine to whom the ombudsman would report any findings or recommendations. If, for example, the ombudsman reported to DOD officials, the office may have less influence than if it reported to the Secretary of Defense, President, or Congress. Other decisions to consider when designing an ombudsman's office are determining who would select and appoint the ombudsman, whether the ombudsman would serve as a neutral fact-finder or an employee advocate, and the office's annual budget.

New Hires

NSPS requires employees to work with supervisors at the beginning of the performance-appraisal year to determine goals for the year. A new hire, who serves at least his or her first year of federal service on a probationary period, may not have the necessary information available to determine achievable and effective work goals. Congress may

The Illuminator

2-2010



consider the policies adopted by NSPS appropriate. On the other hand, Congress may choose to consider a different performance-based pay system design for future pay systems that could include additional performance-appraisal consultations for new hires during their probationary period. The additional consultations could be used to give probationary employees opportunities to discuss and modify the goals that they and their supervisor create. Congress also may consider requiring additional training for supervisors on how to help acclimate new hires to any federal pay system.

Measuring Success

DOD asked Congress to grant the department flexibilities from Title 5 of the *U.S. Code* to make the workforce more agile and effective. DOD, however, has not provided to Congress data that would clearly demonstrate the agency has been working toward the goals it sought to achieve when requesting workforce flexibilities. Congress may choose to directly ask for aggregate data on how many employees have been recruited under the NSPS pay system, how quickly employee pay increased in the pay band structure, and how many applications for promotion into a new pay band were processed.

In addition, NSPS administrators could aggregate data on information already collected. For example, the Performance Appraisal Application requires supervisors to select the method by which they conduct each of the three annually required employee meetings. These data could demonstrate whether NSPS met its goal of encouraging employee-supervisor face-to-face interaction if they were looked at over time. NSPS has not aggregated such data to determine what percentage of employee performance appraisals are performed face-to-face, via telephone, or via computer. Such information may be helpful when attempting to design a more effective performance-based pay system.

Workplace Incentives

Currently, the federal government can offer its employees a variety of incentives to enhance job performance other than pay increases (5 U.S.C. 5753 and 5754), including retention, recruitment, and relocation incentives. As noted earlier, Congress could enact legislation that would modify Title 5 and create additional recruitment, retention, and relocation flexibilities for a majority of federal departments and agencies. Congress may choose to allocate more funding for existing incentives or enact laws that would create new incentives, giving agencies a variety of rewards for effective employee performance. Among many options is the possibility of permitting departments and agencies to offer additional vacation days or sick leave in order to attract and retain employees. Congress could also require federal employers to offer programs that help employees pay back school loans. Such programs may attract more recent graduates to federal service. Congress could also consider creating programs that would make child care more accessible to federal employees. Making child care more accessible to federal employees could make federal government an attractive option for potential employees starting a family. President Obama and the Office of Personnel Management have also announced

The Illuminator

2-2010



their intention to seek health and other benefits for the domestic partners of employees involved in same-sex relationships. Adding new flexibilities to Title 5 could give all government agencies and departments a variety of new options to attract and retain effective federal employees. All of these options may require additional congressional appropriations, as well as changes or additions to existing federal statutes. Congress may also be concerned that such additional incentives may not be necessary during a time of increasing unemployment rates. Instead, the additional incentives could be made available only in federal agencies where there has been difficulty hiring or maintaining staff.

Concluding Observations

Congress created NSPS and granted DOD pay flexibilities to run the performance-based system. Many members have consistently been interested in ensuring that the federal government maintains a transparent and fair pay system that is trusted by administrators, supervisors, and employees. Unions have, historically, not favored pay-for-performance systems, and DOD's NSPS was no exception. Congress may use NSPS as a model—evidencing both good and bad experiences—for a federal workforce that may transition to a performance-based pay system in the future. NSPS has faced, solved, and failed to solve a variety of challenges in its attempt to attract and retain a high-quality workforce. Overall, NSPS serves as a demonstration of how elements of a performance-based pay system can work or cannot work in certain large federal agencies.

Does Pay-for-Performance Harm Women? Let's put the question out there point-blank: Do performance-based pay systems run the risk of exacerbating personal biases in the federal workplace?

The issue was raised by [a recent survey](#) that found that women in the federal workforce oppose current efforts to replace the General Schedule with pay-for-performance systems. The primary concern was that the performance-based systems give managers too much discretion in evaluating employees.

The report does not indicate that the respondents were specifically concerned about gender bias, but several FCW readers raised the issue in their comments on the story.

