

Army Regulation 215-3

Morale, Welfare, and Recreation

**Nonappropriated
Funds
Instrumentalities
Personnel Policy**

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**Headquarters
Department of the Army
Washington, DC
16 September 2015**

UNCLASSIFIED

SUMMARY of CHANGE

AR 215-3

Nonappropriated Funds Instrumentalities Personnel Policy

This major revision, dated 16 September 2015--

- o Changes the title of the regulation from Nonappropriated Funds Personnel Policy to Nonappropriated Funds Instrumentalities Personnel Policy (cover).
- o Updates responsibilities (para 1-4).
- o Provides the use for a new DA Form 3433 (Application for Nonappropriated Fund Employment) (para 2-7).
- o Adds provisions for accepting applications for positions in the NF-1, NF-2, child and youth services, and the Federal Wage System pay plans (para 2-7a).
- o Revises pre-employment and background check requirements for all positions (para 2-15j).
- o Authorizes special pay rates for students or summer hires in foreign areas (para 3-3f).
- o Requires Sunday pay entitlement for regular employees and regularly scheduled flexible employees (para 3-9b).
- o Revises the computation for overtime pay for Fair Labor Standards Act exempt payband employees (para 3-13a(2)(b)).
- o Clarifies Tip-offset requirements (para 3-38).
- o Adds the provision for Mass Transportation Benefit Program where applicable (para 3-46).
- o Updates Family Medical Leave Act eligibility provisions to include any defined qualifying exigency in the use of the 12 administrative workweek entitlement (para 5-2a).
- o Extends the authority to grant leave without pay to a maximum of 1 year for spouses relocating with their military or civilian sponsor to a new duty station (para 5-31a(4)).
- o Provides commanders the authority to issue interim performance ratings covering periods of no less than 90 calendar days (para 6-7b).
- o Authorizes a maximum of 1 percent of the employee's annual salary for a satisfactory rating (para 6-7d(3)).
- o Adds eligibility to participate in medical insurance coverage for same sex domestic partners and for flexible employees who averaged 30 hours per week for the previous 26 pay periods (para 15-1).

- o Adds termination insurance for regular employees who convert to flexible positions averaging 30 hours per week and flexible employees who have averaged less than 30 hours per week for the previous 26 pay periods (paras 15-12a(2) and (3)).
- o Revises standard terms for nature of action codes on DA Form 3434 (Notification of Personnel Action - Nonappropriated Fund Employee) (app C).
- o Deletes the use of DA Forms 3433-1 (Supplemental Employment Application Form) and 3433-2 (Supplemental-A Employment Application Form for Child-Youth Services Positions) (throughout).
- o Cancels DA Form 3666 (Department of the Army Nonappropriated Funds Statement of Physical Ability for Light Duty Work.)

Effective 16 October 2015


Morale, Welfare, and Recreation

Nonappropriated Funds Instrumentalities Personnel Policy

By Order of the Secretary of the Army:

MARK A. MILLEY
General, United States Army
Chief of Staff

Official:



GERALD B. O'KEEFE
Administrative Assistant to the
Secretary of the Army

History. This publication is a major revision.

Summary. This regulation provides uniform policies governing personnel management and administration for employees of nonappropriated fund instrumentalities of the Department of Army. It incorporates the requirements of DODI 1400.25, Volumes 1401 through 1471 and the Office of Personnel Management instructions when they specifically address nonappropriated fund instrumentality employees.

Applicability. This regulation applies to civilian employees and off-duty U.S. Army military personnel who are paid from nonappropriated funds and are under the exclusive control of the Secretary of the Army, including the following: all civilian employees and off-duty U.S. military personnel employed by a nonappropriated fund instrumentality within the United States; U.S. citizens and all off-duty U.S. military personnel or permanent residents of the United States, its territories, and possessions, including

the Commonwealth of Puerto Rico, employed by a nonappropriated fund instrumentality outside the United States except where specifically limited to employees within the United States. This regulation does not apply to foreign nationals or third country nationals employed in foreign areas; employees of private associations and funds; independent contractors, such as professional entertainers, where no employer/employee relationship exists; civilian instructors and administrators in the General Education Program who are employed in accordance with a special contract; the Army National Guard or U.S. Army Reserve; individuals employed by private concessionaires doing business under contract with a nonappropriated fund instrumentality; nonappropriated fund employees of the Air Force, the Navy (Bureau of Personnel, Navy Exchange and the Marine Corps) and the Army and Air Force Exchange Service; employees paid from appropriated funds; and commissioned and warrant officers of the military components.

Proponent and exception authority. The proponent of this regulation is the Deputy Chief of Staff, G-1. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be

endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific guidance.

Army internal control process. This regulation contains internal control provisions in accordance with AR 11–2 and identifies key internal controls that must be evaluated (see appendix E).

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Deputy Chief of Staff, G-1 (DAPE-CPZ-NF), 111 Pentagon, Washington, DC 20310-0111.

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Headquarters, Department of the Army (DAPE-CPZ-NF), 111 Pentagon, Washington, DC 20310-0111.

Distribution. This publication is available in electronic media only and is intended for command levels C, D, and E for the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

*This regulation supersedes AR 215–3, dated 29 August 2003.

Contents (Listed by paragraph and page number)

Chapter 1

Introduction, page 1

Section I

General, page 1

Purpose • 1-1, page 1

References • 1-2, page 1

Explanation of abbreviations and terms • 1-3, page 1

Responsibilities • 1-4, page 1

Operations • 1-5, page 6

Exception to policy • 1-6, page 7

Whistleblower protection • 1-7, page 7

Section II

Civilian Personnel Administration at Installation Level, page 7

Introduction • 1-8, page 7

Organization • 1-9, page 7

Administration • 1-10, page 7

Staffing of the Nonappropriated Human Resources Division • 1-11, page 8

Funding • 1-12, page 9

Records • 1-13, page 9

Section III

The Nonappropriated Fund Casualty System, page 9

General • 1-14, page 9

Operational guidance • 1-15, page 9

Funding • 1-16, page 9

Guidance • 1-17, page 9

Chapter 2

Employment, page 10

Applicability • 2-1, page 10

Policy • 2-2, page 10

Appointment categories • 2-3, page 12

Filling positions • 2-4, page 12

Preliminary actions and recruitment • 2-5, page 14

Recruitment authority • 2-6, page 15

Processing applications • 2-7, page 15

Referral • 2-8, page 15

Selection preferences • 2-9, page 16

Spouse employment preference • 2-10, page 16

Involuntarily separated military preference • 2-11, page 16

Priority consideration – Department of Defense nonappropriated fund business-based action eligibles • 2-12, page 17

Order of priority consideration of other candidates • 2-13, page 17

Documentation of selection • 2-14, page 17

Appointment • 2-15, page 17

Appointment actions • 2-16, page 20

Denial of employment • 2-17, page 21

Separations • 2-18, page 21

Probationary period • 2-19, page 22

Probationary purpose • 2-20, page 22

Employment requirements of military personnel • 2-21, page 23

Equal Employment Opportunity Program policy • 2-22, page 24

Contents—Continued

Staffing and complaint handling • 2–23, *page 24*
Commander’s responsibilities • 2–24, *page 24*
Competitive promotions • 2–25, *page 24*
Noncompetitive promotions • 2–26, *page 25*
Information available to employees • 2–27, *page 25*
Complaints • 2–28, *page 25*

Chapter 3

Classification and Pay, *page 25*

Section I

General, page 25

Coverage • 3–1, *page 25*

Provisions • 3–2, *page 26*

Basic requirements for pay • 3–3, *page 26*

Section II

Federal Wage System, page 26

General • 3–4, *page 26*

Federal Wage System within-grade increases • 3–5, *page 27*

Creditable service for within-grade increase • 3–6, *page 27*

Duration of waiting periods • 3–7, *page 27*

Determining Federal Wage System rates of pay • 3–8, *page 28*

Federal Wage System premium pay • 3–9, *page 29*

Grade and pay retention • 3–10, *page 29*

Section III

Payband Systems, page 30

Paybands • 3–11, *page 30*

Payband pay schedules • 3–12, *page 30*

Payband premium pay • 3–13, *page 31*

Section IV

Child and Youth Pay System, page 33

General • 3–14, *page 33*

Child and youth structure • 3–15, *page 33*

Child and youth schedule changes • 3–16, *page 33*

Classification of child and youth positions • 3–17, *page 33*

Determining rates of child and youth pay • 3–18, *page 33*

Premium pay • 3–19, *page 34*

Mandatory assignment to target level • 3–20, *page 34*

Section V

Miscellaneous Pay Provisions, page 34

Compensatory overtime for religious observance • 3–21, *page 34*

Hazard and environment differentials • 3–22, *page 34*

Severance pay • 3–23, *page 34*

Allowances and differentials • 3–24, *page 35*

Dual pay • 3–25, *page 36*

Withholding taxes • 3–26, *page 36*

Other pay provisions • 3–27, *page 36*

Back pay computation • 3–28, *page 37*

Section VI

Federal Wage System Position Classification Appeals System, page 37

General • 3–29, *page 37*

Contents—Continued

Exclusions • 3–30, *page 37*
Notice of appeal rights • 3–31, *page 38*
Representation • 3–32, *page 38*
Complaint procedures • 3–33, *page 38*
Appeal procedures • 3–34, *page 38*
Appeals to the Office of Personnel Management • 3–35, *page 39*
Special procedures for demotions based on position classification • 3–36, *page 39*

Section VII

Tip-Offset Procedures, page 40
Applicability • 3–37, *page 40*
Tip-offset • 3–38, *page 40*
Tips • 3–39, *page 40*

Section VIII

Special Compensation Authorities, page 41
General • 3–40, *page 41*
Recruitment incentive • 3–41, *page 41*
Relocation incentive • 3–42, *page 41*
Retention incentive • 3–43, *page 41*
Student Loan Repayment Program • 3–44, *page 42*
Mass Transportation Benefit Program • 3–45, *page 42*

Chapter 4

Hours of Duty, page 42

Section I

General, page 42
Authority • 4–1, *page 42*
Establishment of workweeks • 4–2, *page 42*
Establishment of tours of duty • 4–3, *page 43*
Special considerations in establishing work schedules • 4–4, *page 43*
Daylight-savings time • 4–5, *page 44*
Rest periods • 4–6, *page 44*
Meal periods • 4–7, *page 44*
Incidental duties • 4–8, *page 44*

Section II

Holidays, page 45
Legal public holidays • 4–9, *page 45*
Authority • 4–10, *page 45*
Determining holidays • 4–11, *page 45*

Chapter 5

Leave, page 45

Section I

Family Leave Policies, page 45
Family leave • 5–1, *page 45*
Family Medical Leave Act • 5–2, *page 45*
Sick leave for general Family care or bereavement purposes • 5–3, *page 46*
Expanded sick leave to care for a Family member with a serious health condition • 5–4, *page 47*
Organ donor leave • 5–5, *page 47*

Section II

Annual Leave, page 47

Contents—Continued

Introduction • 5–6, *page 47*
Creditable service for annual leave accrual • 5–7, *page 47*
Accrual of annual leave • 5–8, *page 48*
Accumulation of annual leave • 5–9, *page 49*
Payment and transfer of annual leave • 5–10, *page 49*
Delayed receipt of record of leave data • 5–11, *page 50*
Use of annual leave • 5–12, *page 50*
Leave Transfer Program • 5–13, *page 51*

Section III

Sick Leave, page 52
Earning rates • 5–14, *page 52*
Amounts to be charged • 5–15, *page 52*
Use of sick leave • 5–16, *page 52*
Administration • 5–17, *page 52*
Advance of sick leave • 5–18, *page 52*
Transfer of accumulated sick leave • 5–19, *page 53*
Funding of transferred sick leave within Army nonappropriated fund instrumentalities • 5–20, *page 53*
Recredit of sick leave • 5–21, *page 53*
Separation • 5–22, *page 53*
On-the-job injury • 5–23, *page 53*

Section IV

Home Leave and Emergency Leave, page 54
Explanation of terms used for home leave and emergency leave • 5–24, *page 54*
Provisions of home leave • 5–25, *page 54*
Home leave eligibility • 5–26, *page 54*
Computation of home leave • 5–27, *page 54*
Granting home leave • 5–28, *page 54*
Emergency leave • 5–29, *page 55*

Section V

Leave Without Pay and Absent Without Leave, page 55
General • 5–30, *page 55*
Granting leave without pay • 5–31, *page 55*
Approval of extended leave without pay • 5–32, *page 55*
Duration of leave without pay • 5–33, *page 55*
Absent without leave • 5–34, *page 56*

Section VI

Absence for Maternity or Paternity Reasons, page 56
Consideration of request • 5–35, *page 56*
Leave for maternity • 5–36, *page 56*
Leave for paternity • 5–37, *page 56*

Section VII

Military Leave, Military Furlough, and Court Leave, page 56
Military leave • 5–38, *page 56*
Military furlough • 5–39, *page 57*
Court leave • 5–40, *page 57*

Section VIII

Excused Absences, page 57
Uncontrollable shutdowns • 5–41, *page 57*
Effect of shutdown • 5–42, *page 57*
Foreign holidays • 5–43, *page 58*

Contents—Continued

Exception • 5–44, *page 58*

Excused absences • 5–45, *page 58*

Shutdowns or curtailment of work for managerial reasons • 5–46, *page 58*

Chapter 6

Performance Evaluation and Rating, *page 58*

Section I

General, page 58

Applicability • 6–1, *page 58*

Purpose • 6–2, *page 58*

Policy • 6–3, *page 58*

Administration of the Performance Evaluation System • 6–4, *page 59*

Performance standards • 6–5, *page 59*

Probationary period evaluations • 6–6, *page 60*

Performance ratings • 6–7, *page 60*

Performance rating records • 6–8, *page 60*

Section II

Unsatisfactory Performance Actions, page 60

Communication • 6–9, *page 60*

Administration of unsatisfactory performance actions • 6–10, *page 61*

Adverse action records • 6–11, *page 62*

Chapter 7

Disciplinary Actions, *page 62*

Introduction • 7–1, *page 62*

Coverage • 7–2, *page 62*

Principles • 7–3, *page 62*

Alternative discipline • 7–4, *page 63*

Types of disciplinary actions • 7–5, *page 63*

Oral admonitions • 7–6, *page 63*

Letters of reprimand • 7–7, *page 63*

Suspensions • 7–8, *page 64*

Separations for cause • 7–9, *page 65*

Records • 7–10, *page 66*

Chapter 8

Employee Grievances - General, *page 68*

Coverage • 8–1, *page 68*

Exclusions • 8–2, *page 68*

NF pay banded and child and youth classification complaints • 8–3, *page 69*

Employee rights • 8–4, *page 69*

Representation • 8–5, *page 69*

Use of official time and resources • 8–6, *page 70*

Discontinuance of consideration • 8–7, *page 70*

Grievance procedure-first stage • 8–8, *page 70*

Grievance procedures-second stage • 8–9, *page 71*

Third stage review • 8–10, *page 71*

Grievance file • 8–11, *page 71*

Regulatory interpretation • 8–12, *page 71*

Issues previously decided • 8–13, *page 72*

Chapter 9

Incentive Awards, *page 72*

Principles • 9–1, *page 72*

Contents—Continued

- Funding • 9–2, *page 72*
- Special achievement awards • 9–3, *page 72*
- Awards based on special acts or services • 9–4, *page 73*
- Length of service awards • 9–5, *page 73*
- Suggestion awards-general • 9–6, *page 73*
- Suggestion awards • 9–7, *page 73*
- Other incentives • 9–8, *page 74*
- NF–06 incentive awards policy • 9–9, *page 74*

Chapter 10

Business-Based Actions, *page 74*

- Coverage • 10–1, *page 74*
- Advance planning and advance information • 10–2, *page 74*
- Types of business-based actions • 10–3, *page 75*
- Administration • 10–4, *page 75*
- Transfer of function • 10–5, *page 76*
- Dissolution of a nonappropriated fund instrumentality • 10–6, *page 76*
- Tenure following active military duty • 10–7, *page 76*
- Effecting business-based action • 10–8, *page 76*
- Notices and notice periods • 10–9, *page 76*
- Placement of employees • 10–10, *page 77*
- Records • 10–11, *page 77*
- Reemployment priority list • 10–12, *page 77*

Chapter 11

Civilian Applicant and Employee Security Program, *page 78*

- Program goal • 11–1, *page 78*
- Coverage • 11–2, *page 78*
- Suspension and removal • 11–3, *page 78*
- Reassignment • 11–4, *page 78*

Chapter 12

Employee Development, *page 78*

- Concept • 12–1, *page 78*
- Administration • 12–2, *page 78*
- Required training and funding • 12–3, *page 79*

Chapter 13

Labor Management Relations, *page 79*

- Administration • 13–1, *page 79*
- Cost containment • 13–2, *page 79*
- Extension of negotiated provisions • 13–3, *page 79*

Chapter 14

Unemployment Compensation, *page 80*

Section I

- General, page 80*
- Coverage • 14–1, *page 80*
- Information coordination • 14–2, *page 80*
- Notice to separated employees • 14–3, *page 80*
- Request for wage and separation information • 14–4, *page 80*
- Appeals • 14–5, *page 80*

Section II

- Reports, page 81*

Contents—Continued

Concept • 14–6, *page 81*
General report instructions • 14–7, *page 81*

Chapter 15 Employee Benefits, *page 81*

Section I

General, page 81
Eligibility to participate • 15–1, *page 81*
Interpretation • 15–2, *page 81*
Administration • 15–3, *page 82*

Section II

Group Medical, Dental, and Life Insurance and Long Term Care Insurance Plans and Flexible Spending Accounts, page 82
General • 15–4, *page 82*
Plans • 15–5, *page 82*
Eligibility for medical, dental, or life and long term care insurance coverage and flexible spending accounts • 15–6, *page 82*
Effective date • 15–7, *page 83*
Family members • 15–8, *page 83*
Open enrollment periods • 15–9, *page 83*
Changes in medical, life, or dental insurance coverage • 15–10, *page 83*
Transfer of employment • 15–11, *page 83*
Termination of insurance • 15–12, *page 84*
Retiree Medical Program • 15–13, *page 84*
Contributions • 15–14, *page 84*
Health maintenance organizations • 15–15, *page 85*

Section III

Retirement Plan for Nonappropriated Fund Employees, page 85
General • 15–16, *page 85*
Retirement plan administration • 15–17, *page 85*
Retirement plan eligibility • 15–18, *page 86*
Retirement plan participation • 15–19, *page 86*
Contributions • 15–20, *page 86*
Credited service • 15–21, *page 86*
Retirement benefit eligibility • 15–22, *page 88*
Retirement benefit formula • 15–23, *page 88*
Voluntary Early Retirement Authority and Discontinued Service Retirement • 15–24, *page 89*
Requesting retirement benefits • 15–25, *page 89*
Disability retirement and survivor benefits • 15–26, *page 89*
Cost of living increases for retirees • 15–27, *page 90*
Employment with another Department of Defense nonappropriated fund instrumentality • 15–28, *page 90*
Reemployment of retirees • 15–29, *page 90*
Payroll deductions • 15–30, *page 90*
Retirement certificates and pins • 15–31, *page 90*
Proof of survival • 15–32, *page 90*

Section IV

United States Army Nonappropriated Fund Employee 401(k) Savings Plan, page 90
General • 15–33, *page 90*
Administration • 15–34, *page 91*
Eligibility • 15–35, *page 91*
Participation • 15–36, *page 91*
Vesting • 15–37, *page 91*

Contents—Continued

Contributions and investments • 15–38, *page 91*
Disposition of accounts at separation • 15–39, *page 92*
Loan program • 15–40, *page 92*

Chapter 16

Personnel Records, Files, and Reports, *page 92*

General • 16–1, *page 92*
Electronic official personnel folder • 16–2, *page 92*
Contents of the electronic personnel folder • 16–3, *page 93*
Temporary records required • 16–4, *page 93*
Safeguarding personnel records • 16–5, *page 94*
Disposition of the electronic official personnel folders • 16–6, *page 94*
Defense related employment • 16–7, *page 95*

Chapter 17

Management Controls and Audits, *page 95*

Key internal management controls • 17–1, *page 95*
Audits • 17–2, *page 95*

Appendixes

- A. References, *page 96*
- B. Minimum Qualification Requirements, *page 105*
- C. Standard Terms for Nature of Actions, *page 105*
- D. Screening and background checks requirements, *page 110*
- E. Internal Control Evaluation, *page 112*

Table List

Table 1–1: Minimum number of employees needed to administer the Nonappropriated Fund Personnel Program, *page 8*
Table 3–1: Creditable leave without pay, *page 27*
Table 3–2: Waiting period for within-grade increases (for regularly scheduled NA, NL, and NS employees), *page 28*
Table 3–3: Waiting period for within-grade increases (for non-regularly scheduled employees), *page 28*
Table 3–4: Nonappropriated fund Child and Youth Personnel Pay Program positions, *page 33*
Table 7–1: Penalties for delinquency or misconduct, *page 66*
Table 9–1: Guide for intangible benefits suggestion awards, *page 74*
Table 15–1: Conversion of sick leave for creditable service, *page 87*
Table 15–2: Employee-employer contributions table, *page 91*
Table C–1: Standard terms for nature of action, *page 106*
Table D–1: Screening and background check requirements, *page 111*

Figure List

Figure 3–1: Format for Federal Wage System classification appeal, *page 39*

Glossary

Chapter 1 Introduction

Section I General

1–1. Purpose

This regulation establishes policies for the administration of a total human resources (HR) program for nonappropriated fund (NAF) employees of the Department of the Army (DA). The policies are based on Section 2105(c), Title 5, United States Code (5 USC 2105(c)) which explains NAF employees are Federal employees within the DOD, and, while not subject to many of the personnel laws administered by the Office of Personnel Management (OPM), NAF employees are included under the laws listed under 5 USC 2105(c) (1). This regulation includes those laws as well as other Federal laws, executive orders (EOs), OPM, and DOD policies when NAF employees are specifically included as well as any judicial and administrative interpretation provided by courts and agencies such as the Federal Labor Relations Authority and Equal Employment Opportunity Commission. All such authorities are listed as references.

1–2. References

See appendix A.

1–3. Explanation of abbreviations and terms

See the glossary.

1–4. Responsibilities

a. The Assistant Secretary of Army (Manpower and Reserve Affairs (M&RA)) is responsible for setting the strategic direction for Army policies, plans, and programs for personnel, manpower management, training, and civilian personnel readiness, supervising the development and implementation of those policies and ensuring that they are executed consistent with law, regulation and policy.

b. The Deputy Chief of Staff (DCS), G–1 is the principal military advisor to the ASA (M&RA) for manpower, human capital management, HR, and personnel readiness. The DCS, G–1 will—

- (1) Under the supervision of the ASA (M&RA), develop and execute Army strategy, policy, plans, and programs.
- (2) Ensure the execution of policies, plans, and programs are consistent with law, regulation, and policy of other DA official organizations: and reviews and assesses the implementation of policies, plans and programs.
- (3) Serve as the policy proponent for NAF personnel authorities and the approval authority for the establishment of an appointment to NF–6 level executive positions, Within the Office of the DCS, G–1, the Assistant G–1 for Civilian Personnel will perform these functions. The NAF Director, HR Policy and Program Division for G–1, has been delegated these authorities and provisions and may approve exceptions to this regulation that are consistent with controlling law and regulation. Requests for policy determination, for interpretation of this regulation, and for exception to established policies, will be directed through command channels to the Deputy Chief of Staff, G–1, Assistant G–1 (DAPE–CPZ–NF), 6010 6th Street, Building 1465, Mail Stop 5595, Fort Belvoir, VA 22060–5595.

(4) Develop and establish the policies, regulations, and procedures for the classification, position, and pay management program to be used by NAF instrumentalities throughout the Army.

(5) Resolve problems connected with the development and application of wage and salary schedules.

(6) Provide position classification and position management criteria and guides.

(7) Ensure that the NAF classification and position management program is properly administered.

c. Under the supervision of the Assistant G–1 for Civilian Personnel, the NAF Director, HR Policy and Program Division will—

(1) Develop and establish the policies, regulations, and procedures in all aspects of the NAF HR program in support of the following objectives—

- (a)* Achieve fair and equitable treatment of NAF employees through a uniform Armywide personnel system.
- (b)* Assist officials in recruiting, developing, and retaining the best qualified personnel.
- (c)* Provide guidance in the technical aspects of personnel management.
- (d)* Provide more attractive career opportunities for employees.
- (e)* Inform employees of their obligations, rights, and privileges as NAF employees.
- (f)* Establish a uniform personnel record system to provide reliable information on employee's qualifications, employment history, education level, and employment status.
- (g)* Promote more efficient use of NAF positions in personnel administration.

(2) Provide Armywide guidance on new programs, reporting requirements, and changes to existing policy for implementation.