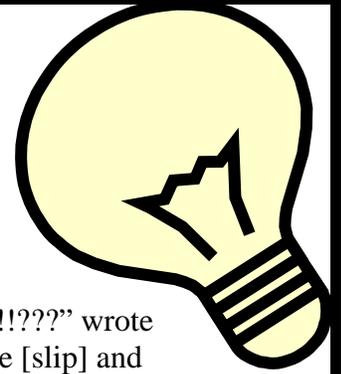
Here is the spark that ignited the debate, contributed by "M":

The secret's out. Truth is that *some* women really "bust their hump" and far exceed their male counterparts. The flip side is the vast majority of women work fewer hours than their male counterparts on average. They run errands and are far more likely than male counterparts to extend themselves within normal work hours for the kids or grandkids. So, how does it all average out? Women -- on average -- [work] about 70 percent of [the hours] of men in the workplace. And guess how much they are paid? It's called the gender gap. And it's real!

Such an assertion would not go unchallenged.

The Illuminator

2-2010



“What does women having to do errands have anything to do with anything!!!???” wrote Shelley from Newport Naval SenStation. “A supervisor either signs the leave [slip] and so authorizes the absence or he/she doesn't. Are you saying that even thou the leave was permitted that it is held against women anyway, cause the *man* in her life doesn't do errands????”

The responses did not fall along gender lines. “I am a man, I have female co-workers and associates, and regarding the comments from ‘M’ about women not working as hard as men: WHAT RUBBISH!!” wrote one anonymous commenter. “The women I work with and around do their part to the same expectations as the men.”

Several readers raised a related issue of bias: married vs. single workers. The perception is that employees who are married are more likely to get raises because they need the money more than the footloose and fancy-free. And it doesn't stop there.

“There is a difference in attitude among workers that states the single person can work more or later because they don't have a family to go to,” wrote an anonymous reader. “If a married person does the same its thought they must be having marriage problems.”

What do you say?

Transition Office Established to Hasten end of Pay for Performance. Most of 200,000 affected employees will move back onto the General Schedule system ... for now

The Defense Department has **announced** the creation of its National Security Personnel System (NSPS) Transition Office, which will oversee the conversion of about 200,000 DOD employees from the **pay-for-performance** system to a pre-NSPS personnel management system.

The office will be led by John James Jr., formerly executive director for logistics, maintenance and industrial operations at the Naval Sea Systems Command.

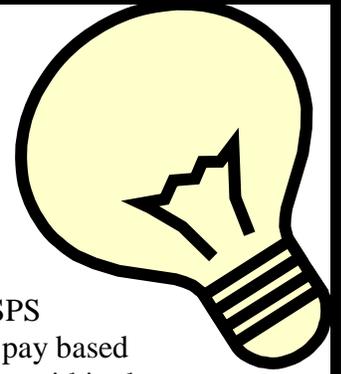
The **controversial** department-wide policy was struck down by a directive in the fiscal 2010 Defense Authorization Act in October 2009. According to the mandate, all NSPS organizations and employees must transition “to the appropriate non-NSPS personnel system by not later than Jan. 1, 2012,” said Air Force Lt. Col. April Cunningham, public affairs officer at the Defense Press Office in the Pentagon.

Before NSPS, most DOD personnel management was under the General Schedule system.

With the establishment of the transition office, “the department is in the planning stages and will begin transitioning NSPS employees from NSPS as soon as appropriate policies and procedures are vetted and in place,” Cunningham said.

The Illuminator

2-2010



The transition process will involve a review of NSPS positions using non-NSPS classification rules and procedures, including the determination of employee pay based on the appropriate pay-setting rules. The process will address communications within the workforce and help set in motion the eventual movement to a new personnel system that will succeed NSPS, according to Cunningham.

As executive director of the Program Executive Office for NSPS, James is charged with the design and implementation of a new enterprise-wide performance management system.

The new system will incorporate hiring flexibilities — streamlined processes for easier and faster application and hiring in DOD — and a DOD Workforce Incentive Fund that could pay toward various employee bonuses, such as performance, hiring and retention, according to language in the Defense Authorization Act.

DOD stressed the focus on moving to a new system quickly, efficiently and with minimal impact.

“Department personnel are committed to proceeding deliberately and cautiously, without unnecessary delay, and with the least disruption to organizations, mission and workforce. Employees will not experience decrease in pay during the transition,” DOD said.

Officials Plan to Expand Federal Hiring Despite Spending Freeze. If your boss announced plans to freeze spending for three years, you would hold your breath and ask, “What does it mean for me?”

Well, most federal workers, and those who would like to join their ranks, can exhale. The budget freeze proposed by boss-in-chief Barack Obama isn't likely to cost them their jobs, in fact federal employment probably will continue to grow.

The reason: The departments exempted from the freeze -- Defense, State, Homeland Security, Veterans Affairs -- are growth areas in the government. Entitlement programs, such as Medicare, Medicaid and Social Security, also will be untouched, meaning the people running them have no worries.

Neither, to a large extent, do job seekers.

Last year's prediction by the administration that Uncle Sam would hire several hundred thousand new civilian employees over a four-year period essentially may be unaffected by the freeze. “The large bulk of those hires will move forward as expected,” said one senior government official.

The administration is planning to announce soon what it hopes will be an improved process to bring them onboard. The Office of Personnel Management and the Office of

The Illuminator

2-2010



Management and Budget have been working to overhaul the federal hiring process, which currently is such a frightful mess that many good people are scared away.

The reworked USAJobs Web site (<http://www.usajobs.gov>), unveiled this week, is one part of that. More aspects of hiring reform will be announced in the coming days, probably when the president's budget is released on Monday. But don't expect any major reform of civil service to be announced that soon. Changing the pay and General Schedule classification systems for federal workers remain on the administration's agenda, but they're not ripe yet.

Colleen M. Kelley, president of the National Treasury Employees Union, left what she described as a "very general briefing" by the OMB on Tuesday without information on how the freeze might affect her members. But the number crunchers didn't make her pessimistic.

"Since it is a top-line freeze, some agencies might get more than last year while others get less," she said. "That being said, recent cuts in contracting out can also result in some savings that could be reinvested in the agencies."

Of course there will be another freeze that will affect the pocketbooks of a few federal employees. That's the cap on salaries of top political appointees, which the administration plans to impose. As my colleague Ed O'Keefe reported, about 1,200 of those in the top ranks, political appointees, including those in the Senior Executive Service, who make more than \$100,000, would be hit by the freeze. That does not include top civil servants, including those in the SES, many of whom make significantly more than the freeze amount.

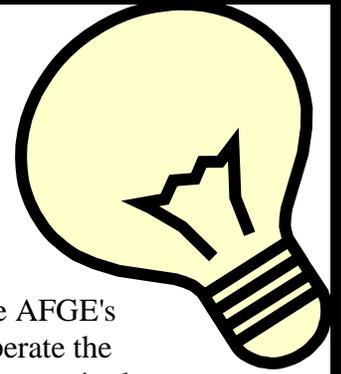
But even though many current workers will not be hurt by the freeze, it could still leave some out in the cold by delaying workplace improvements they've pushed for.

"We have some agencies that have not recovered from the Bush years, the Bureau of Prisons being one," said John Gage, president of the American Federation of Government Employees. "They absolutely cannot go on without staffing increases and more resources. A freeze would be really disastrous."

AFGE has waged a long and sometimes angry battle to get more staffing in the federal prison system. The inmate-to-staff ratio is 150 to 1, and in some cases runs as high as 300 to 1, according to the union.

The Illuminator

2-2010



"The days of 'doing more with less' must end," Bryan Lowry, president of the AFGE's Council of Prison Locals, said in November. "If management continues to operate the BOP under its current conditions -- understaffed, overcrowded, and with an increasingly violent inmate population -- more tragic incidents such as the murder of Jose Rivera [an officer killed on duty in 2008 at the federal penitentiary in Atwater, Calif.] are sure to follow."

Officials in agencies that will be hit with a budget cap should be very careful about cutting their staffs, warns Max Stier, president and chief executive of the Partnership for Public Service. "It would be a mistake to ignore the increased role government has to play in times of trouble," he said. "Federal employees are called to do more with greater impact when times are challenging."

When it comes to federal employees, he added, "these are investments and not costs."

Management-Employee Relations

If You Get Sued: Liability, Loopholes, Policies, and Politics. For the past two decades, I have earned my living teaching labor and employee relations seminars for Federal supervisors, managers and union officials. On many occasions participants have asked if they should purchase insurance that would cover the costs of defending themselves from lawsuits brought against them—either by another agency employee (an unhappy subordinate) or by members of the public. I tell them that I'm not in the business of providing advice regarding insurance. Please bear that in mind if you read what follows.

Insuring against disaster

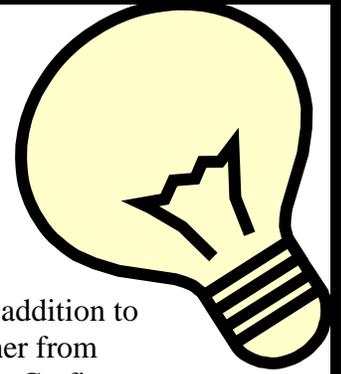
The question of such policies arose in my mind over the past few months as my wife and I have been shopping for earthquake insurance—something the recent disaster in Haiti brings into clear focus. I live in Seattle and am aware that the earth below us shifts from time to time.

I became particularly familiar with natural disasters, when hurricane Hugo—a Category 5 storm left my house with half a roof, floors pickled in salt water (I lived 2 blocks from the ocean), and lots of related damage. My homeowner's policy (as residents along the Gulf Coast were later to learn after Katrina) covered none of the extensive damage.

Weeks after the storm, my insurance agent stopped by as I was clearing mountains of debris to present a "courtesy check" for \$500. We both knew it was all I would see from

The Illuminator

2-2010



my homeowner policy. Fortunately, I was carrying two insurance policies in addition to my homeowner's coverage. One was for damage due to wind/hail and the other from flooding. I was able to rebuild. Then I moved to Seattle—an earthquake zone. Go figure.