- (3) As the proponent of this regulation, provide interpretation of NAF HR policies and procedures for all Army agencies and installations.
- (4) Conduct periodic civilian human resources program management evaluations, as appropriate.
- d.* Commanders of Army commands (ACOMs), Army service component commands (ASCCs), and direct reporting units (DRUs) will—
- (1) Be responsible for staff direction and oversight of NAF employee programs and for directing the implementation of this regulation within their command.
 - (2) Participate in the development of procedures and instructions governing the administration of the NAF HR Personnel Management program consistent with this regulation.
 - (3) Delegate personnel and classification authorities to the lowest practical level as authorized and appropriate.
 - (4) Ensure programs within their command conform to prescribed NAF HR regulations, standards, instructions, and program goals.
 - (5) Review and monitor the administration of the incentive awards program, and maintain accountability and the integrity of management incentive plans.
 - (6) Promote equal employment opportunity (EEO) in every aspect of personnel policies and goals.
 - (7) Ensure the standardized process for executing criminal background checks and installation record checks is in accordance with this regulation and applicable Army directives.
 - (8) Approve specific exceptions in writing for payment of travel and transportation of employees and Family members, in amounts not to exceed the provisions of the Joint Travel Regulation (JTR), only when it is in the best interest of the Army.
 - (9) Authority to establish policy related to overseas allowances is delegated to the ASCC commander only if designated by the supported combatant commander to establish foreign area employment policy. This authority will be exercised consistent with this regulation, DOD policy, the Department of State Standardized Regulations (DSSR), and applicable laws. To the extent waivers are permitted by ASCC policy, waiver authority will be exercised by the employing command. Waivers beyond those provided by ASCC policy are not authorized. The authority for establishing host nation employment policy and supplemental U.S. employment policy within host nation laws and international agreements rests with the ASCC under the authority and direction of the combatant commanders to which they are assigned.
- e.* The Commander, U.S. Army Installation Management Command (IMCOM) in addition to the responsibilities in paragraph 1-4*d* will—
- (1) Provide support to headquarters (HQ), regional, and installation level nonappropriated fund instrumentalities (NAFIs) and employees by—
 - (a) Developing, implementing workforce restructuring, streamlining initiatives, and approving all requests for NAF Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Program (VSIP).
 - (b) Providing advice and guidance to staff and subordinates in personnel management responsibilities.
 - (c) Executing, evaluating, and analyzing NAF personnel programs and making recommendations for improvement.
 - (d) Promoting and encouraging employee development and training at all levels to meet present and anticipated needs.
 - (e) Providing support in labor management relations.
 - (f) Ensuring logistical support and facilities, including Government quarters and Family housing, are provided to eligible NAF employees on the same basis as appropriated fund (APF) employees, and that certain equivalent privileges in foreign areas of NAF employees to APF employees is applied.
 - (g) Ensuring compliance with host nation employment laws and agreements. Ensuring international agreements and appropriate host country labor and other pertinent laws are followed.
 - (h) Participating in the administration and management of NAF HR consistent with this regulation, and delegating personnel and classification authorities to subordinate commanders and officials.
 - (i) Exercising the same delegated personnel responsibilities for employees at HQ as those granted by this regulation to garrison commanders or equivalent. Directors at the regional level are granted the same authority for positions at the region. This authority may be further delegated within HQ.
 - (j) Promoting EEO in every aspect of personnel policy and practice in the employment, development, and advancement of employees and supporting EEO programs and goals.
 - (k) Adjudicate classification appeals for Federal Wage System (FWS) employees in accordance with DODI 1400.25 and this regulation.
 - (2) Operate, and provide day-to-day administrative control, of the five stand-alone Army NAF HR divisions at the Hale Koa Hotel, Dragon Hill Lodge, Edelweiss Lodge and Resort, Shades of Green, and IMCOM G-9.
 - (3) Provide staff direction and oversight, and direct the implementation of this regulation and authorities for activities and employees within IMCOM G-9.
 - (4) Support labor management relations by providing technical or legal expertise and assistance to ensure timely and effective program execution.

(5) Serve as the proponent for career field 29 of the Army Civilian Training, Education, and Development System (ACTEDS); and encourage and provide employee development training to sustain a quality morale, welfare, and recreation (MWR) workforce Armywide.

(6) Conduct workforce analysis including demographics and training requirements, and implement developmental assignments.

(7) Manage and execute a Management Trainee Program.

(8) Manage and effectively execute the NAF Employee Benefits Program in accordance with the requirements of chapter 15.

(9) Manage and execute the Talent Management Program.

(10) Promote EEO in every aspect of personnel policy and practice in the employment, development, and advancement of employees and support EEO programs and goals.

(11) Ensure eligible flexible employees who have worked an average of 30 hours per week over the previous 26 pay periods are afforded participation in medical insurance coverage in accordance with the Patient Protection and Affordable Care Act (PPACA), PL 111-148.

f. The garrison commanders or equivalent will—

(1) Implement this regulation in accordance with its provisions and ensure compliance through oversight review.

(2) Ensure compliance with AR 638-8 for civilian NAF employees and that official notification of the next of kin is made in the same manner as for APF civilian employees.

(3) Administer HR management authorities as delegated and authorized by this regulation, abiding by pay entitlement regulations, standards, procedures, and instructions, and act on the initial stage of classification complaints from employees within their command.

(4) In compliance with command direction, establish policy in those areas of pay administration that authorize discretionary authority.

(5) As a designated host installation for wage surveys—

(a) Provide administrative, technical, and logistic support in conducting wage surveys.

(b) Authorize NAF employee representatives to participate, without loss of pay or charge to leave, in hearings conducted by the Local Wage Survey Committee.

(c) Ensure that employees participating in wage surveys as data collectors are paid their basic rate of pay for all time spent in performance of that duty and are reimbursed for necessary travel costs.

(6) Manage incentive awards program and publicize all installation award ceremonies.

(7) Ensure that training opportunities are made available to all eligible and/or interested employees.

(8) Establish a cooperative labor management relations program and ensure the labor management relations program is implemented in accordance with DODI 1400.25-V1471.

(9) Promote EEO in every aspect of personnel policy and practice in the employment, development, and advancement of employees. Commanders will support EEO programs and goals and ensure personnel actions are not based on discriminatory practices and actions.

(10) Ensure that activities with employees that are paid from NAFs provide funding to cover the cost of NAF personnel who provide personnel administration services. NAFs will provide funds sufficient for the Civilian Personnel Advisory Center (CPAC) to maintain a NAF HR workforce at a level consistent with the Army target service ratio currently in effect.

(11) Support all ACTEDS plans covering MWR occupations.

(12) Support, fund, and publicize NAF Employee Benefit Programs and encourage employees to participate.

(13) Exercise approval authority to grant a recruiting incentive, relocation incentive, or a retention incentive. Establish written recruiting and staffing standard operating procedures that are in compliance with this regulation.

(14) Ensure all delegations of authority are in writing.

(15) Establish and conduct a Program Review Board (PRB) in accordance with AD 2014-23 or, if that directive has been superseded, the superseding Army Regulation, to review all unfavorable background investigations for positions in child, youth and school services (CYSS) and other positions responsible for the care and well being of children under 18 years of age.

(16) Determine suitability of employment.

(17) Implement position classification, position management, written pay policy for payband level employees, and pay entitlements regulations, standards, procedures, and instructions, and will act as the deciding official on the initial stage of FWS classification appeals from employees within their command. Delegated authority for position classification will follow command policy. The authority for position classification (when delegated through the command), pay determination for payband system employees, and authenticating personnel actions may be further delegated. Delegations of authority must be in writing.

(18) When designated the host installation for wage surveys—

(a) Fully support the wage survey and ensure that the instructions of the DOD Wage and Salary Division (WSD) of the Defense Civilian Personnel Advisory Service (DCPAS) are carried out.

(b) Provide administrative, technical, and logistic support in conducting wage surveys assisted, as necessary, by other installations or activities in the area.

(19) Provide assistance to other installations or activities in the area designated as the host for wage surveys.

(20) Authorize NAF employee representatives to participate, without loss of pay or charge to leave, in hearings conducted by the Local Wage Survey Committee. However, absences of employees appearing as individuals will be charged annual leave (AL) or leave without pay (LWOP), as appropriate.

(21) Assure that employees participating as data collectors are paid their basic rate of pay for all the time spent in performance of that duty and are reimbursed for necessary travel costs.

(22) Ensure that the program is properly administered.

g. The Director, Civilian Human Resource Agency (CHRA) will support CPAC NAF HRD by—

(1) Assisting with the implementation of this regulation by providing operational guidance and support at all Army installations.

(2) Managing and executing NAF HR employee development training at all levels.

(3) Developing and evaluating CPAC NAF HRD operational procedures and identifying best business practices.

(4) Assisting with providing technical and operational automation support for CPAC NAF HRD and performing helpdesk functions for the Defense Civilian Personnel Data System (DCPDS), Business Objects Application, and other Army automated applications.

(5) Performing program data analysis required within the Army.

h. Director, HQ CHRA NAF Division will—

(1) Develop and implement operational guidance for CPAC NAF HRD across Army in accordance with the requirements of this regulation.

(2) Perform program data analysis and develop quality assurance measures.

(3) Provide operational oversight in automation tools used by CPAC NAF HRD

(4) Develop and deliver training in CPAC NAF HR functional areas.

i. The CHRA Regional Directors will—

(1) Be responsible for providing HR support to NAF activities within their regions.

(2) Ensure that the CPAC NAF HRD program within the serviced region is administered in accordance with this regulation.

(3) Provide oversight and assistance for the CPAC NAF HRD productivity to maintain efficiency, as needed.

(4) Promote quality assurance by developing and implementing quality control measures associated with the CPAC NAF HRD staff responsibilities in paragraph 1–4*m*.

j. The CPAC Directors will—

(1) Implement policies and procedures under this regulation and ensure compliance through oversight review.

(2) Provide administrative staff supervision for the operations of the CPAC NAF HRD.

(3) When delegated authority in writing, act on behalf of the commander in appointing NAF employees and authenticating personnel actions. This authority may be delegated further only to the HR officer or specialist of the CPAC NAF HRD or a HR specialist on the CPAC APF staff.

(4) Provide assistance to the CPAC NAF HRD and NAFI managers in conducting labor relations and negotiation.

(5) Ensure the provisions of AR 690–11 pertaining to mobilization planning are applied to NAF employees, when appropriate.

(6) Promulgate information on the interchange agreement between the DOD and the OPM throughout the serviced community to promote the inclusion of NAF employees as a valuable source of applicants in the local recruitment strategy of APF vacancies, whenever possible.

k. The CPAC NAF HRD staff will—

(1) Be organizationally located within the CPAC and have personnel administration responsibility to “act for” the commander. This connotes responsibility to—

(a) Produce, authenticate, and maintain records of actions taken by or on behalf of their commanders and managers; conduct or review all personnel actions to ensure compliance with this regulation prior to signing as the approving official.

(b) Accomplish, on the commander’s behalf, the administrative aspects of programs designed to classify positions, systematically identify candidates for job selection, and appoint, assign, compensate, train, develop, reward, discipline, and separate NAF employees.

(2) Ensure that all Reemployment Priority List (RPL) applicants are considered in accordance with the priority program.

(3) Perform compliance review (when recruitment has been delegated to activity managers by the commander) for selection preference and completion of pre-employment requirements, prior to selection notification and establishment of an entrance on duty date.

- (4) Ensure determinations of the correct series for payband positions and compliance with the Fair Labor Standards Act (FLSA) exempt or nonexempt status determination requirements for all positions.
- (5) Administer the Performance Evaluation Program and provide notification to supervisors when annual evaluations are due.
- (6) Oversee and monitor business-based actions (BBAs).
- (7) Administer the position and pay management program.
- (8) Ensure establishment, maintenance, custody, and disposition of personnel records.
- (9) Provide advice and guidance to management and employees on personnel administration, including the processing of disciplinary actions, classification appeals, and grievances, in coordination with the servicing legal office.
- (10) Conduct annual training in the development of supervisory responsibilities and skills. Conduct or schedule training for the workforce to ensure understanding of pay systems and incentive awards program.
- (11) Assist management by monitoring and maintaining employees records to ensure proper reporting of on-the-job injuries in accordance with AR 215–1, chapter 19, section XV.
- (12) Assist management in the conduct of labor relations in coordination with the labor counselor. Coordinate directly with the NAF HR Policy and Program Division on labor relations support.
- (13) Process within 3 workdays upon notification of the death of an employee, when possible, all appropriate forms that will assist the beneficiaries to receive any benefits available.
- (14) Provide administrative support to and counsel employees concerning the benefits programs.
- (15) Administer the commander’s local pay policies. Recommend changes and provide advice to the commander on available flexibilities.
- (16) Assist supervisors with the administration of the incentive awards program to ensure the program is uniformly administered within the NAFI.
- (17) Maintain records on BBA and disciplinary actions.
- (18) Provide each employee who separates, or is placed in a furlough status for more than 7 days, a Standard Form (SF) 8 (Notice to Federal Employee about Unemployment Insurance) indicating possible entitlement to unemployment compensation.
- (19) Provide information to management on EEO policy and goals.
- (20) Conduct an annual formal audit or review of a minimum of 10 percent of pay actions.
- (21) Review NAF Financial Services (NFS) quarterly hours worked report for purpose of advising management of—
 - (a) Medical benefits entitlement for flexible employees who worked an average of 30 hours per week for the previous 26 pay periods in accordance with the Patient Protection and Affordable Care Act (PPACA), PL Section 1513.
 - (b) Employees who are subject to noncompetitive placement to a regular full-time (RFT) or regular part-time (RPT) appointment, as appropriate.
 1. Managers and/or supervisors will—
 - (1) Assign duties and responsibilities to employees under their direction in a manner to ensure efficient and timely accomplishment of missions.
 - (2) Use the standardized position description (PD) in the Fully Automated System for Classification (FASCLASS), when available. When the standardized PD is not available, request assistance from the servicing Nonappropriated Fund Human Resources Division (CPAC NAF HRD).
 - (3) Review duty assignments to determine whether or not officially approved position guides or job descriptions are current.
 - (4) Review PD and initiate changes through the servicing CPAC NAF HRD.
 - (5) Arrange appropriate workforce training.
 - (6) Approve or recommend approval of leave.
 - (7) Recommend personnel actions by initiating DA Form 4017 (Request for Personnel Action-Nonappropriated Fund Instrumentality) or system-generated SF 52 (Request for Personnel Action).
 - (8) Provide progressive and constructive leadership.
 - (9) Ensure all employees understand what is expected of them, to whom they are responsible, and their work relationship with co-workers.
 - (10) Ensure that employees are scheduled to work for at least the minimum hours specified on DA Form 3434 (Notification of Personnel Action - Nonappropriated Fund Employee).
 - (11) Continually evaluate employee performance, provide feedback to the employee regularly, and complete a formal performance evaluation, when required, in accordance with chapter 6.
 - (12) Promote understanding of and participation in the incentive awards program.
 - (13) Complete Department of Labor (DOL) Form LS–202 (Employer’s First Report of Injury or Occupational Illness) immediately upon notification of an employee on-the-job injury or death.

(14) Support the employee benefits programs and allow employees to attend open season briefings and complete related paper work.

(15) Promote and support EEO policy goals.

(16) Complete and return DA Form 7428 (Nonappropriated Fund Supervisor's Orientation Checklist) to the servicing CPAC NAF HRD within 14 business days.

m. Employees will—

(1) Give a full day's work for a full day's pay.

(2) Report on time, ready, willing, and able to perform their duties.

(3) Cooperate with those who direct their work.

(4) Observe the spirit and the letter of laws and regulations governing official conduct.

(5) Review all personnel and pay actions (to include the biweekly earnings and leave statement) upon receipt and inform management or CPAC NAF HRD of any discrepancies.

1–5. Operations

a. The NAF Personnel Program will be consistent with laws, regulations, and published Army policies to maintain an effective NAF workforce.

b. Employees have the right, without interference, coercion, restraint, or reprisal, to join or refrain from joining any lawful labor organization or employee association. When employees are represented by a recognized labor organization, management will strive to maintain a relationship of mutual respect and trust.

c. Where labor agreements differ from the requirements in this regulation, and the regulatory requirements are not based on a compelling need, the agreement will prevail during the term of the agreement absent a waiver.

d. Employees paid from NAFIs will operate programs financed from NAFs, including any APF programs executed with NAFs under the uniform funding and management practice. They will perform jobs that do not require military incumbents by reasons of law, training, security, maintenance of morale, or discipline, and rotation or combat readiness.

e. NAF employees are essential to the operation of the military establishment. Their standing as individual employees will be comparable to the standing enjoyed by APF civilian employees except as limited by law and by this regulation.

f. Each overseas commander will provide logistical support and facilities, including Government quarters and Family housing, to eligible NAF personnel on an equitable basis with APF civilian employees. The principle treatment for NAF personnel with APF personnel will be followed.

g. Employees will be placed in jobs for which they are qualified. Selections to fill positions will be made impartially on the basis of merit and qualification.

h. Supervisors and managers are required to participate in Civilian Leader Development Core courses. Resources and time will be made available to the maximum extent possible to permit training necessary to ensure improved performance and individual development will be provided to the extent that resources and operations permit.

i. Employee work performance will be evaluated fairly and objectively on a continuing basis and the results of such evaluation will be discussed periodically with the employee.

j. Within applicable compensation schedules, NAF employees will receive similar pay treatment commensurate with performance for work of similar difficulty and responsibility.

k. Working conditions will be made as safe and healthful as possible.

l. Employees and labor organizations officially recognized by DA will be informed in advance of plans and policies affecting employees' conditions of employment.

m. Employees will be encouraged to recommend improvements in work methods and working conditions.

n. Any employee having a grievance will be afforded a fair and prompt discussion with the supervisor concerned and, failing prompt and satisfactory adjustment, will have the right to pursue the matter under the grievance procedures of chapter 8 or, when required, under the applicable negotiated grievance procedure. In presenting a grievance, employees will be free from interference, restraint, or reprisal and may be accompanied and assisted by a representative, as provided for in chapter 8.

o. Employees will have the right to discuss their problems with one or more of the following:

(1) Representatives of their servicing CPAC NAF HRD.

(2) An EEO officer or counselor.

(3) A labor organization representative (if the employee is covered by a collective bargaining agreement).

(4) A person designated to provide guidance on questions of conflict of interest.

(5) A supervisor or management official including one of higher rank or level than the immediate supervisor.

(6) An Employee Assistance Program counselor.

(7) The Inspector General.

p. Employees will have the right to participate or not participate in fund-raising campaigns and purchase of U.S. Savings Bonds without compulsion, coercion, or reprisal.

q. Employees will be treated with full regard for their dignity as individuals and no distinctions as to trustworthiness of employees will be made on the basis of their pay levels or grades.

r. To the extent permitted by law and applicable international agreements, locally available candidates, that is, military spouses, Family members of military and civilian personnel stationed in foreign areas, and U.S. citizens, must be used to the maximum extent possible when filling vacant NAF positions. Family members must be given preference in employment when recruiting from an external source for NAF vacancies in foreign areas.

s. OPM issuances, DOD regulations, or other Federal agency and DA Civilian personnel regulations do not apply to NAF employees unless explicitly stated therein, or when explicitly identified in DOD policy or this regulation as being applicable or administratively adopted, in whole or in part, for Army NAF. The provisions of laws, EOs, and DOD directives applicable to NAF employees are reflected in this regulation, including appropriate citations and references to applicable procedures and requirements.

t. NAF staffing actions will be administered in accordance with merit system principles. The merit system principles are the fundamental precepts, which guide the conduct of the NAF HRs management.

u. A NAF employee may be assigned as the supervisor of MWR APF employees and military personnel except as provided by paragraph 2-21c.

v. The Portability of Benefits for Nonappropriated Fund Employees Act of 1990, PL 101-508, as amended, by the Defense Authorization Act for Fiscal Year 1996, PL 104-106, applies to employees who move between DOD NAF and APF employment systems. Specific references are included within appropriate chapters throughout this regulation. Section 1131 of PL 107-107 permits employees moving between NAF and APF position on or after 28 December 2001, to continue coverage in the retirement plan that covered them immediately before the move, even if they are not vested in that retirement plan. Employees must move between retirement-covered positions with a break of not more than 1 year. All such elections will be documented and made part of the merged records in the electronic official personnel folder (eOPF).

1-6. Exception to policy

Requests for policy determination, for interpretation of this regulation, and for exceptions to established policies, will be directed through command channels to Department of the Army, Deputy Chief of Staff, Assistant G-1 (DAPE-CPZ-NF), 6010 6th Street, Building 1465, Mail Stop 5595, Fort Belvoir, VA 22060-5595.

1-7. Whistleblower protection

a. NAF employees and applicants will be free from reprisal in making protected disclosures, and the confidentiality of employees and applicants making such disclosures will be protected unless the DOD Inspector General determines that disclosure of their identity is necessary to conduct the investigation.

b. Any NAF employee or applicant for a position who reasonably believes a personnel action (including failure to take such action) was taken as reprisal for making a protected disclosure may file a complaint directly with the DOD Inspector General. Such a complaint may be filed by calling the DOD Hotline toll-free number (800) 424-9098 or by letter addressed to Department of Defense Hotline, Pentagon, Washington, DC 20301-1900.

c. Activities must publicize the procedures for filing a complaint.

Section II

Civilian Personnel Administration at Installation Level

1-8. Introduction

This section provides for the uniform and efficient administration of the personnel program for all NAF civilians and Off-duty Enlisted Military (ODM) employees. NAF foreign nationals or third country nationals employed in foreign areas will be administered in accordance with country-to-country agreements and treaties.

1-9. Organization

a. CPAC NAF HRD or servicing HR staff will be established on each installation having NAF employees. The CPAC NAF HRD will report directly to the CPAC Director or to a designated member of his or her staff. (For staffing requirements, see table 1-1.)

b. All personnel folders and actions for employees of all NAFIs on an installation will be the responsibility of the CPAC NAF HRD or other servicing CPAC. Personnel actions for all NAF employees on the installation will be effected by employees of the CPAC NAF HRD

1-10. Administration

a. The servicing CPAC—

(1) Implements policies and procedures under this regulation.

(2) Ensure that NAF personnel positions are properly authorized and assigned to the appropriate series and pay level.

- (3) Provides administrative staff supervision of the operations of the CPAC NAF HRD
- (4) Acts for the commander in appointing NAF employees, classifying positions, and authenticating personnel actions. This authority may be further delegated to the personnel specialist, chief, or leader of the CPAC NAF HRD, or another personnel specialist on the CPAC staff.
- (5) Provides technical direction and staff guidance to the CPAC NAF HRD or staff to ensure that the NAF Personnel Program is administered in accordance with this regulation.
 - b. The CPAC NAF HRD performs the following functions:
 - (1) Recruitment and placement for all serviced NAF positions. Conduct compliance review for selection preference and priority consideration when recruitment authority is delegated to activity managers in accordance with paragraph 2–5.
 - (2) Position classification.
 - (3) Compliance review and FLSA exempt/nonexempt determinations.
 - (4) Performance Evaluation Program oversight.
 - (5) Oversight for BBA.
 - (6) Pay management oversight.
 - (7) Establishment, maintenance, and custody of personnel records.
 - (8) Advise and provide guidance on personnel administration, including the processing of disciplinary actions, classification appeals, and grievances.
 - (9) Provide information to management on established NAF personnel policies, including employee rights and benefits.
 - (10) Provide NAF HR supervisory training.
 - (11) Assure proper reporting of on-the-job injuries.
 - (12) Assistance to management in the conduct of labor relations, in coordination with the servicing legal office.
 - (13) Provide administrative support for the Employee Benefits Program.

1–11. Staffing of the Nonappropriated Human Resources Division

- a. The implementation of an effective and responsible personnel program is essential to ensure compliance with legal requirements and the efficient and economical operation of the NAFIs. This requires that competent individuals be assigned to the CPAC NAF HRD, each of whom must meet the applicable minimum qualification requirements.
- b. Table 1–1 lists the minimum number of employees paid from NAFs needed to administer the NAF Personnel Program. Limitation of NAF resources will not permit the employment of a NAF personnel specialist in each of the specialized areas of personnel administration. The number and types of the NAF positions in the CPAC NAF HRD and the utilization of the employees will be determined by the size of the serviced NAF workforce. When the CPAC NAF HRD has responsibility for the entire NAF Personnel Program, the number of employees required will be greater than the minimums listed below. Staffing will be within the current DOD established target serviced ratio.

Employees serviced	Personnel specialist	Clerical support
Up to 125	1	1
126 to 250	1	2
251 to 375	2	3
376 to 500	2	4
501 to 625	4	4
626 to 775	4	5
776 to 1,000	4	5
1,001 to 1,300	4	6

c. Within available resources, the CPAC Director and staff members paid from APF are authorized to perform the following:

- (1) Command functions, including supervision of the CPAC NAF HRD, technical advice to NAFI managers, and audit and review of NAF personnel actions.
- (2) NAF labor management relation functions required to be performed by 5 USC Chapter 71 and DODI 1400.25-V1471.
- (3) Administration of the EEO Program as it pertains to personnel office responsibilities.
- (4) Complete administration of the NAF Personnel Program when the number of employees serviced is so small that no additional incremental APF costs are thereby incurred.

1-12. Funding

The employee salary costs for the CPAC NAF HRD will be shared on a prorated basis by the serviced NAFIs. Installation commanders will approve and assess the amounts to be paid by each NAFI for the salary and associated administrative costs for the CPAC NAF HRD.

1-13. Records

- a. All eOPFs and records, regardless of where the NAF employees are assigned, will be maintained by the CPAC NAF HRD and will be under the jurisdiction of the CPAC.
- b. Personnel records must be kept in a secure room or locked cabinet to prevent access by anyone other than official users and the individual concerned. Employees will have the right to review their record and to add to or amend the record to correct any inaccuracy.
- c. In case of a dispute, the matter will be resolved in accordance with AR 340-21.