The eyes of the beholder

As FedSmith readers know, insurance has everything to do with a person's perception of risk. So it is with Feds who worry about lawsuits filed against them—whether for firing a subordinate or for making a decision that affects members of the public. Feds work for agencies as diverse as the Patent and Trademark Office, Environmental Protection Agency, and Federal Aviation Administration. Their decisions may adversely affect others...and those folks may sue you. If you're a supervisor or manager, the perception of risk may be even greater.

To address this fear, tort liability insurance for Feds was invented. Over the years, several groups and associations have come to recommend and offer such policies for their members and Federal agencies often pay half of the premium costs for their law enforcement and management staff members who opt for coverage.

What's past is prologue

All of the above has led me (a non-attorney) to do some cursory research into the Federal Tort Claims and the Westfall Acts. The former dates back to 1946, while the latter is more formally known as the Employees Liability Reform and Tort Compensation Act of 1988. The Westfall Act is codified in 28 USCA 2679 and came about in response to the Supreme Court's decision in *Westfall v Ervin* (484 U.S. 292). It attempts to answer the question: When can a lawsuit against a civil servant proceed into the court system (when liability insurance would prove worth years of premiums), and when is such a suit actually against the agency that Fed serves in an official capacity?

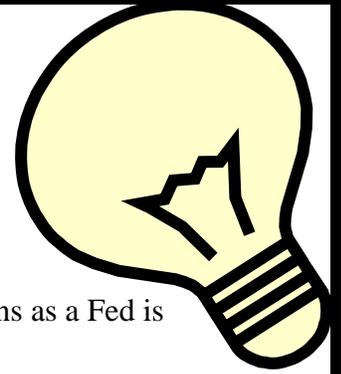
The Act reads, in part:

"Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant."

The Act goes on to require that civil law suits filed against Feds in state courts will, upon such certification by the Department of Justice, be removed to Federal District Court. The

The Illuminator

2-2010



United States will become the defendant and personal liability for your actions as a Fed is no longer an issue.

The Westfall Act was tested in an interesting and rather complicated case (Martinez v Lamagno) that began in 1993 with the US District Court for the Eastern District of Virginia, went all the way to the Supreme Court (515 U.S. 417) only to be remanded. In Lamagno, a DEA agent was operating a government-leased vehicle in Colombia when he hit another car and injured the foreign nationals in that vehicle. They sued him personally and, after years of litigation, were told that the Attorney General had correctly substituted the United States as defendant.

Heads I win, tails you lose

In examining one of the liability policies being marketed to Federal employees (and I believe that all offerings are similar) it states that coverage is for actions "...which are committed or arise out of the 'course and scope of employment' of the "Insured Member'..." That phrase, "course and scope of employment" [my italics] is actually put inside quotation marks by the underwriter. Is it only coincidental that the exact same phrase is used in the Westfall Act—the law that immunizes civil servants from personal lawsuits?

If this private insurance coverage is actually tied to an Attorney General decision, which required by the Westfall Act, it effectively means that you are covered only for those cases where you won't need coverage! Perhaps more importantly, when you do need coverage (when the Justice Department doesn't certify that you were acting within the scope of your employment) it's not at all clear whether the policy will pick up the pieces and help you. After all, if the AG rejects you, you must have acted outside "the course and scope of your employment". Sorry.

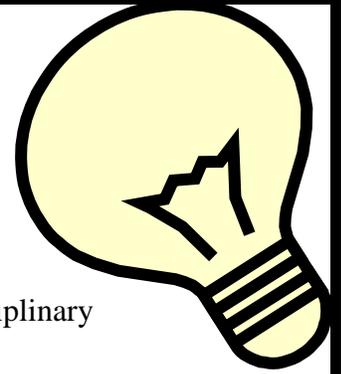
All of this will prove confusing for some readers. Insurance policies often are. Absent a careful reading and understanding of the fine print, many of my South Carolina neighbors thought their homeowner policy would cover hurricane damage. It didn't. I have no personal experience with Federal employee liability coverage. I'm just wondering if it's a misleading business if it only covers you when you don't need coverage.

What's left to cover?

After receiving an unsolicited e-mail from one of these vendors, I'm also aware that such liability coverage commonly extends to administrative hearings and investigations. The e-mail stated:

The Illuminator

2-2010



Federal executives and managers are most at risk for administrative and disciplinary matters. This can be in the form of:

- * an EEO complaint;
- * a management investigation;
- * an OIG or OSC investigation/complaint;
- * a whistleblower or ethics complaint;
- * a complaint from the public; or
- * any allegation of wrongdoing.

Access to an attorney would:

- * defend against allegations;
- * prepare you for the agency administration or investigation process;
- * attend the investigative interview with you; and
- * defend you in any resulting disciplinary action (both at the agency level and at the MSPB).

The "Weingarten Right", familiar to many readers, is reserved for union representation when answers to questions might result in disciplinary action.

In my experience, non-unionized Feds (by law, supervisors and managers cannot not be unionized) may not have a right to representation in some of these settings. I have known cases where managers were questioned, they requested a representative assist them and were told "No". Having an insurance policy is unlikely to change that answer. Of course, each of the above-listed settings is quite different from the others. Again, read the fine print and ask the relevant questions.

Blessed by Public Law

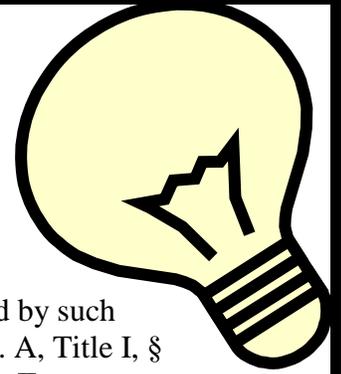
Finally, I kept wondering why government agencies subsidize such policies for their employees. If a manager is accused of embezzlement, investigated and fired—should that same agency be underwriting the manager's defense before the Merit Systems Protection Board? How about one who has physically assaulted a coworker or a member of the public? Are the taxpayers are funding the lawyers on both sides?

Some web searches led me to something I had overlooked for more than a decade. I quickly found a posting from the Department of Justice. It is a memo from Justice to NOAA explaining when and why Feds get part of their liability insurance premiums paid by their agency. It's at: <http://www.justice.gov/olc/noaaopfin3.htm> Here's what I should have known:

"In 1996, as part of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 ("Omnibus Act"), Congress enacted legislation authorizing the reimbursement of

The Illuminator

2-2010



"qualified employees" of the government for up to one-half the costs incurred by such employees for professional liability insurance. See Pub. L. No. 104-208, Div. A, Title I, § 101(f), 110 Stat. 3009 (incorporating Title VI, § 636 of the Department of the Treasury, Postal Service, and General Government Appropriations Act, 1997, 110 Stat. 3009-363 to 3009-364) (1996). As subsequently amended - including an amendment making reimbursement mandatory rather than permissive - the statute now provides in relevant part:

Notwithstanding any other provision of law, amounts appropriated by this Act (or any other Act for fiscal year 1997 or any fiscal year thereafter) for salaries and expenses shall be used to reimburse any qualified employee for not to exceed one-half the costs incurred by such employee for professional liability insurance."

Wow! What prompted our legislators to require reimbursement for half of a Fed's liability insurance premiums? After all, they passed the Westfall Act that immunized civil servants from the very lawsuits these insurers purport to cover.

Was this one of those "special interest" laws that gets slipped into budget bills at the last minute? I honestly have no idea. For all I know, this could have been one of those "earmarks" I heard about during the last presidential campaign.

The business that sent me an unsolicited sales pitch via e-mail is in it for the money. The annual premium and the one-half reimbursement were spelled out clearly. The Tort Claims and Westfall Acts weren't. They wrote me:

"Congress enacted special legislation requiring agencies to reimburse all federal agency managers and supervisors up to 1/2 the cost of professional liability insurance. This congressional action clearly demonstrates Congress' official support and belief that managers and supervisors should be able to have 'peace of mind' to help them make the tough decisions that are part of the job." [Emphasis in original]

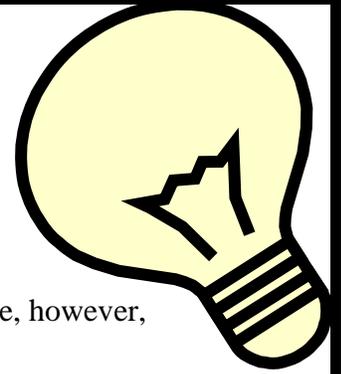
Bottom lines

I have no dog in this fight. I'm not in the civil service, nor the insurance business, nor do I represent folks who are sued. I know that having earthquake insurance brings me peace of mind and that the value of any policy is in the eyes of the beholder. I wonder, however, whether supervisory liability policies actually pay out much in benefits. It seems as if most of the important claims (if you are actually sued) will end up excluded from coverage.

After Hurricane Hugo left me with a devastated house, I collected a lot more from my wind/hail and flood policies than I had paid in premiums. I was glad I opted for the

The Illuminator

2-2010



coverage. Perhaps that's happening to Feds who sign up for liability insurance, however, I'm left with doubts.

Given the circumstances of tort liability laws and laws that mandate government subsidies of liability insurance premiums, it's time we understood more about a business whose target market consists of Federal supervisors, managers, and law-enforcement officials.

Perhaps Federal attorneys reading this article can advise readers of their take on professional liability policies, their value, and any of the law/case law covered in this piece. After all, had I been sued during my years of Federal service, I would have been asking them for advice.