Section III

The Nonappropriated Fund Casualty System

1-14. General

- a. This section provides general information on actions to take when an employee dies while—
 - (1) In an official temporary duty (TDY) status away from his or her duty station.
 - (2) Assigned at an overseas duty station or in transit thereto or there from.
- b. All benefits authorized in accordance with AR 638-8 for the care, preparation, and disposition of remains of deceased civilian employees of the Army paid from APFs will be accorded equally to NAF employees.

1-15. Operational guidance

- a. When a civilian NAF employee dies while covered by this section, the activity head will telephone the death notification to the installation casualty office.
- b. Official notification of the next of kin must be made in the same manner as for APF employees. Prompt notification is essential.
- c. If the employee was participating in any of the U.S. Army NAF benefits programs, the CPAC NAF HRD will process, when possible, the appropriate forms for the beneficiaries within 3 workdays.
- d. If the death is work related, the supervisor must complete DOL Form LS-202.
- e. The servicing CPAC NAF HRD will process a DA Form 3434 with a nature of action (NOA) separation-death. Item 25 must include the full name, mailing address, and, where applicable, social security number of the individual designated as beneficiary for unpaid compensation on DA Form 5521 (Record of Emergency Data and Designation of Beneficiary for Unpaid Compensation of Deceased NAF Employee).

1-16. Funding

Expenses incurred in connection with items and benefits furnished by the Government on a reimbursable basis will be billed to and paid by the employing NAFI on a case-by-case basis.

1-17. Guidance

For more detailed information on the NAF casualty system refer to AR 638-8 and JTR, Chapters 5 and 7.

Chapter 2 Employment

2-1. Applicability

This chapter prescribes policy for applicants and employees, as appropriate.

2-2. Policy

a. Applicants' qualifications for all newly established and vacant positions will be reviewed and evaluated as follows:

(1) OPM's qualification standards for general schedule (GS) positions must be used to establish minimum qualifications for payband positions that have a positive education requirement or when licenses or certifications are required. OPM's Job Qualification System for Trades and Labor Occupations will serve as a guide to determine qualifications required for FWS positions. Additional requirements determining length of experience may be established, as appropriate. Qualification requirements for payband positions without a positive education requirement will be developed by management with the advice and review of the CPAC NAF HRD to ensure consistency within serviced activities

(2) The Caregiving Personnel Pay Program establishes qualification requirements for child care positions (see app B). These requirements have been extended to youth services and are identified in the Child and Youth Personnel Pay Program (CYPPP).

(3) Garrison commanders or equivalents are authorized to modify (except for CYPPP positions and positive education requirements) qualification standards for reassignments, voluntary changes to lower grades and/or payband levels, transfers, and reinstatements to the same or lower grade level when an employee's background includes experience or training that would indicate successful job performance. This authority is an exception to normal procedures and is designed to eliminate unnecessary rigidity in evaluating qualifications for current employees affected by management-directed reorganization, base realignment and closure (BRAC) or BBA. This authority should only be used when there is a reasonable likelihood that the employee will successfully make the transition to the new position, and developmental support is provided to assist the employee.

b. Selection for any position will be based solely on qualifications. A position may not be designated as a position to be filled only by off-duty military or only by civilians.

c. The provisions of AR 690-12 will be strictly observed with respect to NAF employees and applicants for NAF employment. Persons with disabilities may be employed when they can perform the essential functions of the position in question with or without reasonable accommodation, unless the individual would pose a direct threat to health or safety. Direct threat is defined as a significant risk of substantial harm to the individual or others in the workplace that cannot be reduced or eliminated through reasonable accommodation.

d. The employment, appointment, or promotion of relatives of commissioned officers, noncommissioned officers, and civilian officials who hold administrative positions where they exercise jurisdiction or control over the employing NAFI, or any organizational unit thereof, is prohibited. Further, such officials may not advocate a relative's appointment, employment, promotion, or advancement anywhere within DOD. This policy does not prohibit the exercise of reemployment rights after military service as provided by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC 4301 to 4334.

(1) Relatives of military personnel and civilians assigned to or employed by the NAFI may be employed provided there is neither a supervisory relationship nor a situation where the appearance of favored treatment, conflict of interest, or collusion may occur.

(2) For purposes of interpretation "relative" includes: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandparents, father-in-law, mother-in-law, sister-in-law, son-in-law, daughter-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and domestic partner.

(3) This policy is not intended to prohibit employment of a relative of one NAFI manager by the manager of another NAFI, provided the relative's employment was not advocated by the related administrator. For example, a relative of the Director of Community Recreation at an installation may be employed by a club or by the Army and Air Force Exchange Service (AAFES) on the same installation. Garrison commanders or equivalent may make exceptions to this prohibition in order to make flexible emergency hire appointments in the event of emergencies resulting from natural disasters or similar unforeseen circumstances. Justification must include a statement of the effort made to recruit and a statement that no other eligibles are available.

e. Conversion of a NAF position from APF or to military incumbency may only be made in accordance with AR 570-4.

f. NAF employees who have served on military duty may have reemployment rights in accordance with USERRA. Questions regarding reemployment rights under USERRA should be referred to the installation's servicing legal office.

g. Employment of civilian personnel by NAFIs will comply with applicable Federal, State and U.S. territory labor laws and with the provisions contained in international agreements between the U.S. and foreign countries, as appropriate.

h. Dual pay is as follows:

(1) NAF employees are subject to the prohibition against dual pay and employment in the Federal service as prescribed by 5 USC 5533. NAF employees are not entitled to receive basic pay from more than one position, whether an APF or NAF position, for more than an aggregate of 40 hours of work in 1 calendar week (Sunday through Saturday). Garrison commanders or equivalent may approve exceptions to this requirement in special circumstances when personnel services otherwise cannot be readily obtained. Exceptions must meet the following requirements:

(a) The position to be filled has been vacant for some time and continuous recruiting efforts have failed to produce qualified candidates for employment.

(b) All logical recruiting sources have been tapped and the position has been publicized through all appropriate media, including paid advertising, when appropriate.

(c) Qualified candidates other than Federal employees have not been located. Records of exceptions must be retained and be available for audit for a 2-year period. A copy of the exception will be provided to the Headquarters, Department of the Army (HQDA) DCS, G-1 (DAPE-CPZ-NF) within 30 days of approval.

(2) In accordance with 5 USC 5534 a member of the uniformed Service who is on terminal leave pending separation or release from active duty under honorable conditions, may accept and hold any NAF position as a civilian in compliance with the provisions of this regulation.

(3) No employee may serve concurrently in more than one Army NAF RPT position. This prohibition does not preclude the use of multiple appointments (for example, one RPT and one or more flexible appointments provided the total number of hours worked each week does not exceed 40).

i. Family members of military and civilian personnel stationed in foreign areas must be given employment preference for NAF competitive job vacancies, unless prevented by treaties or other country-to-country agreements that give preference to locally hired non-U.S. citizens or restrict employment of certain individuals. Unmarried dependent children who meet the definition of Family member may continue to be eligible for Family member preference until their sponsor departs the foreign duty station or the commuting area or completes the current period of service requirement, whichever occurs first. A Family member must physically reside with his or her sponsor to receive Family member preference. This preference does not apply to the family members of locally hired Federal civilian employees nor to family members of foreign nationals. Preference applies to all NAF positions, with the exception of NF-6 (Senior Executive) positions.

j. No maximum age requirement may be established for entrance into NAF positions. This applies to promotions and reassignments as well as to appointments.

k. Political activity guidelines include—

(1) The principles of the Hatch Act of 1939, as amended in 1993 (5 USC 7321 through 7326), relating to political activity of Government employees are administratively extended to NAF employees to the extent that no employee will—

(a) Use official authority or influence for the purpose of interfering with an election or affecting its results.

(b) Be a candidate for public office in partisan elections.

(2) Subject to the general prohibition against engaging in political activity while on duty, NAFI employees retain the right to vote as they choose; express their opinions on political subjects and candidates; participate in nonpartisan political activity; and participate in certain partisan activity, including campaigning for or against candidates, making campaign speeches for candidates, and distributing campaign literature. Also, an employee may hold a State, territorial, and/or local office if it does not otherwise conflict with duties, laws, EOs, or DOD issuances and regulations. No inquiries will be made concerning the political affiliation of an employee or applicant for employment, and any disclosures of political affiliation will not be considered in the employment process of the employee or applicant for employment.

(3) Members of the Armed Forces, including ODM employed by NAFIs, are covered by different rules regarding participation in political activities, published in DODD 1344.10 and AR 600-20.

(4) Employees should contact their servicing CPAC NAF HRD if they have questions about engaging in political activities.

l. Garrison commanders or equivalent may authorize payment of permanent change of station (PCS) costs for regular employees. Information as to whether or not these costs will be paid, or the amounts that will be paid, will be made part of the offer of employment and must be made known to all applicants. Necessary TDY travel costs will be paid for the conduct of official business. The amounts paid may not exceed the covered expenses, rates, and allowances prescribed in the JTR. The payment of PCS costs will be comparable with that provided to APF employees. The use of APFs for NAF employees is outlined in AR 215-1 (table D-1).

m. In overseas areas, Family members of NAF employees are entitled to enrollment in schools of the Department of Defense Education Activity (DODEA) in accordance with 20 USC 25A and implementing instructions published by DODEA.

n. An employee receiving a separation incentive who accepts employment with the Government of the United States (including employment in a NAFI or with an agency through a personal services contract) within 5 years after the date of separation on which payment of the separation incentive is based, will be required to repay the entire amount of the

separation incentive (gross amount before taxes and deductions) to the DOD. Employment within the first year after receiving the incentive is prohibited.

a. Employment of minors.

(1) Garrison commanders and NAF employers must ensure compliance with 29 USC 212 and implementing regulations in 29 CFR 570. When both State and Federal child labor laws apply, the law setting the more stringent standard must be observed.

(2) In foreign areas minors may be employed in accordance with policies prescribed by the ASCC.

(3) Hours of duty restrictions prescribed in chapter 4 will be observed.

(4) In the United States, no person under 21 years of age may be employed to dispense, handle, or serve alcoholic beverages, unless permitted by the laws of the State in which the installation is located. In such cases, the State minimum age laws may be followed.

(5) Outside the United States, no person under 18 years of age may be employed to dispense, handle, or serve alcoholic beverages. A higher serving age will be based on international treaties and agreements and on the local situation, as determined by the installation commander.

(6) Before minor applicants are appointed to a NAF position, they must present a work permit, as required by local law.

(7) Minors will not be given work declared to be hazardous by the DOL.

(8) Minors appointed to a position after 5 June 2014 will not be assigned to an immediate supervisor who has not cleared the requisite records checks for supervisors of minors.

2-3. Appointment categories

a. Regular.

(1) A regular employee serves in a continuing position on a scheduled basis. Regular employees are further categorized as RFT if the regular workweek is 40 hours; or RPT if the workweek is from 20 to 39 hours. The minimum workweek for a RPT employee is 20 hours.

(2) To meet special work requirements that will last in excess of 1 year, but are known to be non-permanent and will cease to be needed upon completion of a project or a projected period of time, a position may be designated as regular limited tenure. This term is added only to a regular appointment as either RFT limited tenure, or RPT limited tenure. The expected expiration of the appointment will be included on the appointment action (see app C). Regular limited tenure employees have the same entitlement to leave and benefits as do all regular employees and do not serve a probationary period. Some activities are open to provide seasonal services at the same time each year.

(3) Activities may identify positions needed on an annual recurring basis as “season positions” and be categorized as either RFT seasonal or RPT seasonal. The following rules apply:

(a) A position may be identified as seasonal only when the nonduty, nonpay period can be determined at the time of appointment or initial placement of an employee in the position.

(b) Employees will be placed in a nonduty, nonpay status during periods when their services are not required.

(c) A seasonal appointment is not appropriate for positions that do not exceed at least 6 months.

(d) If the nonduty, nonpay status period is in excess of 6 months, a seasonal appointment may not be used; such requirements are met with a flexible appointment. Examples of seasonal positions include a school cafeteria worker or a greens keeper for a golf course where no work can be performed during the winter months.

b. Flexible. A flexible employee serves in a continuing position on a scheduled or an as-needed basis. There is no upper limit to the number of hours a flexible employee may work (subject to overtime obligations and work scheduling requirements). A time limitation of less than 1 year may be made to a flexible appointment by including a not to exceed date in item 25 of DA Form 3434. Flexible employees who are guaranteed a specific number of hours each week will have those hours indicated in item 25 of DA Form 3434. If the guaranteed hours will consistently exceed 19 hours per week for more than 90 days, the following statement must be included in item 25 of DA Form 3434: “Should the hours worked consistently exceed 19 hours in a week for more than 90 days, the employee may be noncompetitively placed into a RPT or RFT appointment, as appropriate, following a quarterly review and certification that all requirements mandated in AR 215-3, paragraphs 2-4e(1) through (5) are met.”

2-4. Filling positions

a. Positions will be filled by mandatory placement under the following conditions:

(1) Reemployment from the installation RPL (see chap 10).

(2) Reemployment of a former employee having statutory reemployment rights following military service.

(3) Appointment of the incumbent of a position or function transferred from APF, contract operation, or a private association, to NAF.

b. Positions may be filled by any of the following methods in accordance with the provisions in this regulation:

(1) Promotion from among DA NAF employees, including temporary promotions.

- (2) Repromoting an employee that was reduced in grade or payband level through no fault of his or her own. Repromotion may be on a noncompetitive basis.
- (3) Appointment from among applicants for a position in response to vacancy announcements.
- (4) Transfer is the movement of an employee without a break in service, from one Army NAFI position to another Army NAFI position. Employees who have completed their probationary period may be transferred noncompetitively at their request, as part of an approved career management program, a planned development program, or to effect an organizational realignment in personnel for purposes of maintaining operations, training, or effective management provided that both positions are comparable in grade, payband level, and appointment category and the employee is qualified for the position. A commander may noncompetitively direct the movement of an employee from a position under his or her direction or chain of command to another comparable position in another NAFI that is also under his or her direction or chain of command, provided the employee meets the qualification requirements of the position, and is provided a 14-day advance notice. When the movement is to a position in another geographic area, the employee must be under a mobility agreement. If not, the employee must consent to the move and be provided a minimum of 30 calendar days to report to the new duty location from the receipt date of the PCS orders. A reduction in pay rate for a payband employee would entail a BBA (see para 10-3). Transfer of functions require that RFT and RPT employees identified with the function being transferred be transferred with their function if the alternative is separation or demotion (see para 10-5).
- (5) Reassignment of an employee within a NAFI to another position that is comparable in grade or payband level. Employees may be reassigned noncompetitively at their request or as part of an approved career management program, a planned developmental progression of the occupied position, or to effect organizational realignments in personnel for purposes of maintaining operations, training, or effective management. Noncompetitive, management-directed reassignments must be to positions within the same command that have the same rate of pay and within the same grade or payband level. The employee must be provided a 14-day advance notice of the reassignment and advised that the administrative grievance procedures do not apply (para 8-2s). A reduction in pay rate for a payband employee would entail a BBA (see para 10-3).
- (6) Reinstatement of a former Army NAF employee whose separation was not for cause provided the employee is reinstated to the same or equivalent position, or a position with a lower rate of pay, within a 3-year period from the date of separation. This action may be taken noncompetitively, except that if the position is at a higher grade or payband level the action will be competitive.
- (7) Details (no change in pay or employment category) to accommodate a temporary need.
- (a) Details to higher grade or payband level positions or to a set of duties will not exceed 60 days. A set of duties must be assigned a title, series, and grade or payband level within the 60-day period. These positions must be filled through competitive announcements within the 60-day period. Employees retained in a detail at a higher grade or payband level in excess of 60 days will be paid retroactively at the grade level of the position to which detailed effective the 61st day of the detail. Upon discovery of an improper detail the employee must be returned to the position occupied immediately prior to the detail, unless the employee was selected for the higher grade or payband level position under competitive procedures.
- (b) Details to positions at the same or lower grade or payband level will not exceed 1 year.
- (c) Details in excess of 30 days regardless of grade or payband level must be documented on DA Form 4017 or SF 52 together with a set of duties or a job description or position guide. The DA Form 4017 or SF 52 and attachments are filed in the permanent folder in the employee's eOPF.
- (8) An employee may be promoted to the highest grade or payband level previously held provided it was held for at least 12 consecutive months on a permanent basis with an Army NAF or DOD APF if the position converted over to NAF, and provided the employee was not demoted or separated from that position because of deficiencies in performance or "for cause" reasons. Action may be taken on a noncompetitive basis.
- (9) Reemployment of a former NAF employee who has had a break in service of more than 3 years is a competitive action.
- (10) An employee may request a change to a lower graded or payband level position provided that the new pay rate is not higher than the pay rate held prior to the move.
- c. For recurring positions, such as summer hires, after an initial competitive placement, an individual may be reinstated or reemployed noncompetitively in subsequent years.
- d. In emergencies where delay in filling a position would cause serious disruption to operations, action may be taken to fill a position noncompetitively for a period no longer than 30 days. Such an emergency hire flexible position must be fully justified and have the approval of the garrison commander or equivalent. By the end of the 30-day period, the appointment must be terminated. In unusual circumstances, the garrison commander or equivalent may approve an extension not to exceed 30 additional days. Employees appointed on an emergency basis may not be noncompetitively converted, reemployed, or reinstated.
- e. Noncompetitive procedures may be used to change a flexible employee to RPT or RFT, or to change a RPT employee to RFT. Such a change can only be made when the employee remains in the same position with no change in duties and at the same grade or payband level.

(1) Every 90 days, the CPAC NAF HRD will identify actual hours worked for employees using the quarterly review of hours worked report furnished by NFS.

(2) Flexible employees who consistently work in excess of 19 hours a week for 90 days may be placed noncompetitively into a RPT or RFT appointment category, as appropriate.

(3) RPT or flexible employees who consistently work 40 hours a week for 90 days may be placed noncompetitively into a RFT appointment category.

(4) CPAC NAF HRD must advise management of employees working outside their tour of duty. If an employee's appointment category is changed, the CPAC NAF HRD will give management and the employee a 2-week notice of the pending appointment category change.

(5) The effective date of a noncompetitive placement action from flexible to RPT or RFT or RPT to RFT will be the first day of the pay period following management's submission of an SF 52 to change the employee's appointment category.

f. Title 10 USC 1588 authorizes the Military Departments to accept volunteer and gratuitous services to provide services to members of the Armed Forces and their Families in programs that include all MWR programs; child development and youth services programs; NAFI/entities; and Family support programs. Volunteers providing services to MWR programs; child development and youth services programs NAFI/entities will be considered NAF employees during their service and may be compensated with NAF for injuries and claims for damages or losses occurring during the performance of approved volunteer services. Volunteers providing services to a non-MWR program such as Family support programs or medical programs will not be considered NAF employees during their service and may not be compensated with NAF for injuries and claims for damages.

g. Positions that have been identified as part of a Talent Management Program will not be recruited by the local CPAC NAF HRD.

2-5. Preliminary actions and recruitment

a. The following actions will be completed prior to initiating action to fill a position:

(1) Proper authorization is obtained on DA Form 4017 or SF 52 for the CPAC NAF HRD to recruit or fill a position. The DA Form 4017 or SF 52 must be retained in the recruiting or staffing case file and a copy must be filed in the temporary folder in the employee's eOPF.

(2) The position is described in writing and properly classified at the appropriate grade or payband level.

(3) Minimum qualification requirements will be established, in writing, in accordance with the provisions of paragraph 2-2*a*. Such requirements will not be written to restrict competition to one individual or group of individuals.

(4) An approved DA Form 5556 (Personnel Requirements Document) is required for all MWR positions that are or will become vacant (see AR 215-1). Verification of fund availability is required prior to fill action.

b. Vacancies will be open for a minimum of 3 workdays and to a minimum area of consideration installation-wide. The area of consideration may be expanded when the announcement fails to produce sufficient eligible candidates. Paid advertising in newspapers, professional journals, and other forms of communication such as radio, television, or the World Wide Web may be used when authorized in advance, in writing, by the NAFI manager with the vacancy. Advertising fees are borne by the NAFI requesting to expand the advertising sources. All vacancy announcements will be posted on USA Jobs and will contain the following:

(1) Title, series, grade or payband level, and salary.

(2) Area of consideration (for all NF-3 and below positions, and all FWS and child and youth (CY) positions must include spouse employment preference (SEP) and Involuntarily Separated Military Preference (ISMP), and foreign areas also must include Family members for all positions).

(3) Location of position.

(4) Work schedule, appointment category, and eligibility for benefit differential information, if applicable.

(5) Brief statement of duties (not the job description or position guide).

(6) Brief statement of required qualifications, including length, type, and level of experience.

(7) Closing date, and/or no closing date.

(8) Where to apply.

(9) How to apply, including a statement as to whether an applicant may apply using a resume and/or DA Form 3433 (Application for Nonappropriated Fund Employment), as applicable.

(10) Statement indicating the promotion potential and (insert) target grade or payband level, if applicable.

(11) Statement that PCS costs will or will not be paid for regular positions NF-3 and above (not to exceed allowance in the JTR).

(12) Statement that allowances, differentials, or incentives are authorized, if applicable.

(13) Required investigation or security clearance.

(14) Conditions of employment such as medical examination, licensures, drug testing, travel, mobility, or annual financial disclosures, as applicable.

(15) SEP statement, if applicable: "Refusal of a military spouse to participate in established recruitment procedures

for a RFT or RPT position (for example, interview, and so forth) is considered a declination of employment and is a basis for termination of SEP entitlement for the current PCS of the sponsor.”

(16) Statement: “Department of the Army Nonappropriated Fund Instrumentalities are Equal Employment Opportunity Employers.”

(17) Statement: “Department of the Army provides reasonable accommodation to applicants with disabilities. If you need a reasonable accommodation for any part of the application or hiring process, notify the servicing CPAC NAF HRD. Requests for reasonable accommodation are made on a case-by-case basis.”

(18) Statement that an appointment is subject to the completion of a favorable suitability determination.

c. When filling positions through a local job fair, the CPAC NAF HRD must announce the positions on USA Jobs.

d. Positions with high turnover rates or that are hard to fill may be filled through open continuous announcements.

e. CPAC NAF HRD and activities will publicize a copy of all vacancy announcements to be viewed by employees.

2-6. Recruitment authority

a. Garrison commanders with responsibility for a NAFI may delegate direct recruitment authority to any level of management deemed appropriate. This authority applies to positions at NF levels 1 to 3, CY levels 1 and 2, and all FWS positions.

b. Managers and supervisors who have been authorized direct recruitment authority must publicize vacancy announcements using USA Jobs and post on their bulletin boards or installation media. Prior to finalizing selections, managers in coordination with the servicing CPAC NAF HRD, will determine the availability and preferences of qualified SEP or involuntarily separated military for the vacant position. Upon compliance of all preference requirements, the manager will submit referral/certificate to the CPAC NAF HRD who will notify the selected candidate and perform necessary inprocessing prior to reporting for duty.

c. Regardless of the level to which recruitment authority has been delegated, all of the requirements pertaining to EEO will be met.

2-7. Processing applications

a. Application for NAF positions, NF-3 and above must be made using USA Jobs. In coordination with CPAC NAF HRD and management, applications for positions in grades NF-1, NF-2, CY, and FWS pay plans may be made using the USA Jobs Web site or submitting applications directly to the servicing CPAC NAF HRD. Except for CY or other child care services positions, an application is made by submitting a resume or completing DA Form 3433. Referrals may be made using resumes, but an applicant who applies for employment by submitting a resume must complete a DA Form 3433 prior to appointment to a NAF position. For CY and other child care services positions, a DA Form 3433 is required to make an application. Applications will be accepted at anytime in response to open continuous announcements. Selections can be made at anytime from the resulting applicant pool (see para 2-8). Hard copy resumes/DA Forms 3433 will be date stamped or marked on receipt. Applications for NAF positions received as a result of vacancy announcements will be retained by the CPAC NAF HRD or management official with delegated recruiting authority. Applications will be retained for a minimum of 5 years after the placement of the selected applicant into the position and may then be destroyed, unless a complaint or grievance is in process or pending regarding the appointment. In such cases, the applications will not be destroyed until 30 days after the final decision is issued.

b. Applications received other than in response to vacancy announcements may be retained on file or returned to the applicant, depending upon anticipated needs.

c. Applications may be accepted from military personnel prior to separation or retirement for consideration with other qualified applicants. If selected, the requirements of paragraph 2-21 must be met.

d. Activities must publicize information regarding the RPL and the employment preferences and priority consideration provided for in this regulation.

e. It is the responsibility of the applicant to clearly identify any employment preferences or priority consideration claimed when making any employment application. Claims to preferences or priority consideration must be verified by the CPAC NAF HRD prior to referral to the selecting official.

2-8. Referral

a. All applicants meeting minimum qualification requirements will be referred. Qualified applicants may also be referred by selection preference order. When the number of qualified applicants is too large candidates may be referred, either by chronological order of application receipt date or by rating based on evaluation of directly related job requirements, notwithstanding the order of selection preference and priority consideration

b. For all positions, a rating process may be used to determine candidates that are best qualified. When used, only those candidates meeting the highly qualifying criteria will be referred (see para 2-8c). The DA Form 4985 (NAF Referral and Selection List (Nonappropriated Fund Employment) or USA Staffing certificate will be issued to the selecting official.

c. Qualification requirements will be directly related to the duties to be performed, will not unduly limit competition and will not be designed so that advantage is given to a particular individual.