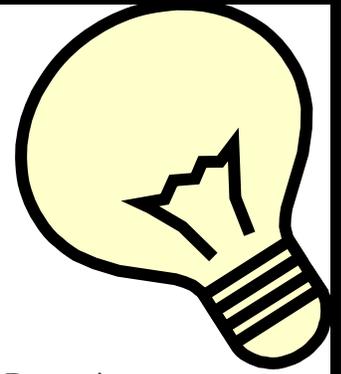
Denial of Reasonable Accommodation. The EEOC held that a complainant was unlawfully denied reasonable accommodation while recovering from a stroke, forcing him to take disability retirement and endure serious financial hardship. *Blount v. Dept. of Homeland Security*, Appeal No. 0720070010 (10/21/09). As a result, the EEOC awarded \$200,000 in nonpecuniary (compensatory) damages and reinstatement with reasonable accommodation, not front pay as recommended by the administrative judge. The Office of Federal Operations (OFO) agreed with the AJ's assessment of damages to be awarded to the complainant, an immigration status verification officer, as the agency failed to accommodate him when he asked to work at home during his rehabilitation on at least a part-time basis following a stroke.

The Commission found that the agency had failed to act in good faith when it made no attempt to individually assess the complainant's limitations or explore possible accommodations. Rejecting the agency's claim that the complainant was not a "qualified individual with a disability," the OFO upheld the AJ's credibility determinations and determined that there was evidence that the complainant could have performed some functions at home, but his supervisors summarily denied his requests for reasonable accommodation. As a result, the complainant was forced to take a disability retirement due to his inability to work.

In its final decision, the Commission determined that the constructive discharge claim of being forced to retire was "inextricably intertwined in the EEO process," and it was appropriate for the AJ to retain jurisdiction rather than remanding the matter to the MSPB as a "mixed case." It also decided that the AJ's award of front pay until age 65 was in error as the appropriate remedy is to return complainant to the workplace as there was no evidence that it was so intolerable that he couldn't return to work with reasonable accommodation. The AJ's award of \$200,000 in compensatory damages was upheld as the complainant has suffered from severe depression and was unable to provide child support, resulting in state legal action against him.

The Illuminator

2-2010



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

Discipline for Off-Duty Conduct. On January 15, 2010, the Merit Systems Protection Board issued its latest decision in the long-running case of Doe v. Department of Justice, 2010 M.S.P.B. 16. On remand from the U.S. Court of Appeals for the Federal Circuit (565 F.3d 1375 (2009)), a decision previously analyzed in the Federal Legal Corner, available at <http://www.passmanandkaplan.com/CM/FederalLegalCorner/FederalLegalCorner124.asp>, the Board provided detailed analysis of its nexus standard in the context of proposing adverse actions against employees for their off-duty conduct.

The underlying facts of this case involve proposed discipline against Doe for Doe's alleged nonconsensual videotaping of off-duty consensual sexual encounters, on separate occasions, with three women (two of whom were Doe's coworkers). Word of the videotaping reached both the women involved and other employees in the relevant office, leading to extensive rumors and the women involved seeking hours of counseling with their supervisors. The news media also eventually learned of these incidents. Management ordered an investigation of the incidents and proposed Doe's removal. The Board's opinion notes that this videotaping apparently did not constitute a violation of the pertinent state criminal statute, although evidence in the record suggests that agency management's decisions to investigate the incident and to discipline Doe were motivated in part by their belief that the conduct in question was potentially criminal.

The Federal Circuit remanded the case to the Board for further proceedings on several issues, including: articulation of a nexus standard for when private misconduct that is not criminal rises to the level of misconduct that adversely affects the efficiency of the service; determination if Doe's conduct impacted the agency's ability to perform its responsibilities; determination if the agency would have imposed discipline absent the decision makers' erroneous assumption of a criminal violation; and determination if the Agency would have imposed removal absent the decision makers' erroneous assumption of a criminal violation.

Since adverse actions under Chapter 75 can only occur to promote the efficiency of the service, an agency proposing an adverse action for off-duty conduct by the employee must show a nexus between the off-duty misconduct and efficiency of the service. Under the Board's preexisting nexus case law, such nexus can be shown three ways: presumed nexus in particularly egregious circumstances; showing that the misconduct adversely

The Illuminator

2-2010



affects the appellant's or coworkers' job performance or the agency's trust and confidence in the appellant's job performance; or showing that the misconduct interfered with or adversely affected the agency's mission. Both the Board and the Federal Circuit held that 'egregious circumstances' did not exist in this case. The Board further held that Doe's alleged misconduct did not adversely affect the agency's mission since the FBI's mission did not include the prevention of surreptitious, non-criminal videotaping of consensual sexual encounters.