2-9. Selection preferences

a. In competitive recruitment actions, employment preferences as required by law and DOD policy will be accorded to fully qualified applicants in the following order:

(1) SEP eligibles (see para 2-10).

(2) ISMP eligibles (see para 2-11).

b. If there is more than one eligible in a given preference category, a selection may be made from within that category in any order.

c. If a rating process is used in developing a referral list and a SEP or ISMP eligible candidate is not among those determined to be best qualified, that individual will not be included on the referral list.

d. If a SEP or ISMP eligible is referred for a covered position, that individual will be selected in accordance with the order of selection priorities described above. Garrison commanders or equivalent may approve exceptions based only on compelling hardship to the mission or the preference eligibility. If a selecting official wishes to select an individual in a lower selection priority category than, one of these preferences, the selecting official must furnish the commander a written justification through the CPAC NAF HRD. Exceptions should be rare, and this authority cannot be further delegated. Prior to selection the commander must document the exception and the reason(s) for it, in writing.

e. Family members of active duty military members and U.S. citizen civilian employees stationed in foreign areas will be afforded priority consideration in accordance with DODI 1400.25-V1412 for all grades and payband levels through NF-3 and equivalent. This does not apply to Family members of locally hired civilian employees (para 2-2i).

2-10. Spouse employment preference

a. SEP provides preference in hiring for eligible military spouses applying and referred for certain NAF positions. The SEP does not apply to noncompetitive placement actions.

b. A military spouse is defined in DODI 1400.25- V315 as the wife or husband of an active duty member of the U.S. Armed Forces, including the U.S. Coast Guard, and the full-time National Guard or Reserves. For purposes of this preference, the marriage must have occurred prior to the Servicemembers' relocation via a PCS move to the military sponsor's new permanent duty station. The preference applies to jobs within the commuting area defined as the military sponsor's duty station and the surrounding localities where people reasonably can be expected to travel daily to and from work. The preference does not apply to a PCS move that is in conjunction with the retirement or separation of a military member, except when that retirement or separation is based upon 100 percent disability.

c. An eligible spouse (as verified by the sponsor's PCS orders) must request consideration at the time of application. Preference applies to all payband positions NF-3 and below, and all FWS and CY positions for which the SEP eligible applies and is qualified. Generally, the eligibility time period begins 30 days before the military sponsor's reporting date at the new duty location, if accompanied, and continues during the entire tour unless terminated sooner. Spouses who do not initially relocate with their sponsors are not eligible for preference until they are actually residing in the commuting area of the new duty station. In foreign areas, spouses do not receive preference until arrival at the overseas location. SEP eligibles may accept or decline an unlimited number of noncontinuing positions without loss of their military spouse preference. There is no limit to the number of times a military spouse may apply for and accept positions that are temporary, intermittent or flexible. Military spouses must be referred using this preference until such time as they accept or decline a continuing NAF or APF position (whether or not preference was applied), fail to maintain eligibility in accordance with the requirements, or are no longer interested in being referred. A continuing position is defined as one without a time limitation and having a guaranteed work schedule, such as part-time or full-time. Noncontinuing positions are positions filled by regular limited tenure appointment regardless of the work schedule and any NAF position for which the employment category is identified as flexible. Upon acceptance of a noncontinuing position, the spouse's eligibility for preference for other noncontinuing positions will be suspended until 60 days prior to the expiration of the appointment. Commanders in foreign areas may limit eligibility for the preference during the last 6 months of the sponsor's tour. Spouses of military sponsors who are within 6 months of their tour rotation date may be nonselected for permanent (continuing) positions without regard to preference.

2-11. Involuntarily separated military preference

a. Certain members of the Armed Services who were involuntarily separated from active duty with an honorable or general under honorable conditions discharge are entitled to preference in hiring for a period of 1 year after separation. ISMP also applies to certain voluntarily separated members of the Armed Forces. This preference also applies to their Family members.

b. Preference applies to all payband positions NF-3 and below, and all FWS and CY positions for which the ISMP eligible applies and is qualified. The preference must be claimed at the time of application. ISMP does not apply to noncompetitive placement actions.

c. An individual is entitled to this preference in hiring only one time. The preference is terminated upon placement in, or declination of, a NAF position for which application was made.

d. Eligibility for preference will be verified by applicable military and civilian identification cards bearing the over stamp transition assistance. Since the circumstances under which a military member or Family member may attain eligibility are quite broad, the CPAC NAF HRD should refer questions to the appropriate military personnel authority.

2-12. Priority consideration – Department of Defense nonappropriated fund business-based action eligibles

a. DOD NAF employees separated by BBA will be afforded priority consideration for Army NAFI positions in the same commuting area if:

- (1) The NAFI is filling the vacancy by other than detail or position change; and
- (2) The vacancy is at the same or lower grade or payband level as the position from which separated; and
- (3) The vacancy has substantially the same duties as the position from which separated.

b. To receive priority consideration after being separated by a BBA, eligible individuals (as noted in para 2-12a) should apply for vacant positions by submitting DA Form 3434 and a resume and/or application to the servicing CPAC NAF HRD.

c. Qualified candidates will be placed on a RPL and be eligible for priority consideration. RPL candidates will be referred to the selecting official on a separate certificate and considered prior to other candidates. Priority consideration does not require mandatory placement of the candidate. Priority placement only applies to positions in the same NAF activity where a candidate was separated by BBA (see para 10-12). The garrison commander or equivalent may approve requests to hire a nonpriority candidate over a priority consideration candidate based on written justification through CPAC NAF HRD.

d. Separated employees can remain on the RPL until reemployed, but no longer than 1 year from the date of their separation or until hired from the RPL or upon declination of an official offer of employment under priority consideration, whichever occurs first.

2-13. Order of priority consideration of other candidates

a. After application of the above selection preferences and priority consideration, applicants in competitive recruitment actions will be considered in the order listed below. This policy does not require issuance of separate certificates, nor does it establish any additional employment preferences or priority consideration rights. The certificate issued should indicate one of the statuses for each applicant on the list:

(1) Current or former NAF employees. This does not include current or former employees with only emergency hire flexible service. This does include those having other service with a DOD NAFI. Current DOD APF employees are deemed to have current NAF employee status for purposes of this order of consideration if, at the time of application, they are serving in a position without time limits and have served continuously for at least 1 year in a DOD APF position.

(2) Outside applicant veteran. “Veteran” must be defined the same as the term “preference eligible” in 5 USC 2108(3) and (4); however, this is not a mandatory selection preference and would apply only to outside applicants applying for positions announced competitively for all grade level jobs. Veterans must submit a copy of their DD Form 214 (Certificate of Release or Discharge from Active Duty (member 4 or service 2 copy)) at the time of application in order to receive outside applicant veteran consideration. This consideration will also apply to spouses, widow/widowers of veterans who were disabled or killed in action.

(3) Outside applicant non-veteran.

b. Garrison commander or equivalent approval is required where the selecting official wishes to select an outside applicant non-veteran over an outside applicant veteran. The selecting official must furnish the commander a written justification through the CPAC NAF HRD. The non-veteran may not be selected until the commander or designee has reviewed this justification and written approval has been furnished to the servicing CPAC NAF HRD.

2-14. Documentation of selection

a. A brief explanation by the selecting official as to why the particular candidate was selected will be annotated on the DA Form 4985 or USA Staffing certificate and made a part of the electronic staffing case file.

b. A brief explanation by the selecting official will be included in the staffing case file when a candidate eligible for an employment preference or priority consideration is not selected.

c. Garrison commander or equivalent approval is required prior to an offer of employment being made, as required under paragraphs 2-9d or 2-13a(2). Written approval will be maintained in the recruiting or staffing case file.

d. The staffing case file will be maintained in the USA Staffing automated tool or hard copy case file and contains all documents pertaining to the vacancy announcement and selection of a position.

2-15. Appointment

a. When a selection has been made, all employment offers (tentative and firm) will be made by the CPAC NAF

HRD, in writing or telephonically to the candidate, with the same specifics as identified on the vacancy announcement. A firm employment offer may only be made after completion of pre-employment requirements except as provided for in paragraph 2–15j.

b. All candidates who were referred but not selected will be notified of nonselection by the CPAC NAF HRD.

c. Personal services of all individuals where an employee-employer relationship exists will be obtained in accordance with the provisions of this regulation by appointment of the individuals to NAF positions. (See DOD 7000.14–R, Volume 13, Chapter 8 and IRS Publication 15–A for the common law factors used to determine employee-employer relationship.) The type of appointment will be entered on DA Form 3434. These entries give full force and effect to the appointment and govern the status and the length of time the employee may reasonably expect to serve in his or her appointment. If a flexible appointment has a regular schedule, item 25 of DA Form 3434 will reflect the minimum number of hours to be scheduled.

d. Commanders may approve on a case-by-case basis the use of temporary help service firms for the brief or intermittent use of private sector temporaries following the guidelines of Part 300 Subpart E Title 5 Code of Federal Regulations (5 CFR 300e). Commanders will ensure that records are maintained of each temporary help service request for review by the next higher command level (chain of command). Temporary help service firms may not be used to—

- (1) Circumvent the recruitment and hiring procedures for a NAF employee.
- (2) Displace a NAF employee.
- (3) Create an employer-employee relationship.

e. Verification of prior employment will be made by the CPAC NAF HRD Division using DA Form 3439 (Nonappropriated Fund Instrumentality Employment Inquiry) for NAF appointments prior to tentative offer, except for emergency flexible appointments. For ODM, approval of employment from the individual's commanding officer satisfies this requirement.

f. DA Form 3437 (Department of the Army Nonappropriated Funds, Certificate of Medical Examination) will be required, except for ODM, for appointment to positions that—

- (1) Involve operation of motor vehicles.
- (2) Involve direct physical contact with people, such as child care positions.
- (3) Involve work above ground level or around hazardous, power-driven machinery.
- (4) May entail strenuous exertion, hazardous duty, or otherwise have excessive physical demands that involve exceptional stress. Applicants, who have received a tentative offer for positions that have a specific sight or hearing requirement, but are otherwise light duty positions, may be given a sight or hearing examination without requiring a full medical examination.

g. If medical criteria is used to screen out an employee with disabilities as a result of the examination or inquiry, the exclusionary criteria must be job related and consistent with business necessity. Additionally, the supervisor must conduct an individualized assessment of the post-tentative offer applicant's medical condition and work history before determining that the applicant is not qualified because he or she poses a significant risk of harm to himself or herself or others. Medical examinations will be performed by duly licensed physicians or health care professionals. The cost of the medical examination will be borne by the employing NAFI. Employee medical records are confidential and are not to be filed in the eOPF.

h. Individuals appointed to a position covered by the Army Substance Abuse Program (AR 600–85) must complete and sign DA Form 5019 (Condition of Employment for Certain Civilian Positions Identified Critical Under the Department of the Army Drug-Free Federal Workplace Program) and must pass a urinalysis test at time of appointment and periodically thereafter. Incumbent may have to undergo periodic random drug testing in accordance with EO 12564.

i. A food handler's examination will only be given when specifically required by local medical authority.

j. The following pre-employment checks will be made in addition to the reference check required in paragraph 2–15e:

- (1) For all employees—
 - (a) Local Military Records Check.
 - (b) Local Civilian Law Enforcement Check (when obtainable).
- (2) For all fund managers, contracting personnel, activity managers, and all incumbents in positions that have significant responsibility for program management, procurement, or accountability for funds, property, or merchandise a U.S. Army Criminal Investigation Command records check.

Note. To facilitate filling vacancies, appointments may be made prior to completion of the checks required for these positions with the written approval of the official immediately above the selecting official. Such appointments will be clearly identified as being subject to favorable adjudication of background checks. An individual who does not meet the suitability requirements may not be employed without prior approval of the local commander or equivalent. As a guide in making suitability determinations, 5 CFR 731 may be used.

(3) For CYSS and other child care services positions, see paragraph 2–15m.

k. A National Agency Check with Inquires (NACI) will be initiated for employees to include a Federal Bureau

Investigation (FBI) fingerprint check using SF 85 (Questionnaire for Non-Sensitive Positions) for employees, unless there has been a favorable NACI completed previously, no earlier than 12 months prior to employment or a prior personnel security investigation, with no break in employment (or military service) greater than 24 months. Employees who are not required to have a common access card (CAC) for physical access to federally-controlled facilities, either onsite or remotely, and/or logical access to federally-controlled information systems that are CAC-controlled, are not subject to this requirement.

l. The Position Designation Tool will be used to determine the level of investigation required.

m. For positions in CYSS, and any other child care services positions the additional pre-employment screening, background checks and procedural requirements of DODI 1402.5 and AD 2014–23 (or, if that directive has been superseded, the superseding Army Regulation) apply. Appendix D provides a summary of the background check requirements for NAF employee positions under AD 2014–23 (or, if that directive has been superseded, the superseding Army Regulation). Provisionally hired employees must work under line of sight supervision (LOSS) until the results of the completed background checks are received and favorably adjudicated. Appointments will be made subject to favorable adjudication of background checks. Record re-verification is required every 5 years for all covered employees. If derogatory information is uncovered through a periodic re-verification, the employee must immediately be placed on under LOSS, pending adjudication through the PRB process in accordance with AD 2014–23 (or, if that directive has been superseded, the superseding Army Regulation).

n. Current and newly hired NAF employees who are non-U.S. citizens within the United States who have not resided in the U.S. for 3 of the last 5 years will be processed for a FBI fingerprint special agreement check. Those employees who have resided in the U.S. for at least 3 of the last 5 years must receive a NACI.

o. When an employee moves from one installation to another, telephonic verification of completed checks will be requested from the former CPAC NAF HRD. Upon receipt of the eOPF, completed checks will be verified. Completed checks for employees moving from APF to NAF under portability remain valid.

p. Individuals to be assigned to a position requiring access to classified information must obtain a security clearance in accordance with AR 380–67. Appointment will be identified as being subject to a suitability determination, which will be based on the information obtained as a result of the security investigation. Access to classified information is not permitted prior to this determination.

q. Individuals, who are employed in positions requiring access to information technology systems as defined by and in accordance with AR 25–2 and AR 380–67, may require the following background investigations:

(1) Employees in positions requiring access to classified systems will be required to have a single scope background investigation or access NACI, as applicable, utilizing the SF 86 (Questionnaire for National Security Positions).

(2) Non-U.S. citizens will complete the SF 86 for single scope background investigation and the SF 86 for access NACI. Appointment will be identified as being subject to a favorable adjudication background check determination, which will be based on the information obtained as a result of the security investigation. Access to classified information is not permitted prior to this determination.

r. Commanders will designate the information technology level of positions and ensure these designations are reflected on the position guides.

s. Individuals whose criminal history background checks result in nonselection for employment or service based on unfavorable determination should be informed of the right to an administrative appeal under 32 CFR 310.

t. NAF employees recruited within the United States for overseas assignment will be required to sign DA Form 3440 (Department of the Army Transportation Agreement Nonappropriated Fund Employee) at the time of employment. When a NAFI agrees to pay transportation costs upon appointment or transfer of an employee within the United States, a transportation agreement to complete a specified period of service will be signed by the employee and placed in the eOPF.

u. NAF employees recruited from a NAFI in the United States for assignment in foreign areas may be afforded, within the Army NAFI, return rights to a suitable position in the United States. The employee vacated position may be obligated with the garrison commander approval on a time limit basis pending the employee return.

v. Commanders determine position sensitivity in accordance with DOD 5200.2–R and AR 380–67. A sensitive position is any position so designated, that the occupant of which could bring about, by virtue of the nature of his or her duties, a materially adverse effect on the national security. Each civilian position within DOD will be categorized, with respect to security sensitivity, as nonsensitive, noncritical-sensitive, or critical-sensitive. A sensitive position will not be downgraded or reclassified as nonsensitive solely to aid in recruiting personnel.

w. Each FWS employee within any of the States of the United States or the District of Columbia must be a U.S. citizen or a bona fide resident of one of the United States or the District of Columbia. When the Secretary of Labor certifies that no U.S. citizen or bona fide resident of the United States or the District of Columbia is available to fill a particular position, noncitizens may be considered. Noncitizens must meet all requirements established by the Immigration and Naturalization Service (INS) to be eligible for employment in any NAF position.

x. The following requirements apply to appointments to seasonal positions:

(1) Specify nonduty, nonpay periods for the appointment year will be specified in item 25 of DA Form 3434 in

detail. If specific dates are unknown, the length of the nonduty periods and the approximate time of year will be stated (for example, 12 workweeks during the June to August summer vacation period).

(2) The nonduty, nonpay periods will not be less than 1 workweek.

(3) Compensation to an employee for services in a seasonal position will be computed on the same basis as for a RPT or RFT employee in a comparable position. Compensation for services will be issued in full for each pay period in a duty status.

(4) Employees will earn and be granted sick and AL in accordance with the provisions of chapter 5. A seasonal employee may request that a nonduty, nonpay period be reduced to permit him or her to use any amount of accrued AL.

(5) The criteria stated in chapter 3 will be used to determine whether part or all of the nonpay periods may be credited as part of the waiting period for within-grade increases.

(6) Prior to accepting appointment to seasonal positions, employees will be advised of all applicable conditions of the appointment.

(7) The nonduty, nonpay periods specified do not require advance notice and do not constitute furloughs or adverse actions, since they are conditions of employment voluntarily accepted by the appointee.

(8) During periods specified as nonduty, nonpay periods, if the need arises and the employee consents, the employee may be utilized on an as-needed basis. Regardless of the duties performed during such periods, the employee's rate of basic pay will not change. Such utilization does not alter the basic appointment terms; however, all hours of work will be credited for leave accrual purposes. A regular seasonal employee may not receive another appointment during nonduty, nonpay periods.

2-16. Appointment actions

The following actions will be taken in connection with all appointments:

a. All new hires will complete DA Form 3436 (Department of the Army Appointment Affidavit (Nonappropriated Funds)), agreeing not to strike against the U.S. Government. This procedure does not apply if appointment is accomplished without a break in service following other NAF employment with the Army. It also does not apply to non-U.S. citizens in foreign areas.

b. After verification of the prior NAF and APF service, if applicable, the employee's proper leave category will be determined (see chap 5). The rules concerning the accumulation and use of leave will be explained to the employee at this time.

c. DA Form 3434 will be completed using the standard NOA terms shown in table C-1.

d. The employee's eligibility for participation in the Group Health and Life Insurance Plan will be determined by the CPAC NAF HRD and, if eligible, will be reviewed in detail with the employee during inprocessing. DA Form 3473 (Application for USANAF Retirement Plan and/or Group Insurance Plan) will be completed by each eligible employee within 31 days of appointment or at the time of appointment indicating whether or not he or she desires enrollment under the plan.

e. Eligible employees will automatically be enrolled in the retirement plan (see chap 15), informed of the scope and details of the plan, and provided a copy of the U.S. Army Employee Retirement Plan booklet. An eligible employee will be informed of the 401(k) Savings Plan and will be afforded enrollment opportunity by completing DA Form 3473.

f. New hires must file IRS Form W-4 (Employee's Withholding Allowance Exemption Certificate), and appropriate State or municipal exemption certificate. It is the responsibility of the servicing CPAC NAF HRD to verify the accuracy of the name and social security number against the social security card. Individuals not currently on the rolls of any Army NAFL, whose wages are subject to social security or income tax withholding, must present their social security card to the CPAC NAF HRD before they can be appointed or begin working. A reasonable amount of time, but normally no more than 30 days, may be provided to the selectee of the position to obtain his or her card or the selecting official may withdraw the offer of employment. The name according to the social security card must be used on all official personnel documents. An employee who changes his or her name must obtain a social security card displaying the employee's new name or submit evidence that a new social security card has been requested prior to changing the employee's personnel records. If applicable, IRS Form W-5 (Earned Income Credit Advance Payment Certificate) will be completed.

g. An eOPF will be established and maintained by the servicing CPAC NAF HRD. Records of employees covered by PL 101-508 will be merged in accordance with the OPM Operating Manual, Guide to Personnel Record Keeping.

h. The employee will complete DA Form 5521. The properly completed form will be maintained as a permanent document in the personnel folder until superseded. The employee will be advised that a new or revised DA Form 5521 must be furnished any time there is a change in the information provided.

i. Appointment actions to CYSS or other child care services positions will contain the remark: "Unfavorably adjudicated background checks will be grounds for removal" in item 25, DA Form 3434.

j. USCIS Form I-9 (Employment Eligibility Verification) will be used as follows:

(1) All employees (both U.S. citizens and noncitizens) must complete Section 1 of the USCIS Form I-9 and be

subject to the Employment Eligibility Verification (E-Verify) process at the time of hire. It is the responsibility of the servicing CPAC NAF HRD to ensure that this is done timely and properly. The purpose of this form is to verify and record the individual's eligibility for employment in the United States. Any of the documents listed on the reverse side of the form are acceptable verification in accordance with the instruction in Section 2 of the USCIS Form I-9.

(2) The USCIS Form I-9 will be completed and retained in the eOPF. This document must be retained for 3 years after the date of hire or 1 year after the date the individual employment is terminated, whichever is later.

k. DOD Civilian employees who move between civil service and NAF systems within DOD without a break in service of more than 3 calendar days are covered by the provisions of the DOD Employee Benefit Portability Program.

l. DA Form 7427 (Nonappropriated Fund Inprocessing and Outprocessing Checklist) and DA Form 7428 will be completed and filed in the eOPF in accordance with chapter 16.

m. Completion of SF 181 (Ethnicity and Race Identification) is optional on the part of the employee. If the data is provided, it will be utilized in accordance with the Privacy Act Statement contained on the form.

2-17. Denial of employment

a. Employment may be denied to an applicant by the garrison commander or equivalent for an individual who has been convicted of—

(1) A felony (crime declared a felony by statute or one for which a penitentiary sentence can be adjudged).

(2) A misdemeanor involving moral turpitude (conduct contrary to accepted standards of conscience or moral law, involving vileness of principle, words, or action).

b. Rehabilitated offenders may be hired for jobs for which they are needed and qualified. Each selection of a rehabilitated offender will be judged on its own merits and final decision to hire such an individual rests with the garrison commander or equivalent.

c. Employment may be denied to any person who was discharged from U.S. Armed Forces under other than honorable conditions. Such decision will be made by the garrison commander or equivalent after full review of the specific circumstances involved in each case.

d. Employees who have been discharged for cause are not eligible for rehire unless prior authorization has been obtained from the garrison commander or equivalent of the employing installation.

e. Employment may be denied to, or terminated for, any person who has presented false or misleading information in completing a DA Form 3433 or other employment application.

f. Employment may be denied for any person who has been barred from a military installation.

2-18. Separations

a. Employees who want to resign should submit a written notice to the servicing CPAC NAF HRD through the supervisor. The resignation should indicate the reason and the effective date. Once tendered and accepted a resignation may only be withdrawn with the approval of the supervisor. The employee should provide the address to which correspondence will be sent. In the event that a resignation is made orally, and the employee will not or does not submit a written resignation, an appropriate annotation to this effect will be made on the electronic request for personnel action by the supervisor.

b. Employees working in flexible positions may be separated with an advance written notice of 7 calendar days. Such separations are not grievable and are taken without prejudice to reemployment. (For separation of flexible employees by BBA who have been on the rolls of the NAFI for 3 continuous years, see chap 10.)

c. Regular limited tenure (RFT limited tenure and RPT limited tenure) employees may be separated prior to the projected expiration date, with or without cause, with a minimum 14 calendar day written advance notice. No advance notice is required upon completion of the projected period. Separations of RFT limited tenure and RPT limited tenure employees are not grievable.

d. Employees who retire or separate from NAF employment in a foreign area and who have earned entitlement for return transportation to the United States must use the authorization within a reasonable period of time after separation. Under unusual circumstances which, in the opinion of the local commander warrant a longer period of delay, return transportation may be delayed up to a maximum of 2 years. Extended delays should only be approved if it is in the best interest of the employing activity or substantially to the benefit of the employee and is not more costly or otherwise adverse to the activity. Procedures established for implementation of this authority must include the requirement for specific written request by the employee and approval by the commander. If a written request is not made or if a request is disapproved, the employee must accept transportation within a designated period. If the employee refuses to accept transportation at the end of the designated period, he or she will be considered to have waived the right to return transportation to the United States. Requests for delayed travel to accept employment with the private sector or for the purpose of establishing a residence in the foreign area will not be approved.

e. Employees may be separated from the rolls upon a determination that they have abandoned their positions. An employee who fails to report for duty and is carried in an absent without leave (AWOL) status for 3 consecutive scheduled workdays may be determined to have abandoned his or her position regardless of any expressed intent to return to duty at a subsequent date. No advance notice is required prior to effecting the separation action. Such

separations are not grievable and are taken without prejudice to reemployment. The DA Form 3434 effecting the separation will be mailed to the employee's last known address. The effective date of the separation will be the day following the last day the employee was in a duty or approved leave status.

f. Separation of regular employees for cause will be effected in accordance with the procedures in chapter 7.

g. For separation during probation, see paragraph 2-20*j*.

h. When an employee becomes physically or mentally incapable of performing his or her assigned duties (as determined by appropriate medical authority), every effort will be made to retain the employee and reasonable accommodation may be required if the employee has a qualifying disability. Possible alternatives include reassignment at the same or a lower level, sick leave (SL), or LWOP. The employee will also be counseled regarding the Disability Retirement Program. In the event no alternatives are appropriate, the employee will be separated as disqualified. RFT and RPT employees will be given advance notice and the right to grieve the action. Separation for medical disqualification will be in accordance with the same notice and procedures provided for in paragraph 7-9.

i. ODM employees must be separated from employment pursuant to written request of the military member's commanding officer (see para 2-21*c*). Such separations are not grievable and are taken without prejudice to reemployment.

j. An employee may be separated as disqualified in accordance with the same notice and procedures provided for in paragraphs 7-9*a* through 7-9*k* when he or she—

(1) Is barred from the installation where assigned. A copy of the notice of debarment will be retained in the suitability file to support the action. The debarment procedure has its own process; therefore, the separation action is not grievable under chapter 8.