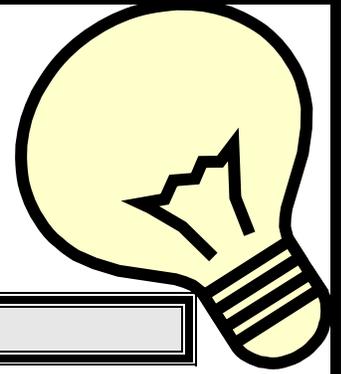
The Board did find nexus, however, on the basis that the misconduct adversely affects the appellant's or coworkers' job performance. The Board focused on the issue of degradation of office productivity, discussing in detail (a) the distress of the female coworkers involved inhibiting their own productivity, (b) the hours of management time diverted from work to counseling the female coworkers involved, (c) general loss of workplace productivity to time spent discussing rumors of the videotaping incidents, and (d) time spent by the agency's press officer dealing with media inquiries into the videotaping incidents. Also referenced was testimony from management regarding the level of disruption caused by the agency's investigation into these incidents, an investigation which both the Board and the Federal Circuit had found properly initiated under the circumstances. However, the Board distinguished the videotaping of Doe's sexual encounter with the non-agency employee, narrowly finding no nexus on the basis that Doe's own performance was unaffected by that incident and that the agency had failed to show that this other incident had disrupted office operations at the agency.

Because the remaining issues required additional development of the record before findings of fact could be made, the Board remanded the case to the administrative judge for determination if the agency would have imposed discipline absent the decision makers' erroneous assumption of a criminal violation and determination if the agency would have imposed removal absent the decision makers' erroneous assumption of a criminal violation. The Board further instructed the administrative judge to determine if the removal penalty imposed was reasonable, as one of the specifications cited in proposing the adverse action (the videotaping of Doe's sexual encounter with the non-agency employee) failed due to lack of nexus.

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

The Illuminator

2-2010



Training, Self-Development, and Personal Improvement

Human Resources (HR) for Supervisors Course. The HR for Supervisors Course encompasses instruction applicable to the National Security Personnel System (NSPS) and the Legacy (i.e. GS) System. The course is 4.5 days long, includes lecture, class discussion, exercises; and, is designed to teach new civilian and military supervisors of appropriated fund civilian employees about their responsibilities for Civilian Human Resource Management. This instruction does *not* cover supervision of non-appropriated fund (NAF) or contract employees.

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

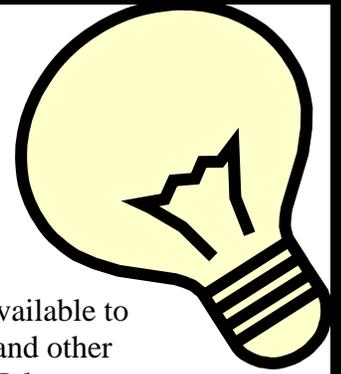
Training dates for the next several iterations of this course are below. Registration information will be disseminated electronically three weeks before each class start date.

1– 5 Mar 10
14-17 Jun 10
13-17 Sep 10
6-10 Dec 10

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 HR liaisons, managers/supervisors, and new DCPDS account holders with accessing and using DCPDS, ART, initiating RPAs, 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

2-2010



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).

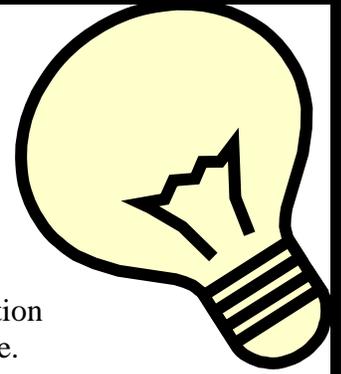
In addition, to the ART Users Guide, there is a Defense Civilian Personnel Data System (DCPDS) Desk Guide which provides how-to information about tasks and functions that end users might need to perform in DCPDS, such as initiating a Request for Personnel Action (RPA) and creating a Gatekeeper Checklist. 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.

National Security Personnel System (NSPS) Sustainment Training. A 1 ½ -day Performance Management Course will be offered to military and civilian first and second line supervisors of NSPS employees. This training is designed to familiarize supervisors of their HR responsibilities under NSPS and includes lecture, class discussion and exercises. Prerequisites for attendance include completion of the on-line NSPS 101 tutorial and iSuccess.

The course is recommended for (1) supervisors who attended the HR for Supervisors Course prior to Jul 08 and have subsequently joined an NSPS organization/assumed NSPS employees; (2) supervisors who have not yet attended the HR for Supervisors course; (3) employees new to NSPS; and, (4) anyone desiring a refresher in the intricacies of NSPS. Class size is limited to 30.

The Illuminator

2-2010



The training will be conducted in Jan, May and Sep 10 with specific registration requirements provided electronically three weeks prior to each class start date. Instruction modules include:

- Overview - Introduction of NSPS
- Classification - Structuring your organization, FLSA, Delegated Classification Authority
- Staffing - Acquiring Your Workforce, Compensation Options & Changes
- Performance Management - Planning, Monitoring, Rating, Pay Pool Processes

Background Investigations and Security Requirements for NAF Employees.

Background investigations for NAF employees are conducted by the Office of Personnel Management (OPM) through the Personnel Investigations Processing System for the purpose of establishing whether or not employees are suitable for their position and/or are eligible for public trust or sensitive positions. The type of investigation conducted depends on the type of position concerned and the citizenship status of the applicant/employee.