(2) Becomes ineligible for continued employment by operation of laws, treaties, or international agreements.

(3) Due to administrative or legal action loses possession and/or entitlement for 30 calendar days or more of licenses or certification necessary to perform the functions of the job.

(4) Refuses or repeatedly fails position-required medical examinations.

(5) Becomes ineligible for continued employment due to marriage or other circumstances which would result in a violation of paragraph 2-2*d*. Prior to effecting separation, every effort will be made to reassign one of the affected employees.

(6) Fails to complete training that is a condition of employment without acceptable justification.

(7) Has received unfavorably adjudicated background checks.

(8) Has completed 1 year in a LWOP status (DA Form 3434 effecting the separation will be mailed to the employee's last known address).

(9) Has been convicted of a felony or misdemeanor that occurred prior to entrance on duty and about which the employing official was not informed before the employee entered on duty.

k. An ODM must be separated upon retirement from active duty (absent a waiver as described in para 2-21*e*).

2-19. Probationary period

Each employee serving in a RFT or RPT position will serve a 1 year probationary period, except those in a limited tenure position (see para 2-3*a*(2)).

2-20. Probationary purpose

a. The purpose of the probationary period is to afford a final test of the employee's ability and fitness for the position as demonstrated by actual performance on-the-job. During this period, the employee's conduct and performance in the duties of the position will be observed and he or she may be separated from NAFI employment if the conditions warrant such action.

b. Employees separated from their positions before the completion of the probationary period, and later hired in a RFT or RPT position after a break in service of more than 30 days, are required to serve a new probationary period, beginning on the date of entrance on duty in the new position.

c. A probationary employee who is transferred, reassigned, promoted, or demoted in a DA NAFI during probation will not begin a new probationary period with the position change but is required to complete only the remainder of the probationary period.

d. The following NAFI service is credited toward the completion of a probationary period provided there has been no break in service of more than 30 days:

(1) Periods in a pay status in a regular appointment.

(2) Absences in a nonpay status up to a total of 15 workdays.

(3) Flexible service is creditable when the appointment has been converted to RFT or RPT in the same position with no break in service. The maximum credit that may be granted for flexible service is 6 months. Service in an emergency hire flexible position is not creditable.

e. Service in a DOD position paid from APF is counted toward completion of the probationary period only if the NAF appointment was without a break in service of more than 3 calendar days.

f. Individuals with prior service in a DA NAFI are required to serve a probationary period upon reemployment in a RFT or RPT position if the break in service exceeds 3 years, whether or not such prior service included a previous probationary period.

g. Individuals with prior service in DOD NAFIs not under the exclusive jurisdiction of the Secretary of the Army, including the Navy Personnel Command, Marine Corps, Navy Exchange Service Command, Air Force, or AAFES, who have already completed a probationary period in the same field of work need not complete an additional probationary period as long as there has not been a break in service of 1 year or more immediately before employment with Army.

h. Individuals who have completed a probationary period with a DOD NAFI other than Army, who are subsequently appointed to a DA Army NAFI as the result of a transfer of function or within 90 days of a BBA, need not serve another probationary period.

i. Upon initial appointment or selection to a supervisory or managerial position, an employee is required to serve a 1 year probationary period to demonstrate successful performance as a supervisor. This supervisory probationary period is in addition to any previously completed probationary period. Prior to the end of the probationary period, a determination will be made whether to retain that employee as a supervisor or to return the employee to a nonsupervisory position that is no lower in grade or payband and pay than the one held prior to appointment to the supervisory or managerial position. Such action is not considered a disciplinary action. Supervisors need to monitor the performance of their probationary supervisory and managerial employees; provide them training, coaching, and feedback; and take action to improve performance or remove them from their positions.

j. An employee may be separated during the probationary period if he or she fails to demonstrate that he or she possesses the skills or conduct for satisfactory performance in the position.

(1) The supervisor is responsible for determining whether the employee's performance or character traits are such as to warrant separation. Supervisors will discuss with the employee the specific reasons that lead to the conclusion that he or she is not suitable. A record of the discussion will be prepared by the supervisor and placed in the supervisor's employee file, and a copy will be given to the employee. A supervisor will allow a minimum of 30 days after the discussion to determine whether the employee sufficiently improves.

(2) If it becomes apparent, after a full and fair trial serving in the position, that the employee's performance, general character traits or capacity, are not such as to fit him or her for satisfactory service, the supervisor must initiate action to separate the employee. Separation action will be initiated in time to give the employee an advance written notice of 7 calendar days before the effective date of separation unless his or her retention in a duty status—

(a) Might result in damage to or loss of property or funds.

(b) Might be detrimental to the interest of the activity.

(c) Might be injurious to the employee, their fellow workers, or the general public. Advance written notice of 24 hours is sufficient in any of the above situations.

(3) When the decision to separate during probation is based upon misconduct, the employee may be separated with no advance notice.

(4) A remark will be placed in item 25 of DA Form 3434, to inform the employee that the separation cannot be reviewed through use of the grievance procedures in chapter 8.

(5) Separation under this paragraph must be effected prior to the expiration of the probationary period.

2–21. Employment requirements of military personnel

a. Enlisted personnel may be employed by a NAFI after duty hours in a RPT or flexible appointment. Total weekly hours may not exceed 34 hours combined in one or more NAFIs.

b. The services of commissioned and warrant officer personnel are authorized only under a personal services contract.

c. Prior to the employment of ODM personnel, the written approval of the military member's commander will be obtained. If at any time the commander determines that off-duty employment is detrimental to military duty or otherwise withdraws his or her consent to the off-duty employment, the employment will be terminated. Enlisted military personnel assigned to a NAF activity may be employed in that same activity in an off-duty status; however, they cannot be supervised by an individual who is subordinate to them in their duty assignment.

d. Subject to the provisions of 5 USC 3326 and DODI 1402.01, retired members of the Armed Forces may be considered eligible for employment by a NAFI. Military members on transition leave pending retirement may also be considered eligible for employment by a NAFI. Employment will be effected on an equitable basis and in strict compliance with the principles of merit and open competition. The practice and appearance of preferential treatment will be avoided. The following principles will be strictly observed before employing any retired member of the uniformed Services in any position for which compensation for services performed is paid from a NAFI:

(1) Full consideration will be given to all eligible and qualified employees of the recruiting activity.

(2) Recruitment for the position will be conducted in a way designed to ensure that reasonable efforts are made to obtain applicants from all possible sources and in a manner which will avoid any suspicion of attempts to unduly limit competition to a particular individual.

- (3) A vacancy must be well publicized. The provisions of paragraphs 2–4 and 2–5 apply.
- (4) Qualification requirements will not contain provisions which unduly limit competition or provisions designed to give advantage to a particular individual.
- (5) Before selecting and appointing retired members of the U.S. Armed Forces to a NAF position, it must be clearly established that they are better qualified than any in service candidate.
- (6) Positions will not be held open pending the retirement of a member of the Armed Forces of the United States in order to provide that person with a preferential opportunity to apply for or be appointed to the position. Active recruitment will be initiated no later than the time the position becomes vacant, unless suspension of recruitment may be fully justified for management reasons unrelated to the impending retirement of a member of the uniformed Services.
- (7) If the position was last occupied by the proposed appointee or by any other military incumbent, it must clearly be demonstrated that the proposed change to civilian incumbency is to meet a bona fide management need and not to afford civilian employment to the proposed appointee.
- e.* Employment in a civilian position, regardless of the grade of the position, of retired military members of the Armed Forces of the United States by a DA NAFI within 180 days immediately following retirement requires prior approval of the garrison commander or equivalent. Commanders of ACOMs, ASCCs, DRUs, Director, IMCOM G–9, and region level directors have approval authority for positions at their HQ. This authority may not be delegated below the commander level. No appointment of any kind may be made until approved by the commander. Under 5 USC 3326(b)(3), a retired member of the Armed Forces may be appointed to a NAFI position during the period of 180 days immediately after his retirement if a state of national emergency exists.
- f.* The servicing CPAC NAF HRD will assure that all requests for approval to employ retired military within the 180–day period conform to the requirements of paragraph 2–21*e*.
- g.* Records of requests for approval of the appointment of retired military prior to the end of the 180–day period after retirement or for the continuation of employment upon retirement will be maintained to support the action and to permit meaningful review or inspection by the proper authority.
- h.* Individuals who separate from military service under the Voluntary Separation Incentive (VSI) or Special Separation Benefit (SSB) Program after 30 September 1994, and are hired in a NAF position within 180 days of separation, must have the VSI or SSB separation payments recouped. CPAC NAF HRD will review the DD Form 214 of separated military to determine if VSI or SSB has been paid. If the DD Form 214 indicates payment of a VSI or SSB within 180 days prior to appointment, the appropriate Defense Finance and Accounting Service Center (DFAS) must be notified.

2–22. Equal Employment Opportunity Program policy

The employment practices of all NAFIs will conform to the Government’s policy of ensuring EEO to all personnel without regard to race, color, religion, sex, national origin, disability, age, or other basis as expressed in AR 690–12 and applicable EOs.

2–23. Staffing and complaint handling

- a.* EEO complaint processing. EEO complaints submitted by NAF employees will be processed in accordance with AR 690–600 and in the same manner as APF employee complaints. Command EEO officers will monitor and control NAF complaints consistent with those of APF employees. Cost of processing complaints will be paid by APF.
- b.* EEO manpower staffing. An assistant EEO officer is authorized if the size of the NAF workforce justifies such a requirement. If a commander’s EEO advisory council is established, the NAF workforce should be represented on the council if the NAF workforce warrant such representation.

2–24. Commander’s responsibilities

- a.* Commanders will take any necessary steps to ensure that all appointing officers, selecting officials, and supervisory personnel comply with the Federal Government’s policy of fair and equitable treatment of all personnel in all matters affecting employment without regard to race, color, religion, sex, national origin, disability, age, or other basis covered by AR 690–12.
- b.* The commander’s EEO policy statement will be distributed to all NAF employees.
- c.* The commander’s EEO plans, as required by AR 690–12, will be fully responsive to the employment situation of NAF employees and will be distributed to officials responsible for the management and operation of NAFIs.

2–25. Competitive promotions

- a.* Since vacancies will be advertised and all employees who apply under vacancy announcements will be considered for the vacancies, installations are not required to establish promotion plans. The advertising of vacancies as required in paragraph 2–5 ensures consideration of interested employees. Competitive procedures will be applied when filling a position with known promotion potential by reassignment or transfer. Competitive procedures will be used in filling positions by temporary promotions in excess of 180 days.

- b.* The qualifications of candidates will be evaluated by fair and equitable methods. Written tests will not be used, unless necessary to determine the possession of a skill required by the position.
- c.* The qualified candidates will be identified and referred to the selecting official.
- d.* An employee normally will be released by the losing NAFI within 15 days after selection is made for promotion but in all cases within a 30-day period after selection.
- e.* Adequate records will be maintained for a 5-year period after selection to permit full review of the promotion action. Such records ordinarily will include the vacancy announcement, names of candidates, their resumes, records of the evaluations made, and a copy of the certificate/referral from which selection was made.
- f.* The effective date for promotion actions will be the beginning of the first pay period after the action has been properly authenticated by the servicing CPAC NAF HRD.

2-26. Noncompetitive promotions

Publicity of vacancies is not required for noncompetitive promotion actions. The following are exceptions to the competitive promotion process:

- a.* Employees serving in trainee, understudy, developmental, or apprentice positions.
- b.* An employee being promoted to the position to which he or she was temporarily promoted or otherwise placed by use of the competitive procedures.
- c.* An employee in a position upgraded on the basis of new position classification standards or for correction of the classification of the position, without significant change in duties or responsibilities.
- d.* Repromotion of an employee who was not demoted for personal cause (see para 2-4b(2)).
- e.* Temporary promotion not to exceed 180 days.
- f.* Employees in positions meriting reclassification or redesignation to a higher grade or payband level due to the addition of duties and responsibilities that are the result of planned management action or gradual accrual of duties may be promoted noncompetitively when the following requirements are satisfied:
 - (1) There are no other employees supervised by the selecting official who are performing identical duties (at the same grade or payband level) to those performed by the employee prior to addition of the duties and responsibilities.
 - (2) The employee continues to perform the same basic function(s) as were in the former position and the duties of the former position are administratively absorbed into the new position.
 - (3) The addition of the duties and the responsibilities does not result in an adverse impact on another encumbered position.
 - (4) The employee meets all qualification requirements for the position.
- g.* All documents associated with the noncompetitive promotion as a result of applying paragraph 2-26f must be maintained as an attachment to the noncompetitive promotion DA Form 3434 in the employee's eOPF.

2-27. Information available to employees

The following information about a specific promotion action will, upon request, be provided to an employee or to an authorized employee representative:

- a.* Whether the employee was eligible and considered on the basis of the applicable minimum qualification requirements.
- b.* The person selected for promotion.
- c.* How the employee can improve to increase future promotion potential.

2-28. Complaints

Complaints about promotions may be processed through use of the grievance procedures and may be filed only by an employee impacted by the action by virtue of his or her own nonselection. Other than for reasons alleging discrimination, grievance procedures may not be utilized to challenge nonselection for promotion from a list of properly certified candidates. An outside applicant may not challenge their nonselection based upon the policy of priority consideration for current and former NAF employees and/or veterans.

Chapter 3 Classification and Pay

Section I General

3-1. Coverage

Except as otherwise provided for by statute, the provisions of this chapter apply to all NAF employees within the U.S.

and to all NAF employees who are U.S. citizens (and, when authorized by host country agreements, non-U.S. citizen spouses) in foreign areas.

3-2. Provisions

a. In no case will the pay rate of U.S. citizens and bona fide resident aliens employed in the U.S. or its territories or possessions be less than the current applicable Federal, State, or municipal minimum wage, whichever is higher. Unless prohibited by treaty, the pay rate of U.S. citizens employed in foreign areas will be no less than the Federal minimum wage, except that compensation for summer and student employees will be in accordance with the special pay schedules issued by DOD 7000.14-R, Volume 8.

b. No employee's aggregate compensation (basic pay plus any allowances, differentials, bonuses, awards, or other cash payments) will exceed the annual rate then payable for level 1 of the executive schedule as of the end of the calendar year. Aggregate pay will be in conformance with 5 CFR 530b.

c. OPM is responsible for administering the FLSA, which applies to NAF employees as prescribed in 5 CFR 551. A NAF employee alleging an FLSA violation has the right to file an administrative claim under the negotiated grievance procedure or directly with OPM when the employee is not a bargaining unit member or where no negotiated grievance procedures covering FLSA matters are in place. However, attempts to resolve complaints should be made at the installation level first. Certain employees in foreign areas are exempt under FLSA (see 5 CFR 551.212).

d. Levy for delinquent Federal taxes, alimony and child support, bankruptcy in accordance with applicable laws, and garnishments for commercial debts will not be accepted by the servicing CPAC NAF HRD. The officer serving the court order in person is to be informed that debt collection actions must be sent to the appropriate DFAS, and garnishment court orders received by mail will be returned to the sender with the correct mailing address for DFAS.

e. NAF employees covered by this regulation are considered employees for the purposes of the Internal Revenue Code, 26 USC 3121(d)(2) and 26 USC 3401(c); therefore, their pay is subject to withholding for Federal Insurance Contribution Act (FICA), Federal income and other taxes.

f. 5 USC 5514 provides authority for collection of debts owed the Federal Government, including DOD NAFIs, by offsetting the salary of NAF employees. Procedures for collecting debts of NAF employees are found at DOD 7000.14-R, Volume 8.

3-3. Basic requirements for pay

a. All requirements of appointment or assignment to a particular position, as prescribed in chapter 2, must be met before compensation may be paid to an employee. Additionally, each position must be reflected on DA Form 5556.

b. Officially authenticated time and attendance reports are required before any payment may be made for pay purposes. Supporting documents, as required by this regulation, must be verified prior to submission of electronic time and attendance reports when required by this regulation.

c. The duties of positions must be described, authenticated by the appropriate supervisor, recorded in writing, and evaluated for the appropriate title, series, grade or pay level by reference to applicable classification and job grading standards and guides. FWS positions will be graded in accordance with OPM Federal Wage System Job Grading Standards and DODI 1400.25, Volume 1407. Payband system employees are graded or assigned to the proper payband level consistent with paragraph 3-13. All CY assistants, leaders, and technicians will be assigned to a standard position description in accordance with paragraph 3-18.

d. The servicing CPAC NAF HRD will determine the FLSA status in accordance with 5 CFR 551b.

e. A standardized PD will be used. In situations where a standardized PD does not exist, the installation will establish the position using delegated authority and forward the PD to the CPAC NAF HRD for inclusion in FASCLASS by AG1-CP NAF for Armywide use. If guidance is needed to classify or establish a position under this section, a request must include the primary and major duties of the position to be evaluated, PD or a functional and organization chart for the organization in which the position is located, and an evaluation statement containing a justification of the title, series, and grade or pay level considered appropriate.

f. The pay setting authority for employees who are hired under summer and student employment programs while stationed in an foreign area is covered in DODI 1400.25- V1405, Encl 2 (paragraph 1d), which states that youth employed at DOD overseas installations where FLSA does not apply are paid in accordance with the rates issued by the DOD WSD. The WSD schedule applies to NAF equivalent white and blue collar positions, provided that the position is filled under a summer and/or student employment program using the pay plan indicator summer hire. CY positions are not covered under this authority.

Section II Federal Wage System

3-4. General

a. The FWS includes all crafts, trades, and labor positions that are paid on a locality rate basis. The pay of these positions is fixed and will be adjusted from time to time in line with the rates paid by private employers to full-time

employees in wholesale, retail, services, and recreational establishments in the locality of employment. Wage schedules are transmitted directly to installations by the DOD WSB, DCPAS. More detailed information may be found in the OPM Operating Manual, FWS NAF.

b. Identification. The following pay plan coding system is used to identify FWS employees:

- (1) NA-nonsupervisory positions in trades, crafts, and labor occupations.
- (2) NL-leader positions in trades, crafts, and labor occupations.
- (3) NS-supervisory positions in trades, crafts, and labor occupations.

c. The grade structure for prevailing rate positions is as follow:

- (1) NA-grades 1 through 15.
- (2) NL-grades 1 through 15.
- (3) NS-grades 1 through 19.

d. Basic rate of pay is the scheduled rate of pay plus shift or environmental differentials.

3-5. Federal Wage System within-grade increases

a. All FWS employees regardless of their employment category are entitled to within-grade increases provided they meet eligibility requirements.

b. An eligible employee, who has not reached the maximum rate of the grade to which assigned, will be advanced successively to the next higher rate at the beginning of the pay period following completion of the prescribed waiting period, provided he or she has not received an equivalent increase for any reason during the waiting period, and provided performance is satisfactory or better.

c. For determination of an equivalent increase, see OPM Operating Manual, FWS NAF.

3-6. Creditable service for within-grade increase

a. Creditable service in the computation of a waiting period is continuous civilian employment in any branch of the Federal Government (executive, legislative, or judicial) or in the Government of the District of Columbia, or in DOD or the Department of Transportation NAFI.

b. All service, as defined above, in a pay status is creditable, including periods of sick, annual, and/or paid leave, advanced SL, and advanced AL. For regular employees, a limited amount of LWOP is creditable, as indicated in table 3-1.

Table 3-1

Creditable leave without pay

Category of employee	Step rate	Maximum weeks in nonpay status
NA, NL, NS	2	1
	3	3
	4, 5	4

3-7. Duration of waiting periods

The days of calendar periods specified below must have been served at the rate of the grade immediately below that rate to which the employee is to be advanced at the end of the waiting period. The required number of days may not be earned by a flexible employee in a period of time less than the period prescribed as the waiting period for a RFT or RPT employee in the same step.

a. Table 3-2 applies to RFT, RPT, and flexible (scheduled) employees with guaranteed hours and specifies the waiting periods in terms of calendar weeks. Any week in which service is performed is counted as a full week. To distinguish flexible (scheduled) employees, the minimum guaranteed hours will be reflected in item 25 of DA Form 3434. Table 3-3 applies to flexible (as needed) employees and specifies the waiting period in terms of calendar days in a pay status. Only the days on which service is performed are counted. Any day on which service is performed is counted as a full day.

b. The servicing CPAC NAF HRD will document the number of days and/or weeks worked since the last equivalent increase for flexible employees who have been separated from employment by annotating in item 25 (remarks) section DA Form 3434 and filing the record of creditable service provided by NFS on the right hand side of the eOPF.

Table 3–2
Waiting period for within-grade increases (for regularly scheduled NA, NL, and NS employees)

Employee advances to step rate number...	At the end of a waiting period of creditable service in the previous step of...	Provided the number of workweeks in a non-pay status during the waiting period does not exceed... ¹
2	26 calendar weeks	1 workweek
3	78 calendar weeks	3 workweeks
4	104 calendar weeks	4 workweeks
5	104 calendar weeks	4 workweeks

Note.

1. LWOP in excess of these amounts must be made up with creditable service before the within-grade increase is effected.

Table 3–3
Waiting period for within-grade increases (for non-regularly scheduled employees)

Employee advances to step rate number...	When the employee has worked... ¹	Over a period of no fewer than...
2	130 workdays in pay status	26 calendar weeks
3	390 workdays in pay status	78 calendar weeks
4	520 workdays in pay status	104 calendar weeks
5	520 workdays in pay status	104 calendar weeks

Note.

1. Any day on which part-time service is performed constitutes a full work day of credit. (Only the days on which service is performed are counted for employees without a prearranged, regularly scheduled tour duty).

3–8. Determining Federal Wage System rates of pay

a. New appointments will be made at the minimum step rate for the appropriate grade, except as follows:

(1) Garrison commanders or equivalent are authorized to make appointments at the second step rate of the appropriate grade in recognition of special qualifications, skills, and experience of an exceptional or highly specialized nature. When such appointments are made, item 25 of DA Form 3434 will contain a reference to this paragraph.

(2) Authority to appoint above the first step for a hard to fill position may only be granted by DOD. Requests for appointments above minimum rates will be forwarded through command channels to the DCS, G–1 (DAPE–CPZ–NF). The request will contain sufficient detailed recruitment information on specific grades and occupations to support a finding that installations and activities in the wage area cannot recruit qualified employees at the minimum rate. Coordination with other military Services and exchanges on the same wage schedule must be accomplished prior to forwarding the request.

b. Upon reemployment and reinstatement, the entrance salary may be fixed at any rate for the appropriate grade that does not exceed the rate paid during the previous employment. However, if the highest previous rate falls between two rates of the grade, the employee may be paid at the higher rate.

c. Upon promotion—

(1) An employee is entitled to be paid at the lowest scheduled rate of the grade which exceeds the existing rate of pay by no less than the difference between the 4th and 5th step rate of the grade from which promoted.

(2) If there is no rate in the higher grade which meets the requirement of paragraph 3–8c(1), the employee will receive the greater of the maximum scheduled rate of the higher grade or the existing or retained rate of pay.

d. Upon change to a position with a lower representative rate that has been effected through no fault of the employee, nor at the employee’s request, the rate of pay will be fixed at the highest rate of the new grade which does not exceed the highest previous rate. However, if the highest previous rate falls between two rates of the grade, the rate of pay will be fixed at the higher rate.

e. In exceptional cases, the garrison commander or equivalent may request the establishment of special rates or rate range for specialized FWS occupations critical to the mission of a NAFI. The request will be forwarded through command channels to DCS, G–1 (DAPE–CPZ–NF). Requests may be made only when the following conditions are present and substantiated:

(1) Serious recruitment and retention problems exist.

(2) Rates on the authorized NAFI regular schedule are inadequate for the recruitment and retention of qualified employees.

(3) Authorization of increased minimum rates for the occupations as provided in paragraph 3–8a(2) did not solve the problem.

3–9. Federal Wage System premium pay

a. Overtime pay. All FWS employees are entitled to overtime for work in excess of 8 hours in a day or in excess of 40 hours in the administrative workweek, whichever provides the greater benefit to the employee. Paid leave is counted as hours worked. Employees may request compensatory time off in lieu of overtime pay on an hour for hour basis. When compensatory time off is not used within 26 pay periods, the employee will be paid for the hours worked at the overtime rate in effect at the time the work was performed. When employees separate or transfer from the NAFI any balance of compensatory time will be paid at the overtime rate in effect at the time the work was performed. FWS employees are eligible to accrue compensatory time off for travel that is not otherwise compensable under the same procedures provided for payband employees (see para 3–14a(3)). Compensatory time off for travel will not convert to overtime pay, and will not be paid out as a lump-sum payment.

b. Sunday pay.

(1) Sunday premium pay is 25 percent of basic pay.

(2) Regular, including those in a limited tenure appointment category, and regularly scheduled flexible employees are entitled to Sunday premium pay.

(3) An employee is entitled to the basic rate of pay plus Sunday premium pay for all hours of a regularly scheduled nonovertime tour of duty when any part of the scheduled tour is performed on Sunday. When there are two such tours on the same Sunday, the entitlement is to Sunday premium pay for all nonovertime hours of work on each tour not to exceed 8 hours per tour for a maximum of 16 hours.

c. Night shift differential.

(1) An FWS employee will be paid a night shift differential of 7.5 percent for the entire shift when a majority of the employee's regularly scheduled nonovertime hours of work falls between the hours of 1500 and 2400.

(2) An FWS employee will be paid a night shift differential of 10 percent of the scheduled rate if the majority of nonovertime work hours occur between 2300 and 0800.

(3) Night shift differential will be paid for all regularly scheduled (including regularly scheduled flexible employees) work.

(4) In determining a majority, the number of whole hours greater than one-half of the scheduled shift is counted. Night shift differentials are included in the rates of basic pay that are used for computing overtime pay, Sunday pay, retirement and group life insurance, and severance pay. An employee who is regularly paid night shift differential will continue to receive such differential during period of paid leave, when excused from night work on a holiday, and when in an official travel status during the hours of the regular shift.

(5) When employees who are assigned to a night shift are temporarily assigned to the day shift or a night shift with a lower differential, they are entitled to continue to receive the current night shift differential.

d. Holiday pay. All regularly scheduled (including regularly scheduled flexible employees) employees are entitled to holiday pay under the following conditions:

(1) An employee eligible for holiday pay who is precluded from working due to the observance of a holiday is entitled to the basic rate of pay for scheduled nonovertime hours.

(2) An eligible employee who is required to perform work on a holiday that falls within his or her regular schedule will be paid the basic rate plus premium pay at a rate equal to the basic rate of pay for scheduled nonovertime hours.

(3) Premium pay for holiday work is in addition to overtime pay, night shift differential, or premium pay for Sunday work and is not included in the rate of pay used to compute overtime pay, night shift differential, or Sunday premium pay.

(4) To be eligible for holiday pay, an employee must be in a pay status immediately before or immediately after the holiday.

(5) Flexible (as needed) employees have no entitlement to holiday pay.

(6) See chapter 4 for instructions on determining holidays.

3–10. Grade and pay retention

a. This is applicable to—

(1) Employees whose employment is not on limited tenure appointment who are demoted from one FWS position to another FWS position pursuant to 5 USC 5361 to 5366. It does not apply to demotions into or out of another pay system.

(2) Employees whose FWS positions are involuntarily converted from APF without a break in service greater than 3 days pursuant to the DOD Employee Benefit Portability Program.

b. Grade and pay retention is provided to FWS employees under certain circumstances when a covered employee's grade or pay would otherwise be reduced. Detailed requirements and procedures are outlined in OPM Operating Manual, FWS NAF. The following are the principal features of the law:

(1) A 2-year period of grade retention during which the employee receives the full amount of all wage increases and step increases that would normally have been granted during the period.

(2) Following the end of the grade retention period, the employee is entitled to the lower of the rate of basic pay payable immediately before the reduction in grade, or 150 percent of the maximum rate of the grade to which reduced. During this pay retention period, the employee is also entitled to 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade to which demoted. This period of pay retention continues until the employee has a break in service of 1 workday; is entitled to a rate of basic pay, or declines a reasonable offer of such a position with a rate of basic pay that is equal to or higher than the rate to which the employee is entitled by virtue of the pay retention provisions of 5 USC 5363 or, is demoted for personal cause or at the employee's request.

(3) Eligibility for paragraphs 3-10b(1) and 3-10b(2) is as follows:

(a) When the demotion is the result of a BBA the employee must have served for 52 consecutive weeks in one or more positions at a grade or grades higher than that of the new position.

(b) When the demotion is due to reclassification, the position must have been classified at the higher grade for a continuous period of at least 1 year immediately before the reduction. There is no specified period of incumbency in this situation.

(4) Grade retention ceases to apply when an employee is demoted for personal cause or at his or her own written request; is placed in or declines a reasonable offer of a position the grade of which is equal to or higher than the employee's retained grade; or has a break in service of 1 workday.

(5) Remedial actions must be taken to assure priority consideration for placement of covered employees in positions equal to their retained grade and pay.

Section III Payband Systems

3-11. Paybands

a. *General.* The payband system is designed to foster competitive wages, strengthen the link between pay and performance, and provide a streamlined and efficient classification and pay process. It replaces the traditional grade and step system with one that groups work of similar levels of skill and responsibility into broad bands. It assigns a pay range to each band and permits pay to be fixed within the range. Employees in the payband system are designated NF, followed by a numerical pay level from 1 to 6.

b. *Coverage.* All clerical, administrative and professional white collar positions worldwide except—

(1) Local national positions in foreign areas.

(2) CY positions included in the CYPPIP.

c. *Structure.* The structure of the payband system is shown in table 1 of DODI 1400.25-V1407. For each band or level the table shows the basic characteristics of work covered and examples of jobs covered. Additional guidance for classifying jobs to the correct payband level is contained in DODI 1400.25-V1407.

d. *Establishment of executive positions and appointment.* Establishment of executive positions and appointments to positions at level NF-6 require the approval of the Assistant G-1 for Civilian Personnel prior to any action to establish or fill the position. NF-6 level positions are equivalent to the Senior Executive Service (SES) positions.

3-12. Payband pay schedules

a. *General.*

(1) *Minimum or maximum for pay levels NF-1 and NF-2 and minimum for pay level NF-3 in nonforeign areas.* The prevailing rates are determined by the DOD WSD, and surveys of wages paid to employees in a representative number of retail, wholesale, service and recreation, finance and insurance establishments, in the immediate locality who are engaged in activities similar to those in the NAFI. The WSD issues separate pay schedules for each geographical area surveyed. The effective dates of schedules vary depending on the survey dates. To aid pay setting decisions, a pay report is attached to each schedule. It contains the average hourly rate of pay, the range of pay from high to low for certain surveyed jobs, and the amount of change from the previous schedule.

(2) *Minimum or maximum for pay levels NF-1 and NF-2 and minimum for pay level NF-3 in foreign areas.* These are fixed by the WSD starting at the Federal minimum for pay level NF-3 in foreign areas. These are fixed by the WSD starting at the Federal minimum wage and through the beginning of NF level 3. Since locality data is not available in foreign areas, a pay report is not developed for this schedule.

(3) *Maximum for pay level NF-3 and minimum or maximum for pay levels NF-4 through NF-6.* The minimum rates for NF-4 through NF-6 will be adjusted by a percentage equal to any "national" employment cost index percentage increase for general schedule employees, rounded down to the nearest \$500. The maximum rate for NF-6 will be adjusted to equate to the rate for level III of the executive schedule, in accordance with 5 USC 5373, except that in no case may an NF-6 employee receive a rate greater than the maximum schedule rate authorized by APF SES employees in the same locality. The maximum rates for NF-3 and NF-4 will be adjusted to equate to 40 and 63 percent, respectively, of the NF-5 maximum rate, rounded up to the nearest \$500.

b. Determining rates of pay.

(1) Pay may be fixed at any amount within the applicable pay level upon appointment, reemployment, reinstatement, and transfer.

(2) Pay may be fixed at any amount within the applicable pay level upon reassignment, which is defined as movement between positions in the same pay level.

(3) Upon promotion, which is defined as movement from one pay level to a higher pay level, the employee must receive a minimum 5 percent increase.

(4) Increases in pay are authorized to recognize work performance (see chaps 6 and 9).

(a) When the increase is for performance, management will submit the approved award by SF 52 or DA Form 5167 (Incentive Award Nomination and Approval-Nonappropriated Funds) indicating the new rate of pay, with justification. The servicing CPAC NAF HRD will prepare DA Form 3434 for each performance-based pay adjustment. Pay may not be adjusted above the maximum of the pay level.

(b) The purpose of the pay for performance system is to motivate employees to achieve the highest level of performance possible based upon the expectation of recognition and financial reward. This requires that a clear statement of the installation reward policies be made known to all employees. In establishing an installation policy, it is important that there be consistency for all activities. Each operating budget must include sufficient funds to support the installation policy on pay adjustments. A procedure should be established at the installation level to monitor demographic representations in rewards.

(c) Employees with less than a satisfactory performance rating are ineligible for a performance-based pay adjustment.

(5) Pay may be adjusted within the payband to achieve comparability when there is a variance from private or public sector wages in that locality for the particular occupation.

(6) Upon change to a lower level, which is movement to a position in a lower pay level, pay may be adjusted to any amount within the lower level.

(7) Upon involuntary movement of an APF employee to a NAF position without a break in service of more than 3 calendar days, under the DOD Employee Benefit Portability Program, pay must be set within the payband for the pay level to which assigned at a rate that is no less than market supplement, before the move. If this amount exceeds the maximum rate of the payband level to which moved, pay retention is required in accordance with DODI 1400.25-V1405. An employee's pay may be reduced by BBA, a change in duty station to an area with a lower locality rate of pay, performance-based action, disciplinary action, classification error, or an employee job reassignment request. When due to a classification error, pay may be reduced within 60 calendar days of the reclassification. Compliance with all procedures and notice periods associated with these actions is required.

c. Annual pay adjustment. Annual cross-the-board pay adjustments will be granted as follows, subject to the restrictions of DODI 1400.25-V1405:

(1) *Employees in payband levels NF-1 and NF-2.* The adjustments will be the average percentage increase identified for the applicable level according to the current updated pay schedule for the particular wage area. The effective date of the adjustment for NF-1 and NF-2 employees will be the effective date of the updated pay schedule for the particular wage area.

(2) *Employees in payband levels NF-3 through NF-5.* The adjustments will be the same percentage and subject to the same rounding as the general increase granted to GS employees. The effective pay adjustment date for employees in paybands NF-3 through NF-5 will be effective the beginning of the first full pay period on or after the effective date of the increase for APF GS employees.

(3) *Employees in payband level NF-6.* The adjustment will be the same percentage as that granted to corresponding SES employees. Adjustments for NF-6 employees will be effective the beginning of the first full pay period beginning on or after the effective date of increase to the SES pay schedule.

(4) *Basic pay.* The above employee's basic pay may not exceed the maximum rate for the employee's payband level.

3-13. Payband premium pay

a. Overtime.

(1) In geographic areas covered by the FLSA, a PD containing executive, administrative and/or professional duties, as described in 5 CFR 551b, will be annotated as "exempt." No duties or responsibilities will be added to a position in payband levels 1 or 2 which would cause that position to be evaluated as "exempt." The servicing CPAC NAF HRD will make the determination of position to be designated "exempt."

(2) Employees in geographic areas covered by the FLSA will be paid in accordance with the following rules:

(a) *Nonexempt employees.* Employees identified as nonexempt are entitled to overtime pay for work in excess of 40 hours in the administrative workweek. However, these employees may request compensatory time off in lieu of overtime pay. If overtime work is either "suffered or permitted" or authorized in advance and the employees elect overtime compensation in lieu of compensatory time off from duty, overtime compensation is paid at 1 1/2 times the employees' hourly rate. Only actual hours of work are counted toward the 40 hours in a workweek. Periods of leave or

holiday leave are not included. When compensatory time off is not used within 26 pay periods, the employee will be paid for the hours worked at the overtime rate in effect at the time the work was performed. When employees separate or transfer from the NAFI, any balance of compensatory time will be paid at the overtime rate in effect at the time the work was performed.

(b) *Exempt employees.* No employee identified as “exempt” may be paid overtime unless the overtime pay or compensatory time off is specifically authorized in advance by the employee’s supervisor. The doctrine of compensation of hours “suffered and permitted” to be worked does not apply to exempt employees. If local command policy authorizes overtime pay for exempt white collar employees, it will be paid at 1 1/2 times the basic pay rate for hours that exceeded 40 in a duty status in a workweek, provided the employees’ basic pay does not exceed the locality rate for GS–10, step 1. For employees with rates of basic pay greater than the basic pay for GS–10, step 1, the hourly rate paid is greater of the hourly rate of basic pay for GS–10, step 1, multiplied by 1.5 or the employees’ hourly rate of basic pay. If the employee is in a paid leave status or absent on compensatory time during the administrative workweek, the employee must be in a duty status an equal period of time before any remaining period may be paid for at the overtime rates on the basis of exceeding 40 hours in a workweek. If compensatory time is authorized and earned, it will be entered on the time and attendance report; if not used within 26 pay periods the employee will be paid for the hours worked at the overtime rate in effect at the time the work was performed. When the employee is separated or transferred any balances of compensatory time will be paid at the overtime rate in effect when the work was performed.

(3) NAF payband employees will accrue compensatory time off for travel that is not otherwise compensable and will apply the same rules and procedures as APF employees under the Federal Workforce Flexibility Act. Compensatory time off for travel does not apply to NF–6 level employees, will not convert to overtime pay, and will not be paid out as a lump-sum payment. Compensatory time off and compensatory time off for travel may be granted before AL approved except when AL would otherwise be forfeited.

(4) Employees in foreign areas outside the coverage of the FLSA may be paid overtime or given compensatory time for work directed to be performed in excess of 40 hours a week. If overtime pay or compensatory time is authorized it will be computed in accordance with the procedures described in paragraph 3–14a(2)(b).

(5) The basic rate is the rate of pay assigned to a position before any deductions and exclusive of additional pay of any kind.

b. *Sunday premium pay.* Sunday pay may be authorized by the garrison commander or equivalent when it is determined that such pay is necessary for recruitment and retention purposes. When authorized, Sunday premium pay will be paid at the rate of 25 percent of basic rate for all hours of nonovertime, when any part of the scheduled tour of duty is performed on Sunday. The maximum number of hours for which Sunday pay may be authorized is 8 hours per Sunday. Only regular (full-time, part-time, limited tenure, and seasonal) employees may be paid Sunday premium pay. When Sunday pay is authorized by the garrison commander or equivalent, the DA Form 3434 must be annotated with the following remark “Sunday pay is authorized in accordance with Garrison Commander Pay Policy”.

c. *Night differential.* Night differential may be authorized by the garrison commander or equivalent when it is determined that such pay is necessary for recruitment and retention purposes. When authorized, night differential will be paid at the rate of 10 percent of basic rate for hours of nonovertime work performed between 1800 and 0600 hours. Payment of night differential continues during periods of paid leave and official travel. Night differential may be authorized for all categories of employees. When night differential is authorized by the garrison commander or equivalent, the DA Form 3434 must be annotated with the following remark “Night Differential is authorized in accordance with Garrison Commander Pay Policy”.

d. *Holiday pay.* Holiday pay may be paid only to regular (full-time, part-time, limited tenure, and seasonal) employees under the following conditions:

(1) An employee eligible for holiday pay who is precluded from working due to observance of a holiday is entitled to the basic rate of pay for regularly scheduled nonovertime hours as if they had worked.

(2) An eligible employee who is required to perform work on a holiday that falls within their regular schedule will be paid the basic rate plus premium pay at a rate equal to the basic rate of pay for scheduled nonovertime hours.

(3) Premium pay for holiday work is in addition to overtime pay, night differential, or premium pay for Sunday work and is not included in the rate of pay used to compute overtime pay, night differential, or Sunday premium pay.

(4) To be eligible for holiday pay, an employee must be in pay status immediately before or immediately after the holiday.

(5) See chapter 4 for instructions on determining holidays.

(6) In the event that the occurrence of a holiday precludes a scheduled flexible employee from working and the guaranteed hours cannot be met, administrative leave will be authorized for the hours scheduled on the holiday.

**Section IV
Child and Youth Pay System**

3-14. General

a. The CYPPP was initially designed to meet the requirements of PL 101-189 and 10 USC 113. The CYPPP issued in February 1999 and the Caregiving Personnel Pay Program, issued in March 1990, provided information on resources, training, and evaluations of the program. Policies for the current program are in accordance with DODI 1400.25-V1405, Encl 3 (Appendix 3). The CY payband system is an integral part of the CYPPP total program and is intended to align NAF CY assistant, leader, and technician's pay rates with the rates of GS employees as a method of reducing turnover.

b. Positions are assigned to the occupational series 1702 and are designed to be interchangeable with similar positions at the GS-02 to GS-05 levels. Employees in these positions are identified by the code CY and are paid under a payband system. The payband system replaces the traditional grade and step system.

3-15. Child and youth structure

The CY payband system is composed of two pay levels or bands. Payband level I has a minimum rate that is equal to the rate of GS-02, step 1, and a maximum rate equal to GS-03, step 10. Payband II has a minimum rate equal to GS-04, step 1, and a maximum rate equal to GS-05, step 10 (all rates include applicable locality pay).

3-16. Child and youth schedule changes

When changes are made to the GS, all CY employees will have their rate of pay adjusted in the same amount as specified for a particular change in that geographic area.

3-17. Classification of child and youth positions

Standardized PDs have been established for all CY positions in the CY pay system. The use of these PDs is mandatory and no changes are authorized to be made. All positions are assigned to the occupational series 1702, Education Training and Technician Series. The basic position of CY program assistant has been engineered to permit entry at the base level with progression through the skill level to the target level. Movement through these levels (reassignment and/or promotion) is noncompetitive upon completion of required training and attainment of the competence and experience associated with each level. The positions in the CY system are reflected in table 3-4.

**Table 3-4
Nonappropriated fund Child and Youth Personnel Pay Program positions**

Positions	Levels
Program assistant (entry to 02)	CY-I
Program assistant (skill to 03)	CY-I
Program assistant (target to 04)	CY-II
Program leader (05)	CY-II
Program technician (05)	CY-II

3-18. Determining rates of child and youth pay

a. Pay will be determined in accordance with DODI 1400.25-V1405, Encl 3 (Appendix 3).

b. The rate of pay at the entry level (CY-02) will be set at a rate within payband level I competitive with other local wages that will provide qualified candidates. Factors, such as difficulty in filling positions and retention problems, must be considered in establishing pay rates.

c. Upon movement from an entry level position to a skill level position or, from a skill level position to a target level position, pay is increased by a minimum of 6 percent; however, management may provide an increase greater than 6 percent within the payband.

d. Upon reemployment, reinstatement, or transfer from one installation to another the rate of pay will be set at a rate no lower than the last rate held as a CY employee with no change to the CY level. When the CY employee's last rate held exceeds the maximum CY payband, the employee's basic rate of pay will be set to equal the appropriate CY payband's maximum.

(1) When a CY employee leaves a nonforeign area (Alaska, Guam, Hawaii, or Puerto Rico) and is subsequently employed in an area where a nonforeign area cost of living allowance (COLA) is not authorized, garrison commanders or equivalent, at their discretion, may uniformly set the CY employee's pay which reduces the dollar amount of the

NAF locality supplement. The NAF locality supplement is the rate of pay used to offset the reduction of nonforeign area COLA in areas authorized to receive the entitlement.

(2) The salary rate decision must be provided to the individual upon offer of employment, reinstatement, or transfer.

(3) The reduction will not affect the dollar amount of any previous or subsequent pay increase a CY employee may have received or will receive in the future.

(4) If the salary of the CY employee moving from the nonforeign area is competitive with CY employees with similar experience, training, and tenure in the new area, the rate of pay should not be reduced.

e. A position change from the target level to the next level of responsibility (program leader or technician) requires a minimum of 6 percent hourly rate increase.

3–19. Premium pay

Overtime, Sunday premium pay, night differential, and holiday pay will be paid in accordance with paragraph 3–14.

3–20. Mandatory assignment to target level

Care givers must complete training requirements in accordance with the CYPPP. Management will notify the servicing CPAC NAF HRD (DA Form 4017 or SF 52) when training and experience requirements have been met, and performance is judged to be at least satisfactory. The employee will be advanced to the next level noncompetitively. Management will notify the servicing CPAC NAF HRD when requirements have not been met and the employee will be processed for separation for disqualification (see para 2–18j).

Section V

Miscellaneous Pay Provisions

3–21. Compensatory overtime for religious observance

a. An employee may request to work compensatory overtime for the purpose of taking time off without charge to leave when personal religious belief requires that the employee abstain from working during certain periods of the workday or workweek.

b. An employee who elects to work compensatory overtime for this purpose will be granted, instead of overtime pay, an amount of time off from his or her scheduled work (hour for hour) equal to the compensatory overtime worked.

c. An employee's request to work compensatory overtime or to take compensatory time off to meet his or her religious obligations may be disapproved by the garrison commander or equivalent if such modifications in work schedules interfere with the efficient accomplishments of the assigned mission.

3–22. Hazard and environment differentials

Payment of such differentials for payband (NF) employees will be made in accordance with DOD requirements and those provisions for FWS employees in accordance with OPM Operating Manual, FWS NAF.

3–23. Severance pay

a. Eligible employees. Regular employees who have completed at least 12 months of continuous creditable service (see para 3–23e) with one or more DOD NAFIs are eligible for severance pay. The continuous service qualifying the employee for severance pay must have occurred within 12 months preceding the effective date of the BBA.

b. Conditions under which eligible employees receive severance pay. An eligible employee will receive severance pay when, as a result of a BBA—

(1) The employee is separated. An employee who resigns following receipt of a specific written notice of BBA separation or a general written notice that announces that all positions will be abolished provided that a general written notice—

(a) Is issued by a properly authorized official.

(b) Includes a particular date of no more than 1 year after the notice.

(2) The employee basic pay is reduced, and the employee resigns instead of accepting the reduction.

(3) The employee's employment category is involuntarily changed from RFT to RPT and the employee resigns instead of accepting the change.

(4) The employee's employment category is involuntarily changed from regular to flexible and the employee resigns instead of accepting the change.

(5) The employee is furloughed for more than 60 consecutive days and resigns instead of accepting the furlough.

c. Computation of severance pay. The amount of severance pay will be based on the number of hours the employee is regularly scheduled to work during the week, averaged over the 12 months immediately preceding the separation.

(1) One week of pay at the rate of basic pay the employee was receiving immediately before separation for each full year of creditable service through 10 years.

(2) Two weeks of pay at the rate of basic pay the employee was receiving immediately before separation for each full year of creditable service beyond 10 years.

(3) Twenty-five percent of the otherwise applicable amount for each full 3 months of creditable service beyond the final full year.

d. Maximum length of pay. In no case will severance pay exceed 52 weeks of basic pay.

e. Creditable service used in computing severance pay. Except as described below, the following is creditable service for purposes of computing severance pay.

(1) Service in a pay status as a regular employee in one or more DOD NAFIs.

(2) Service in a continuing APF position, if the employee moved from a DOD APF position to a DOD NAF position on or after 1 January 1987, without a break in service of more than 3 days.

(3) Military service that interrupted creditable service as prescribed in 38 USC Chapter 43.

f. Exclusions from creditable service. The following service may not be included in creditable service for purposes of severance pay computation:

(1) Service upon which a NAF or civil service annuity is based, if the annuity began before the date of the BBA.

(2) Periods of service for which NAF or APF severance pay was previously granted.

(3) Service used to determine an employee's APF severance entitlement under the provisions of 5 USC 5595(h). When an employee who is entitled to APF severance pay is separated by BBA, the CPAC NAF HRD will provide the employee's previous APF employing office with documentation of the BBA separation, the service credited in the computation of NAF severance pay and the amount of the severance payment.

g. Payment type. The amount of severance will be paid in a lump-sum payment.

h. Exclusions from severance pay. Severance pay will not be paid to the employee under the following conditions:

(1) Disqualification, separation during probationary period, separation from a limited tenure position, or a reason other than as a result of BBA.

(2) Has refused an offer of a DOD NAFI position that would not result in a rate of basic pay that is lower than the rate of basic pay received immediately before the BBA, or in a loss of employment category. Offers must be in the same commuting area, unless the employee is covered by an agreement in which mobility is a condition of employment.

(3) Is employed, without a break in service of more than 3 calendar days after separation, in another DOD NAF regular position or a DOD APF position, without a time limit on the length of the appointment.

(4) Is entitled to an immediate annuity that is not reduced because of the employee's age at the time of retirement. This exclusion covers an annuity from a NAF Retirement Plan, or from a civil service retirement plan in which the employee elected to remain following movement between employment systems under 5 USC 8347 (q) and 5 USC 8461(n).

(5) Is receiving payments from the DOL's Office of Workers' Compensation Programs or the NAF Workers' Compensation Third Party Administrator for a job related injury.

(6) Is separated due to VSIP.

(7) An authorized official rescinds the official notice of BBA separation or the official general written notice.

i. Previous exceptions. Overseas activities that previously have been granted exception authority by DA may continue to make severance payments in conformance with that exception.

3-24. Allowances and differentials

a. Foreign areas.

(1) U.S. citizen NAF employees may be authorized foreign area allowances and differentials as provided by the DSSR and authorized in DODI 1400.25-V1405. These allowances and differentials are payable to NAF employees in accordance with the policy of the ACOM commander.

(2) All eligible RFT employees who are U.S. citizens will be paid post allowance.