The most commonly conducted investigation is the National Agency Check with Inquires (NACI) and is appropriate for employees in positions requiring access to unclassified Information Technology (IT) systems (i.e., local area network, NAF Automated Contracting System, Recreation Tracking System, Defense Civilian Personnel Data System, etc.). Since security requirements differ for US citizens and non-US citizens, different forms are used for each. US citizens requiring NACIs must complete a Standard Form (SF) 85, Questionnaire for Non-Sensitive Positions. The NACI should be *initiated* prior to gaining access to a Government system. This approval is granted by the Information Assurance Security Officer. Non-US citizens complete an SF 85P, Questionnaire for Public Trust Positions and a *favorable completion* of a NACI is required before access to a Government system may be granted.

Employees hired into positions requiring access to classified information are required to have a Single Scope Background Investigation (SSBI) conducted. The SSBI is initiated through the completion of SF 86, Questionnaire for National Security Positions. The instances of this are rare as NAF employees are not normally placed in positions requiring access to classified information.

NAF employees assigned to Child and Youth Services (CYS) positions that are responsible for the care and protection of children must undergo a National Agency Check (NAC), State Criminal History Repository (SCHR) checks, and Installation Records Checks (IRC). SCHR checks are conducted in each state in which the employee resided five years prior to the hire date. This combination of checks, conducted by OPM, is called Childcare National Agency Check with Inquiries (CNACI). CYS employees must also meet additional background checks required via the Installation Records Check

(IRC). IRCs are initiated and administered via Social Work Services, Alcohol and Substance Abuse Program, Criminal Investigation Division, and the Office of the Provost Marshall prior to an employee's hire date.

An employee requiring a CNACI also completes SF 85P, Questionnaire for Public Trust Positions. CYS employees responsible must also meet additional background check requirements including Installation Records Checks (IRC). IRCs are initiated and administered via Social Work Services, Alcohol and Substance Abuse Program, Criminal Investigation Division, and the Office of the Provost Marshall prior to an employee's hire date.

NAF employees hired in flexible, seasonal, and/or other limited tenure (temporary) positions, including summer hire positions designated not to exceed 120 days in either a single appointment or series of appointments are not required to have NAC; however, successful pre-employment checks remain a condition of employment.

To receive additional information concerning background checks, please contact your local servicing NAF Human Resources Office.

NAF Human Resources for Supervisors Training Course. The NAF Human Resource Office is scheduled to launch its first HR for Supervisors Course of the year, 15 through 19 March 2010. The purpose of the training is to provide new managers and supervisors with knowledge of their role and responsibilities of managing and supervising NAF employees. The course contents consists modules and course objectives that cover HR processes and the legal and regulatory directive foundation. Topics include staffing, hours of duty, leave administration, employee performance standards and evaluation, effective discipline, grievance procedures, recognition and awards, business-based actions, labor relations, benefits and entitlements and much more.

Listed below is a brief synopsis of each of the training modules.

Staffing: Through this module, a thorough knowledge of the process involved in recruiting and selecting employees will be gained. Class participants will also become equipped with a basic understanding of priority consideration, the distinction between competitive and noncompetitive procedures, and learn how to develop structured interview questions.

Hours of Work and Leave Administration: This module will outline the steps necessary to establish work schedules; learn the requirements for establishing a tour of duty, and how to properly assign meal and rest periods. Leave categories and determining eligibility requirements for the use of leave will also be covered.

Performance Evaluation/Incentive Awards Programs: Step-by-step instructions related to the development of performance standards will be discussed in addition to the process necessary to properly evaluate employees. Emphasis will also be placed on the different levels of performance ratings.

The Illuminator

2-2010



Grievance Procedures: Topics to be discussed will cover how administrative grievance procedures and will address a litany of peripherally associated issues.

Business Based Actions: The basic concept involving procedures necessary to execute a business-based action (BBA) will be examined. Participants will also be provided an outline of the required information needed to support a BBA.

Labor/ Management Relations: This module will identify workplace matters that have collective bargaining implications. Class participants will learn to identify workplace discussions which require union coordination as well as factors involved in effective grievance management.

Participants will be given a pre and post test during the administration of the course. The pretest is to benchmark the level of knowledge each participant brings to the course against the knowledge gained upon completion of instruction.

The target audience is NAF supervisors and managers NF-03 and above with priority given to new supervisory personnel assigned to their positions within the last year. Attendance requests should be submitted via the Civilian Human Resources Training Application System (CHRTAS).

For additional information concerning the course please contact the NAF Human Resources Office at (706) 545-1610.

BLANCHE D. ROBINSON

Human Resources Officer

Fort Benning CPAC

Phone: 545-1203 (Coml.); 835-1203 (DSN)

E-Mail:

blanche.d.robinson@us.army.mil