(3) For the purposes of identifying living quarters allowance groups as depicted in Section 135.2, DSSR, the following will apply:

(a) NF level 5 and 6-quarters group 2.

(b) NF level 4-quarters group 3.

(c) NF level 1 to 3-quarters group 4.

(d) CY level 1 to 2-quarters group 4. Employees in quarters group 4 will be advanced to quarters group 3 when the employee has 15 years of civilian service.

(4) Garrison commanders or equivalent will establish clear procedures for the timely submission of SF 1190 (Foreign Allowance Application, Grant and Report).

(5) The overseas CPAC NAF HRD will maintain current and historical overseas allowances and differential data, excluding post allowance, in a separate folder. This folder will not be the SF 66 (Official Personnel Folder), SF 66-C (Merged Records Personnel Folder (MRPF)), or SF 66-D (Employee Medical Folder).

(6) United States Europe will establish a suspense system to follow-up on events that affect overseas allowance payment (for example, age of dependent children, expiration of lease or rental contracts, early return of Family

members, and renewal agreement travel) and procedures for processing reconciliation for living quarters allowance purposes and for when one is warranted.

b. Nonforeign areas. Payband employees in pay levels NF-3 and above, including ODM in those pay levels, and all CY employees, are entitled to receive nonforeign area allowances and differentials in the same amounts and under the same eligibility criteria prescribed for APF employees in the same locality. A nonforeign area allowance or differential is not granted to employees in payband levels NF-1 and NF-2 since their rates already are based on the prevailing rate.

3-25. Dual pay

Title 5 USC 5533 precludes pay from more than one position for more than an aggregate of 40 hours of work in a calendar week. This prohibition is applicable to employees in APF and NAF positions or a combination thereof, including flexible appointments. Where an overpayment occurs in violation of this statute, the indebtedness is always to the U.S. Treasury and not to the NAFI and is subject to the waiver provisions of 5 USC 5584. This law is not applicable to ODM personnel in relation to their military duty.

3-26. Withholding taxes

a. Federal income tax must be withheld from the compensation of civilian and ODM employees in conformance with the Internal Revenue Code. Payrolls include appropriate breakdowns of allowances and differentials not subject to Federal income tax or FICA tax, and that are excluded from the base pay reported on IRS Form W-2 (Wage and Tax Statement).

b. Deductions for State, county, or municipal income tax will be made when applicable.

c. The FICA tax and wages, imposed by section 3101 of the Internal Revenue Code, will be deducted from the wages of employees. The excise tax on employers, will be paid on such wages, as follows:

(1) Within the U.S., Puerto Rico, and the Virgin Islands, on wages of all employees irrespective of their citizenship.

(2) Within other areas, on wages of civilian employees who are U.S. citizens and also on direct-hire foreign national employees who hold U.S. permanent resident alien (PRA) status. Such taxes should be withheld for those who elect to retain their PRA status. The IRS does not make a distinction where the PRA lives or is employed. Whether they live in the United States or a foreign country, PRAs are considered U.S. residents and are taxed on income as such. Many PRAs may not be aware of their obligation to pay income and FICA taxes. Such employees should be advised that they must file Federal tax returns. After they have been advised of the law, those who desire to revoke their PRA status must do so with USCIS Form I-407 (Record of Abandonment of Lawful Permanent Resident Status), available at American embassies.

d. The FICA tax is deducted from payments of SL since such payments are in fact a continuation of wages.

3-27. Other pay provisions

a. Pay for the date of entrance on duty will cover the time that is under the control of the employer after the employee has been selected for employment. The employee is not entitled to pay for any period exclusively devoted to applying for employment, pre-employment interviews, and other pre-selection processes.

b. Pay for date of separation will cover only the time the employee is in a duty status, which includes time spent in complying with activity clearance requirements.

c. Pay for death will be made for the entire day regardless of the hour of death, provided the employee was in a pay status (work or leave) on the workday immediately preceding the date of death.

d. All adjustments to pay will be effective on the first day of a pay period, unless otherwise directed by HQDA.

e. When the effective date of two personnel actions are the same, the actions will be processed in the order giving the employee the greater benefit.

f. Waiver of overpayment may be authorized when administrative error has resulted in overpayment and there are no indications of fraud, misrepresentation, or lack of good faith on the part of the employee. Such waivers may be approved by the garrison commander or equivalent or a designated representative.

g. Upon death of an employee, payment of the unpaid compensation will be made to the beneficiary designated by the employee on DA Form 5521. DA Form 3434 will be forwarded to the servicing payroll office indicating in item 25 the name, social security number, and address of the beneficiary, with a copy of the DA Form 5521. No payments will be made until the information is provided to the servicing payroll office by the servicing CPAC NAF HRD. Supervisors are required on an annual basis to inform their employees of the importance of updating their beneficiary information. Changes are to be made by the employee through the servicing CPAC NAF HRD.

h. NAF employees relocated to posts in foreign areas may be authorized a lump-sum advance of pay. Such advance will be made in conformance with the procedures in DOD 7000.14-R, Volume 8, Chapter 3, used for payment of APF employees, with the exception that payment may be made only after arrival at duty station in the foreign area. If financial constraints limit the amount of advance pay that can be made, this fact must be made known by the employing CPAC NAF HRD to the applicant at the time of selection.

i. Movements between pay systems. The following applies when an employee is being moved between FWS, NF, and CY systems.

- (1) Pay will be set in accordance with the requirements of the gaining system.
- (2) The representative rate of pay for an NF or CY position is the employee's current rate of pay or, when an employee is moving to an NF or CY schedule, the initial rate of pay upon assignment.
- (3) The representative rate of pay for FWS positions is step two of the gaining position.
- (4) If the movement is to a position with a higher representative rate of pay, the NOA is promotion. Movement with no change in rate of pay is a reassignment. Movement to a position with a lower representative rate of pay is a change to lower grade/level.
- j.* Application of a new classification standard that results in a promotion will be effective the first full pay period following the reclassification.

3-28. Back pay computation

a. When an appropriate authority, such as a judge or garrison commander or equivalent, directs in writing the correction or cancelation of what that authority determines to be an unjustified or unwarranted personnel action, the pay, allowances, and differentials that the employee would have received if the personnel action had not occurred will be computed and paid by the servicing payroll office. NAFI and employee contributions to a retirement plan are not covered or included. Leave that would otherwise have accrued had the unjustified or unwarranted personnel action not occurred will be restored, or paid if circumstances do not allow for restoration.

- (1) In computing the amount of back pay the following will be excluded:
 - (a)* Any period during which the employee was not ready, willing, and able to perform the duties of the position because of an incapacitating illness or injury.
 - (b)* Any period during which the employee was unavailable for work for reasons other than those related to or caused by the unjustified or unwarranted personnel action.
- (2) In computing the amount of gross back pay award the payroll office—
 - (a)* Grants, upon instructions from the installation, any SL and AL available to the employee for the period of incapacitation if the employee requests such leave and can establish that the period of incapacitation was the result of illness or injury.
 - (b)* Deducts earnings by the employee from other employment during the period covered by the corrected or canceled personnel action. Such other employment will include only that employment engaged in by the employee to take the place of the employment from which the employee was separated or suspended by the unjustified or unwarranted personnel action. Pay earned from an additional or moonlight job that the employee held prior to the unjustified or unwarranted personnel action will not be deducted.
 - b.* Any AL that is restored to an employee that is in excess of the normal maximum leave accumulation will be credited to a separate leave account. Gross lump-sum leave payment will be deducted from back pay.
 - c.* Gross severance pay will be deducted from back pay and the entitlement restored in the event the employee later is separated involuntarily by management.
 - d.* Retirement refunds will be deducted from back pay and returned to the retirement fund. Erroneous retirement annuity payments will also be deducted from back pay.
 - e.* Medical and life insurance premiums will be deducted, and any claims the employee accrued during the period may be submitted for consideration of payment according to the plan's benefits schedule.
 - f.* If deductions exceed the back pay due, the servicing payroll office will deduct 15 percent of pay each pay period until the debt is satisfied.

Section VI

Federal Wage System Position Classification Appeals System

3-29. General

- a.* All FWS employees have the right to file a position classification complaint and appeal concerning their own positions.
- b.* Complaints may be filed on the accuracy of a job description, the official title of a job, the series, grade, or pay category. After the garrison commander or equivalent has issued the decision on the complaint, which is the initial stage of the appeal system, the employee has the right to appeal the decision to higher authority, except for a decision on the accuracy of a job description.

3-30. Exclusions

The following matters may not be appealed:

- a.* Any matter that has been or is being appealed to OPM.
- b.* Any matter that has been or is being grieved through the procedures of chapter 8.
- c.* The accuracy of job descriptions.
- d.* Classification standards and officially approved wage and salary schedules issued to the OPM, DOD, or DA.

3-31. Notice of appeal rights

When a job classification decision will lead to a loss in grade or pay, the activity will notify the affected employee of the decision promptly and in writing. The notice will inform the employee of appeal rights within DA and OPM, as applicable. The notice will also inform the employee that, to receive the benefit of a retroactive adjustment should the decision be favorable, the complaint must be filed no later than 15 calendar days following the effective date of the action.

3-32. Representation

a. Employees have the right to be assisted by a representative, other than a member of their servicing CPAC NAF HRD or other individual with a conflict of interest, in preparing and presenting the classification complaint, which is the initial stage of the appeal system. Employees and their representatives will be afforded a reasonable amount of official time to prepare and present a complaint/appeal.

b. If a site audit is necessary to resolve a complaint, the employee may have a representative present at the site audit, subject to the following:

(1) A formal written complaint must have been filed.

(2) The specific details of the official job description that are inaccurate must be identified in writing. The employee must specifically request the presence of a representative.

c. The presence of an employee representative in no way abridges, reduces, or affects the authority and responsibility of management to prescribe the duties and responsibilities assigned to each position and to make the required evaluation determination.

3-33. Complaint procedures

a. An employee may initiate a classification complaint at any time, provided it relates to the official position currently occupied. The employee may be assisted by a representative in accordance with paragraph 8-5. An employee who suffers a loss in grade or salary because of a classification decision may file the written complaint only after receiving the final notice of adverse action and not later than 15 calendar days after the effective date of the action. A longer time may be permitted when it can be shown that circumstances beyond the employee's control precluded submission within the 15-day period.

b. An employee should present the complaint, orally or in writing, to the first-line supervisor. The supervisor will discuss the matter with the employee and will explain the basis upon which the job has been evaluated. The supervisor should request the assistance of the servicing CPAC NAF HRD in furnishing this explanation. If the employee is satisfied, no further action is required. If the employee is not satisfied with the explanation received, a complaint in writing must be addressed to the garrison commander or equivalent.

c. Upon receipt of a written complaint, a member of the CPAC NAF HRD staff will discuss the matter with the employee and supervisor. The employee will be given a full opportunity to explain the reasons for the complaint. The accuracy of the position description, pay category, title, series, and grade will be reconsidered with attention to the representations of the employee, position classification standards, and other regulatory requirements. Based upon the reconsideration, the commander promptly will issue a decision in writing. The decision will inform the employee of any appeal rights. The time to answer a complaint will normally not exceed 45 calendar days from the date of filing. Where practicable, a CPAC NAF HRD representative will explain the basis for the decision to the employee's supervisor and to the employee. If the decision on the complaint requires a change in the pay category, the content of the description, or the title, series or grade action to effect the decision will be taken immediately.

3-34. Appeal procedures

a. After receiving a written complaint decision, if the employee is not satisfied with that decision a classification appeal may be filed. The appeal must be filed within 15 calendar days after receipt of the decision on the complaint.

b. The appeal must be in writing and must contain the information shown in figure 3-1. The employee may request information and advice on pertinent regulations and procedures from the servicing CPAC NAF HRD and will be permitted to examine such position classification standards and records pertinent to the case.

c. The servicing CPAC NAF HRD will attach the following to the appeal:

(1) A copy of the current official job description, with a statement from the supervisor that it represents a complete and accurate description of the major duties and responsibilities.

(2) Functional and organizational information (for employee, charts and functional statements) necessary to present all facts and material to the adjudication of the appeal and, in the case of supervisory positions, the job descriptions of subordinate positions which support the assigned grade.

(3) A current evaluation statement, giving an analysis of the case and the reasons for the current evaluation, including citation of appropriate classification standards used in determining title, pay category, series, and grade of the job.

(4) A statement describing the steps taken by the activity to resolve the complaint before the appeal was filed.

d. The employee or his or her representative will be given the opportunity to review the material prepared and will

be permitted a reasonable amount of time to add to the appeal any additional comments desired. The appeal will then be forwarded to the appellate authority.

e. The appellate authority is the HQ IMCOM commander (see para 1-4e(1)(k)). That authority will issue the final decision for DA, through channels, to the employee. The decision will be based only on a review of the record. No personal presentation is authorized.

f. Every effort will be made to issue a decision within 60 calendar days from the date the appeal was filed.

g. The notice of decision on the appeal will inform the employee of the right of further appeal to OPM (see OPM Operating Manual, FWS NAF for additional information on appeals to OPM). A copy of the notice of decision will be forwarded to DCS, G-1 (DAPE-CPZ-NF).

SUBJECT: Position Classification Appeal (Appellant's name)

THRU: (Commander of installation where appellant is employed)

TO: (Major Commander or appellate authority)

1. Reference: AR 215-3, chapter 3.
2. I hereby appeal the classification of the position to which I am now officially assigned.
The following is furnished as required by reference:
 - a. Name of appellant:
 - b. Organizational location:
 - c. Current job number and classification
 - d. Written position classification complaint was filed on
 - e. Commander's reply was received by the undersigned on:
 - f. Job classification request:
3. Reasons supporting this request are as follows:
(Typed name and signature of appellant)

Figure 3-1. Format for Federal Wage System classification appeal

3-35. Appeals to the Office of Personnel Management

a. Employees may appeal to OPM only after they have received the final decision from DA. The appeal must be filed within 15 calendar days of the date of receipt of the DA decision.

b. When the appeal decision by OPM reverses a previous evaluation or appeal decision made by DA, the employing activity will immediately forward a copy of the OPM decision, with the job description and necessary evaluation information, directly to DCS, G-1 (DAPE-CPZ-NF). This HQ will decide whether to request OPM to reopen and reconsider the decision and will notify the employing activity of the determination reached. In any event, the employing activity will take the direct action by the date specified unless the decision is reversed or a time extension is granted by OPM.

3-36. Special procedures for demotions based on position classification

a. The provisions of this paragraph apply when it is necessary to effect a demotion due to an error in classifying the position or a change in applicable position classification criteria.

b. Every effort should be made to reassign the employee affected by the adverse position decision to another position that is equivalent in pay and grade to the position currently occupied.

c. If downgrading is to be effected, the following will be included in the notice:

- (1) State specifically and in detail why the position is to be downgraded.
- (2) Explain why the previous classification was erroneous, if such was the case.
- (3) Explain how the application of new or revised classification standards resulted in classifying the position to a lower grade, when such is the case.

- (4) State what efforts the employing NAFI has made to reassign the employee and why its efforts failed.
- (5) Inform the employee that a review may be made of the list of positions that were considered and the qualification requirements for these positions.
- (6) Application of a new classification standard that results in a demotion will be effective within 60 calendar days of the reclassification (see para 3–13b(7)).
 - d. The notice will inform the employee of the right to appeal the following:
 - (1) The classification of the position at a lower grade.
 - (2) The assignment to the position at the lower grade as opposed to reassignment to another position.
 - (3) Pay entitlements authorized by law and regulation.

Section VII

Tip-Offset Procedures

3–37. Applicability

- a. The policies and procedures stated in the following paragraph apply to employees in nonforeign areas who occupy the position of waiter.
- b. NAFIs may elect whether to participate in the tip-offset procedure or not. This decision is dependent upon the local employment situation. If it is decided to participate in the tip-offset plan and there is a labor organization that has exclusive recognition, implementation must be negotiated with the labor organization.

3–38. Tip-offset

- a. An employee engaged in a position of waiter who customarily and regularly receives more than \$30 a month in tips is deemed to be a “tipped employee.” Tipped employees will be paid from the regular NAF wage schedule applicable to employee’s duty station. The policy and procedures established for waiters by OPM pursuant to 5 CFR 532.283 are administratively extended to those employees provided that State or local laws allow such tip-offset.
- b. The tip-offset may only be authorized for waiters who customarily and regularly received more than \$30 a month in tips. Section 3(m) of FLSA authorizes tips to be used to constitute a portion of wages paid to a tipped employee. An employee’s scheduled rate of pay may be reduced (or offset) by such tips in determining the amount the employer must pay the employees. Currently the FLSA minimum required cash wage must be at least \$2.13 per hour and the Federal minimum wage is \$7.25 per hour. The difference between the required cash wage and the Federal minimum wage, \$5.12 is the maximum tip credit an employer can claim.
- c. For purpose of computing the tip-offset the employee must be afforded the benefit of applying whatever minimum rate (Federal, State, or municipal) will provide a greater overall monetary benefit to the employee. Certain States have laws that restrict the tip-offset or prohibit the offset entirely, in which cases those laws must be followed.
- d. The burden of proof is on the employer in proving the amount of tips received by the employee and the amount of tip-offset, if any, which the employer may claim. Therefore the amount of tip-offset may vary not only from one activity to another, but within the same activity at varying locations, occasions, and time of day. The actual amounts of tips received, and thus the amount of tip-offset, depends upon many variable factors. The critical point is that tip-offset must be analyzed on an actual time and/or location basis and cannot be generalized. The Wages and Hours Division of DOL and OPM exercise authority in this matter, and individual activities are subject to payment of double damages when the amount of tip-offset cannot be verified.
- e. The amount of the tip-offset must be documented on DA Form 3434 in item 16 in a manner that clearly delineates the scheduled rate of pay and the offset. This documentation must be revised each time the tip-offset is changed.
- f. The amount of tip-offset remains unchanged for periods of premium pay entitlement. Overtime is calculated on the actual full minimum wage and the employer cannot take a larger tip credit for an overtime hour than straight time hour. During periods of paid leave or holiday absence when the employee does not receive tips, no tip-offset can be taken.
- g. The employee must report to the employer the amount he or she actually received in tips including the amount withheld as tip-offset credit.
- h. In the case where an employee can show to the satisfaction of management that the actual amount of tips received was less than the tip-offset, the wages paid to the employee will be increased accordingly.
- i. If the employee is moved to a position in which tip-offset is not authorized, or if tip-offset is discontinued, DA Form 3434, item 25 should state, “Tip-offset no longer authorized.”

3–39. Tips

- a. IRS regulations establish procedures and requirements that must be understood and followed by both employee and employer in the administration of tips.
- b. The words “tip” and “gratuity” are synonymous and are defined as an amount of money that a patron voluntarily gives to an employee. This money may be in the form of cash or may be added to a credit card or other charge in favor

of the employee. A cash or charge tip must be disbursed to the employee(s) concerned and may not be retained by management. Voluntary tip-splitting arrangements or pooling of tips between the recipient of the tip and other supporting personnel is authorized.

c. Under IRS regulations, any individual who receives more than \$20 per month in tips must report the amount of such tips to his or her employer, since these tips are subject to payment of Federal income tax and the employee's share of FICA tax. (Tips applied as an offset of wages (see para 3–38) are subject to both employee and employer FICA tax.) The IRS requires that the employee report tips received on at least a monthly basis, but more frequently if management desires, in order to coincide with a pay system. IRS Form 4070 (Employee's Report of Tips to Employer) will be used for reporting purposes. A service charge is defined as a mandatory charge added to the patron's bill. The service charge is not a tip and is considered to be income to the NAFI. Service charges added to patron's bills are usually disbursed to employees; however, the disposition of this money is a management prerogative, subject, of course, to local labor management agreements. Any portion of the service charge that is disbursed to the employee constitutes wages and is subject to both employee and employer FICA taxes as well as Federal and State income tax withholding. Service charges paid to employees are not to be included in the report of tips since they are deemed to constitute wages.

d. For the tip allocation and reporting requirements see AR 215–1.

Section VIII

Special Compensation Authorities

3–40. General

Recruitment, relocation, and retention incentives are authorized for certain categories of employees as described below as tools to assist managers in building and maintaining a quality workforce. These incentives are designed to offset unique problems where there is competition for employees with specialized skills in highly compensated private sector labor markets. They are not a substitute for incentive awards, pay adjustment, or foreign and nonforeign area allowances. Payment of these incentives should be considered to resolve a specific recruiting or retention problem and not as a matter of routine. When a recruitment or relocation incentive is paid, a written service agreement must be completed by the employee covering a period of at least 6 months following the requirement published in 5 CFR 575.110 and 5 CFR 575.111. Service incentives are paid in biweekly installments. Recruitment, relocation, and retention incentives are not considered part of the basic pay of the employee for any purpose, including calculation of retirement annuity.

3–41. Recruitment incentive

a. A recruitment incentive is a one-time lump-sum payment of up to 25 percent of annual basic pay. The recruitment incentive may only be offered to individuals newly hired to fill RFT and RPT positions. Garrison commanders or equivalent may authorize a recruitment incentive to fill flexible positions in CYSS that are guaranteed a minimum of 10 hours per week to alleviate serious staffing shortages impacting the Army mission. The positions must be hard to fill and critical to the organization's mission. For the purpose of eligibility, a newly hired employee is defined as an individual being hired to a NAF position for the first time, or one who is being reinstated or reemployed after a break in service of at least 1 year. An employee whose APF position is converted to NAF is ineligible for a recruitment incentive.

b. The level of approval will be established at a level no lower than the garrison commander or equivalent. Approvals require a written certification by the selecting official that without a recruitment incentive the organization would have great difficulty filling the position with a highly qualified candidate. The amount of the authorized incentive will be specified in item 25 on the DA Form 3434 of the accession (for example, appointment) action.

3–42. Relocation incentive

a. A relocation incentive is a one-time lump-sum payment of up to 25 percent of annual basic pay.

b. A relocation incentive may be offered to a current NAF employee to accept a RFT position in a different geographic area requiring a PCS move. The relocation must be without a break in service. The incentive is intended for hard to fill positions that are critical to the organization's mission and also to encourage employees to relocate to remote or high-cost areas. The relocation incentive is additional to payments authorized for PCS movement.

c. The level of approval will be established at a level no lower than the garrison commander or equivalent. Approvals require written certification by the selecting official that without a relocation incentive the organization would have great difficulty in getting highly qualified candidates to relocate to the area. The amount of the authorized incentive will be specified in item 25 on the DA Form 3434 of the accession (for example, appointment) action.

3–43. Retention incentive

a. A retention incentive of up to 25 percent of basic pay may be authorized to RFT and RPT employees in positions without time limitation. Garrison commanders or equivalent may authorize a retention incentive to CYSS employees in flexible positions that are guaranteed a minimum 10 hours per week to alleviate serious staffing shortages impacting

the Army mission. Retention incentives may be paid in the same manner and at the same time as basic pay, although they are not considered part of basic pay. The retention may be paid out over no more than 26 pay periods following the effective date of its approval. It may also be paid in a single lump-sum payment after completion of the service period.

b. Each retention incentive will be based on the determination that the unusually high or unique qualification of the employee or a special need of the activity for the employee's services make it essential to retain the employee and that in the absence of such an allowance the employee would be likely to leave the installation workforce. An employee must be in good standing in order to receive a retention incentive.

c. The level of approval will be established at a level no lower than the garrison commander or equivalent. Approvals require a written justification by the requesting official, to include a written description of the extent to which the employee's departure would affect the mission of the activity. The CPAC NAF HRD will process DA Form 3434 with the NOA "Retention Allowance Not To Exceed." Item 25 of the DA Form 3434 will specify the amount and number of pay periods for which retention allowance pay has been authorized.

d. An annual review 45 days prior to the anniversary date will be made to recertify the need to continue payment of the retention incentive. The amount of the incentive may be reduced or terminated when it is determined that—

- (1) A lesser amount or no incentive at all, would be sufficient to retain the employee.
- (2) Labor market conditions have changed and recruitment of employees with needed qualifications would be possible.
- (3) The need for the service of the employee has lessened.
- (4) Budgetary considerations preclude payment.

e. When a determination is made to reduce or terminate the retention incentive, the employee will be given a 30-day advance notice. The CPAC NAF HRD will process DA Form 3434 with a NOA "Expiration Retention Allowance." This action is not grievable.

3-44. Student Loan Repayment Program

DOD NAF Personnel Policy has administratively adopted the Student Loan Repayment Program for NAF employees as established in 5 CFR 537. ACOM, ASCC, DRU, and major subordinate command commanders may establish procedures for implementing a student loan repayment program at their discretion to attract or retain highly qualified employees with provisions and limitations similar to those established for APF employees. If established, commanders may delegate the authority to approve student loan repayments to the lowest practicable level. Signed service agreements for NAF employees will be sent to NFS to begin payments to the loan holder. Where this program impacts bargaining unit employees' conditions of employment, activities should be reminded of their statutory and contractual labor obligations.

3-45. Mass Transportation Benefit Program

The Mass Transportation Benefit program as established by EO 13150, will apply to NAF employees where offered.

Chapter 4 Hours of Duty

Section I General

4-1. Authority

Managers of activities employing NAF personnel are authorized to establish and change the tours of duty of such employees in accordance with this regulation.

4-2. Establishment of workweeks

a. Garrison commanders (or equivalent) will establish the administrative workweek of 7 consecutive calendar days. (For all activities paid through the NAF centralized pay system, the administrative workweek is from 0001 Thursday through 2400 Wednesday.)

b. Activity heads will establish a basic workweek for each regularly scheduled employee. This will not be less than a 40-hour tour for each RFT employee and not more than 39 hours or less than 20 hours for each RPT employee, exclusive of meal times. Workdays will normally be limited to 8 hours and should never exceed 10 hours except for unusual circumstances beyond the control of management.

c. The basic workweek will ordinarily be scheduled over a period of 5 consecutive days; it will not include more than 6 days. The basic workweek will include the minimum number of hours the employee is expected to work each week.

d. Commanders are authorized to establish alternative work schedules (AWSs). AWSs established for NAF employees will be in accordance with OPM rules and regulations promulgated for the administration of AWS programs.

4-3. Establishment of tours of duty

a. When possible, tours of duty for all employees will be established for the same days of each week and for the same hours each day. To the extent possible, they will be established on consecutive days of the administrative workweek.

b. If a regular tour of duty will seriously handicap the performance of a function or would result in substantially increased costs, rotating or irregular tours may be established. When a rotating or irregular tour of duty is established, employees will be given equitable treatment in regard to assignments involving Saturday, Sunday, and night duty. The necessity for a rotating or irregular tour of duty should be explained to incumbents of, and applicants for, positions involving such tours.

c. Tours of duty for RFT and RPT employees will be scheduled and posted 2 weeks in advance and will cover a period of at least 1 administrative workweek. Activity managers may make exceptions to this requirement when unusual circumstances make advance scheduling impossible.

d. Tours of duty will not be changed or adjusted solely to avoid the obligation of granting leave or premium pay for a holiday.

e. If it is necessary to have an off-duty period between two portions of a daily tour of duty, the employee will be completely free during such an off-duty period.

f. Insofar as practicable, the daily tour of duty should be established in terms of full hours. When fractional hours are required, the daily tour will be expressed in full-hour and quarter-hour multiples.

g. When the daily tour of duty begins on 1 calendar day and extends into the next, the day that the tour begins will identify the tour for that day; for example, a tour of duty beginning 2000 Friday and ending 0430 Saturday is identified as the Friday tour of duty. This is applicable also to holiday pay determinations.

h. If a basic workweek of more than 20 hours is established for a RPT employee, the number of hours will be indicated in item 25 of DA Form 3434. If a specific number of hours are not indicated, the basic workweek will be presumed to be 20 hours.

i. When a seasonal tour of duty is established, item 25 of DA Form 3434 will indicate the periods in a nonduty status (see para 2-15y(1)).

j. For RPT and regularly scheduled flexible employees the basic workweek requirement may be satisfied on a pay period basis when lack of work prevents meeting the weekly minimum.

k. Regularly scheduled flexible employees must have a guaranteed number of hours per week included in item 25 of DA Form 3434.

4-4. Special considerations in establishing work schedules

The following requirements will be observed in establishing tours and location of duty:

a. Tours of duty for minors.

(1) Tours of duty for minors will be established in compliance with applicable Federal, State, and local laws, but in any case will be limited to no more than 8 hours each day and 48 hours each week. Employment of minors in foreign areas will be in accordance with policy established by the ASCC commander.

(2) Employment of students will not exceed 5 work-hours on school days or 8 work hours on nonschool days and days preceding nonschool days. A student may not be employed in excess of 28 work hours in any 1 workweek during school terms.

(3) If transportation facilities require unusually long periods (in excess of 1 hour) in traveling to and from work, the daily tour for students will be reduced accordingly.

b. Reduction in hours of work.

(1) RPT employees will be given a minimum advance notice of 7 calendar days.

(2) Regularly scheduled flexible employees will be given a minimum advance notice of 7 calendar days.

c. Requirements for designating employees for emergency duty. When it may become necessary to call employees back to duty in emergencies, garrison commanders or equivalent may designate emergency essential employees to be available for such a call back during off-duty time under the following conditions:

(1) If more than one employee possesses the required skills, designations will be made on an equal rotating basis.

(2) The requirement that they make themselves available for emergency duty ordinarily will not extend beyond providing emergency contact information.

(3) The designation of emergency essential employees to be available for call back is not a basis for additional compensation. Additional compensation will be paid if the employee is required to remain at the duty post, with time and activity under the control of the employer. If the employee is called back to duty, however, a minimum of 2 hours pay will be authorized.

d. Minimum tour of duty. No employee will be scheduled for, or called to, duty for a period of less than 2 hours.

e. Telecommute. Management may authorize an employee to telecommute when no additional costs would be incurred, and it is in the best interest of the activity. Requirements for telecommuting are as follows:

- (1) The telecommuting worksite is typically the employee's home or a telecenter.
- (2) Telecommuting will not adversely affect the performance of the employee or others in the work group.
- (3) Time and attendance records must be properly certified by the supervisor.
- (4) A safe and adequate telecommuting worksite is required. The employee must be free from interruptions, and the necessary level of security and protection must be provided for Government property. The employee must allow management to inspect the alternative workplace during normal working hours to ensure proper maintenance of Government-owned property and conformance with safety standards.
- (5) Duty time for telecommuting employees will be used to perform official duties only.
- (6) The supervisor may cancel the arrangement and instruct the employee to resume or begin working at the activity's office or site at any time.

f. Compressed work schedule. Management may authorize an employee to work on a compressed work schedule in accordance with command policy (see para 4-2). All NAF employees are eligible to participate in approved compressed work schedule programs without incurring an overtime entitlement until 80 hours are reached in a biweekly pay period (see paras 3-10a, 3-14a, and 3-20).

4-5. Daylight-savings time

a. Adopting daylight-savings time. Employees working shifts when the change to daylight-savings time occurs are considered on duty for the normal number of hours of that shift provided the hour lost is charged to AL (or SL, if appropriate). If no charge is made to leave, pay may be allowed only for the number of hours worked.

b. Return to standard time. When the change from daylight-savings time to standard time occurs, the employee working shifts during the change will be credited, and pay allowed, for the actual number of hours worked.

4-6. Rest periods

Short rest periods during the daily tour of duty will be permitted when, at the discretion of the activity manager, such periods are beneficial or necessary to the activity. The policy adopted by each manager will be established, in writing, and made known to all employees.

a. Criteria for establishing rest periods are as follows:

- (1) Protection of the employee's health by relief from hazardous work.
- (2) Relief of fatigue caused by continuous physical exertion or work performed in confined spaces which limits personal activities.
- (3) Increased efficiency or production would result.

b. Rest periods may be granted subject to the following conditions:

- (1) The rest period may not exceed 15 minutes during each 4 hours of continuous work.
- (2) The rest period will not be a continuation of the lunch period.

4-7. Meal periods

a. Meal periods during which the employee is entirely free of duty in connection with job requirements may not be considered duty time and the employee may not be compensated for the meal period. Meal periods will be indicated on the work schedule and will be no less than 30 minutes and no more than 1 hour. No employee will be required to work more than 6 hours in any workday without a meal period.

b. When the nature of the duties requires that an employee remain at the duty station, an on-the-job meal period may be established. The employee will be paid for an on-the-job meal period not in excess of 20 minutes.

4-8. Incidental duties

Time spent in the performance of assigned incidental duties directly connected with the performance of a given job is included in the daily schedule of working hours. This includes time spent in travel which is an inherent part of, and vital to, the work itself. However, travel from home or lodging to and from place of work is not considered work time. For example, time required by maintenance workers to secure working implements in the morning and, if necessary, change to protective clothing and to return the implements and change back to ordinary clothing at the end of the workday is included in the tour of duty. Similarly, time required to validate funds for which the employee is responsible, both prior to and subsequent to the work period, is considered to be part of the tour of duty. The time permitted for such duties should be established, in writing, by the activity head and made known to all affected employees.

Section II Holidays

4–9. Legal public holidays

- a.* First day of January.
- b.* Third Monday of January.
- c.* Third Monday of February.
- d.* Last Monday of May.
- e.* Fourth day of July.
- f.* First Monday of September.
- g.* Second Monday of October.
- h.* Eleventh day of November.
- i.* Fourth Thursday of November.
- j.* Twenty-fifth day of December.
- k.* Any other day designated as a holiday by Federal statute or EO.

4–10. Authority

Commanders have the authority to include a holiday within an employee's basic workweek and to require him or her to work on that day or on the day within the basic workweek which becomes his or her holiday. If an employee entitled to holiday pay is required to work on a legal holiday or on the day that becomes his or her holiday, he or she is entitled to premium pay. When an employee scheduled to work on a holiday requests and is granted time off for personal reasons, the time will be charged to AL or SL, as appropriate. Similarly, an unexcused absence will be charged as AWOL. No payment of holiday pay is made in either of these situations.

4–11. Determining holidays

a. For purposes of pay and leave, the day to be treated as the holiday for all RFT and also RPT employees with a basic workweek of 5 or 6 days will be determined as follows:

- (1) When a legal holiday falls on a workday in the employee's workweek, that workday is a holiday.
- (2) When a legal holiday falls on a day outside his or her basic workweek, the day to be treated as the holiday will be the day of the basic workweek that immediately precedes or immediately follows the observance of the legal holiday. This day will be determined by the head of the employing NAFI. To allow for continuity of operations, managers may designate alternative days as the holiday for individual employees when strict application of the "day preceding or day succeeding" rule would result in disruption to the NAFI.

b. A part-time employee with a basic workweek of less than 5 days has no entitlement to holiday leave or premium pay when a holiday falls outside the basic workweek.

c. When an employee who is eligible for holiday leave has a workday or tour of duty on a holiday (or the day that becomes his or her holiday) covering portions of 2 calendar days, holiday leave will be granted for the workday that commences on the holiday (or the day that becomes the employee's holiday). If required to work on that day, holiday pay will be paid. If the regularly scheduled hours include a workday which begins on the day before the holiday and extends into the holiday, the employee will be required to be on duty for that workday unless AL for that workday is approved.

d. Employees will be informed 2 weeks in advance of the date a holiday is to be observed.

Chapter 5 Leave

Section I Family Leave Policies

5–1. Family leave

This section provides policy on the availability of SL and other leave for purposes related to certain Family members and to serious health conditions of the employee. Additional provisions regarding the use of SL by employees for purposes directly related to their own illness are contained in this chapter.

5–2. Family Medical Leave Act

a. All regular employees and regularly scheduled flexible employees in a continuing position who have completed 12 months of service as defined in DODI 1400.25–V1406 are entitled to up to a total of 12 administrative workweeks

(in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek) of LWOP during any 12-month period for one or more of the following reasons:

- (1) Birth of a child and the care of that child (within 12 months of the birth).
- (2) Placement of a child with the employee for adoption or foster care (within 12 months of the placement).
- (3) Care of a spouse, child, or parent, if such spouse, child, or parent has a serious health condition (as defined by 5 CFR 630.1202).

(4) A serious health condition (as defined by 5 CFR 630.1202) that makes the employee unable to perform the essential functions of the position.

(5) Any qualifying exigency arising out of the fact that the spouse or a son, daughter, or parent of the employee is on covered active duty (or has been notified on an impending call or order to covered active duty) in the Armed Forces in support of a contingency operation. Covered active duty means duty of a member of an Active Component of the Armed Forces during deployment to a foreign country, and duty of a member of a Reserve Component of the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 USC 101(a)(13)(B). A qualifying exigency leave may be for any of the following reasons:

- (a) Short-notice deployment.
- (b) Military event and related activities.
- (c) Childcare and school activities.
- (d) Financial and legal arrangements.
- (e) Counseling.
- (f) Rest and recuperation.
- (g) Post-deployment activities.
- (h) Additional activities to address other events which arise out of the military member's covered active duty or call to covered active duty status provided the employer and employee agree that such leave must qualify as an exigency, and agree to both the timing and duration of such leave.

b. Under provisions of the Expanded Family Medical Leave Act, a NAF employee may take up to 26 administrative workweeks of Family Medical Leave Act (FMLA) leave in a single 12-month period to care for a covered Servicemember undergoing medical treatment, recuperation, and/or therapy for a serious injury or illness. The term covered Servicemember includes an individual who is or has been a member of the Armed Forces, including the National Guard or Reserves, during the 5 years preceding the medical treatment, recuperation, or therapy. The term serious injury or illness includes, in certain circumstances, conditions that existed before the beginning of the Servicemember's active duty that were aggravated by service in the line of duty on active duty in the Armed Forces. An eligible employee using FMLA leave under paragraph 5-2a and this paragraph is entitled to a combined total of FMLA leave up to 26 administrative workweeks during a single 12-month period.

c. Regular employees may elect to substitute accrued or accumulated AL or SL for any part of the 12-week and/or 26-week FMLA period. However, SL may only be substituted where the use of SL is otherwise permitted by law or this regulation.

d. All eligible employees will be entitled to return to duty upon completion of the FMLA period. Management may require fitness for duty certification if the leave was due to the serious health condition of the employee.

e. The employee will provide a 30-day written notice, when possible, prior to the start date of the FMLA leave. A request for leave based upon medical conditions or qualifying exigency must be supported by certification issued by the health care provider of the employee, spouse, child, or parent of the employee, as appropriate. Managers or supervisors may request certification on DOL Form WH-384 (Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act) (FMLA)).

f. Management may authorize additional administrative leave to eligible employees in accordance with other sections of this chapter.

g. Employees serving under a flexible appointment with a stated time limitation or not to exceed date of 1 year or less are covered under DOL FMLA regulations.

5-3. Sick leave for general Family care or bereavement purposes

a. Employees may use SL to care for a Family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth, or who receives medical, dental, or optical examination or treatment.

b. Use of SL is authorized to make arrangements necessitated by the death of a Family member or to attend the funeral of a Family member.

c. SL may be used for the purposes described in subparagraphs above during any leave year, in an amount not to exceed a total of 104 hours for full-time employees. A part-time employee may use up to the average number of hours in his or her scheduled tour of duty per week.

d. The definition of "Family member and immediate relative" includes:

- (1) Spouse and parents thereof.
- (2) Children, including adopted children, and spouses thereof.

- (3) Parents.
- (4) Brothers and sisters, and spouses thereof.
- (5) Grandparents and grandchildren.
- (6) Same sex domestic partner and opposite sex domestic partners.
- (7) Step parents.
- (8) Step children.
- (9) Foster children.
- (10) Guardianship.
- (11) Any individual related by blood or affinity whose close association with the employee is the equivalent of a Family relationship.

5-4. Expanded sick leave to care for a Family member with a serious health condition

a. The use of SL under paragraph 5-3 may be extended to a total of up to 12 weeks of SL each year to care for a Family member with a serious health condition. "Serious health condition" has the same meaning as found in OPM's regulations at 5 CFR 630.1202 for administering the FMLA.

b. Under these expanded rules, during any 12-month period a full-time regular employee may use up to a total of 480 hours of SL each year to care for a Family member with a serious health condition. A part-time employee may use up to 12 times the average number of hours in his or her weekly scheduled tour of duty.

c. If an employee previously used any portion of the SL for general Family care or bereavement purposes under paragraph 5-3, that amount must be subtracted from the 12-week entitlement (or proportional entitlement for part-time employees) to SL available under this paragraph.

d. Supporting evidence for the use of SL under these expanded rules will be in accordance with 5 CFR 630.405 and requires that an employee provide acceptable reason or medical certificate to support leave taken.

5-5. Organ donor leave

This regulation administratively adopts the provisions of the Organ Donor Leave Act.

a. An RFT employee may, in any calendar year, use—

- (1) Up to 56 hours of paid administrative leave under this section to serve as a bone-marrow donor; and
- (2) Up to 240 hours of paid administrative leave to serve as an organ donor.

b. A RPT or regularly scheduled flexible employee may use a prorated amount of administrative leave for these purposes, directly proportional to the number of hours in their administrative workweek.

c. A request for leave due to organ donation or bone-marrow donation must be supported by certification issued by the health care provider of the employee.

Section II

Annual Leave

5-6. Introduction

AL is a significant and important benefit for regular employees at all levels. Specific attention must be given to the long-standing employee-management mutual responsibility to plan and schedule the use of AL throughout the year. Managers at all levels must continually review internal practices and develop necessary procedures to assure the effective scheduling of AL by and for all regular employees.

5-7. Creditable service for annual leave accrual

a. *Civilian service.*

- (1) All prior service with a DOD NAFI as a regular employee is creditable for determining the AL accrual rate.
- (2) Service performed by ODM personnel in a RPT position is creditable after 1 May 1975.
- (3) Flexible service with an Army NAFI is creditable for a maximum of 6 months when the Army NAFI flexible appointment has been converted to a regular appointment with no break in service. Only continuous flexible service in the position, with no change to grade/level or duties from the position from which converted, will be credited. Credit is not given for service in an emergency hire flexible appointment.

(4) Prior service as an APF employee is creditable only if the employee has moved from a DOD APF position to a NAF position without a break in service of more than 3 days, on or after 1 January 1987.

b. *Credit for non-Federal or active duty uniformed service.*

(1) Prior to appointment and before the employee enters on duty, a RFT or RPT limited tenure employee may receive service credit for prior non-Federal service or active duty uniform service that otherwise would not be creditable for the purpose of determining their AL accrual rate. The garrison commander or their designee determines that the skills and experience the employee possesses were acquired through a non-Federal or active duty uniformed service position whose duties directly relate to the duties of the position which he or she is being appointed and are

necessary to achieve an important mission or performance goal. Determination cannot be made retroactively. This is a discretionary authority, and is not an employee entitlement.

(2) The amount of credit that may be granted to an employee is determined at the sole and exclusive discretion of the garrison commander or their designee.

(3) The amount of service credited to an employee may not exceed the actual amount of service during which they performed duties related to the position to which they are being appointed.

(4) Once an employee is permanently credited with a period of time of non-Federal service or active duty uniform service that period of service may not be considered for further credit if the employee has a break in service.

(5) An employee must submit written documentation acceptable to the agency of—

(a) The employee's qualifying non-Federal service; or

(b) Written documentation from the military Services of the employee's uniformed service.

c. Military service.

(1) All active uniformed service terminated by honorable discharge under honorable conditions, or by transfer to inactive reserves under honorable conditions, is creditable.

(2) For an employee who is a retired member of the Uniformed Services, credit is restricted to the actual service during wartime or in any campaign or expedition for which a campaign badge has been authorized. (Refer to OPM's Guide to Processing Personnel Actions, for table of campaigns and expeditions.) However, all active service of a retired member is creditable in certain circumstances if the retirement was—

(a) Based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict.

(b) Based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war.

(3) The provisions of paragraphs 5-7c(2)(a) and (b) became effective 16 February 1983. No recomputation of leave for employment periods prior to that effective date is authorized.

(4) It is the employee's responsibility to provide documentation to substantiate creditable service. No credit will be given until service has been verified.

d. Workers' compensation. If a regular employee eligible to accrue leave is receiving benefits under the Longshore and Harbor Workers' Compensation Act, credit is given for the period the employee is carried on the rolls of the employing NAFI in a LWOP status while receiving such benefits, up to a maximum of 1 year.

e. Reinstatement. When an employee is reinstated from one Army NAFI regular position to another Army NAFI regular position, the period between positions will be considered creditable service for leave accrual purposes, up to a maximum of 6 months.

f. Prior leave categories. Notwithstanding the provisions of paragraphs a and b, above, RFT and RPT employees that were placed in a leave accrual category as a result of more liberal provisions of the separate DOD components prior to 6 September 1974 will not be placed in a lower category.

g. Family Medical Leave Act. Periods of LWOP while under approved FMLA leave are credited.

5-8. Accrual of annual leave

a. Rates of accrual. AL will accrue for all hours in a pay status up to a maximum of 40 hours per week at the following rates:

(1) Regular employees with less than 3 years of creditable service—5 percent.

(2) Regular employees with 3 years but less than 15 years of creditable service—7½ percent. As an exception, for the final biweekly period of the leave year, it will accrue at the rate of 12½ percent of the total nonovertime hours.

(3) Regular employees with more than 15 years of creditable service—10 percent.

(4) NF-06 senior executive employees will accrue AL at a rate of 8 hours for each full biweekly period.

b. Time of crediting. Accrued leave is credited to the employee's individual leave record at the beginning of the pay period in which it is earned.

c. Changes in rates of accrual.

(1) Changes in the rates of accrual are effective at the beginning of the first pay period following the completion of the prescribed service.

(2) When a change from a 7½ percent to a 10 percent leave category occurs at the beginning of the last full biweekly pay period in the leave year, the employee's leave credit for that period will be computed at 12½ percent.

d. Minimum accrual. The minimum accrual that may be credited is a quarter of an hour per pay period. Accruals of less than 1 quarter hour will be rounded up to 1 quarter hour if greater than 0.124 hours.

e. Accrual during absences. AL continues to accrue to the employee's credit while in a pay status.

f. Restoration after grievance. When a regular employee is restored to a position as a result of a grievance, the servicing CPAC NAF HRD will reestablish the leave account (as either a credit or a charge) as it was at time of separation, plus any accrual that would have been earned had the employee not been separated.

5-9. Accumulation of annual leave

a. The AL accruing to an eligible employee's credit which is not used during the leave year may be accumulated from year to year. Use or forfeiture of accrued leave in excess of the maximum allowable accumulation is required.

b. Maximum accumulation is as follows:

(1) *The 30-day limitation.* A maximum accumulation of 30 days (240 hours) is prescribed for all eligible employees except as indicated in paragraph 5-9b(2).

(2) *The 45-day limitation.* A maximum accumulation of 45 days (360 hours) is prescribed for eligible employees serving in foreign areas under the same conditions prescribed for 5 USC employees.

(3) *The 90-day limitation.* A maximum accumulation of 90 days (720 hours) is prescribed for NF-06 senior executive employees.

c. Accumulation in excess of the limitations in paragraph 5-9b is authorized when any of the following conditions exist:

(1) Administrative error, including correction of an unwarranted or unjustified personnel action, when the error caused the loss of AL otherwise accruable.

(2) Sickness of the employee, provided that the period of absence due to sickness occurred at such a time late in the leave year, or was of such duration, that the AL could not be rescheduled for use before the end of the leave year.

(3) Employees in a leave transfer program during the extent of the medical emergency.

(4) Leave is recredited upon receipt of workers' compensation benefit payments in accordance with paragraph 5-23.

(5) Operation exigencies, providing leave was approved and scheduled in advance. Authority is granted to commanders to approve exigencies. This authority may be delegated to the next lower organizational level. The commander or authorized representative should be guided by the following in reaching the decision as to whether an exigency exists:

(*a*) The exigency is of such importance that the employee cannot be excused from duty.

(*b*) There is no reasonable alternative to the cancelation of the scheduled leave or the assignment of those employees who will forfeit AL because of the work requirement generated by the exigency.

d. AL restored or accumulated under paragraph 5-9c will be credited to a separate leave account and must be scheduled and used no later than the end of the leave year ending 2 years after—

(1) The date of the restoration of the AL forfeited because of administrative error or unwarranted or unjustified personnel action

(2) The date fixed by the commander, or designated representative, as the termination date of the exigency

(3) The date the employee is determined to be recovered and able to return to duty if leave was forfeited because of sickness. If the employee is separated before the specified time limit, lump-sum payment is authorized for the unused leave.

e. The special provisions outlined in paragraphs 5-9c and *d*, recognize and reemphasize management's responsibility for the planning and effective scheduling of AL for use throughout the leave year as discussed in paragraph 5-12. Before AL subject to forfeiture may be considered for restoration (other than for administrative error), it must have been scheduled and approved, in writing, before the start of the third pay period prior to the end of the leave year.

f. Employees assigned to an installation or activity designated for closure under BRAC has the right to accumulate AL without regard to existing "use or lose" limitations. Employees assigned to an installation designated for realignment also will accumulate leave without regard to existing "use or lose" limitations provided the realignment meets the definition of realignment in 10 USC 2687(g)(3) and the requirements of 10 USC 2687(a)(2).

(1) Employees assigned to a covered installation or activity is relieved from the requirement to schedule leave in advance to be eligible for the restoration of forfeited leave. Leave in excess of the maximum is treated as if it was restored and will be placed in a separate BRAC leave account; employees will not be required to use this restored leave before other available AL.

(2) All AL in the separate BRAC leave account will be paid in a lump-sum payment when an employee transfers or moves to a position at an installation or activity not affected by BRAC, or separates from employment. The BRAC leave will transfer if the employee moves or transfers to a position at another BRAC affected installation or activity. The standard leave restoration rules will apply to "use or lose" leave beginning the year the transfer occurs for employees who transfer with their function under BRAC.

5-10. Payment and transfer of annual leave

a. Except as provided below, a lump-sum payment for accumulated AL will be made to an eligible employee who is—

(1) Separated.

(2) Transferred to a NAFI at another installation.

(3) Converted from an RFT or RPT appointment to a flexible appointment.

b. AL accrued and unused during the current leave year will also be included in the lump-sum payment. Payment will include restored leave granted in accordance with paragraph 5-9c, if within the time limits prescribed. Employees

who separate are entitled to a lump-sum payment of all AL including restored, BRAC, accumulated or accrued, and unused during the current leave year.

c. When an employee transfers from one DOD NAFI to another, he or she may request that the leave credit be transferred in lieu of a lump-sum payment. If the gaining activity agrees, funds will be transferred by the losing activity to cover the value of the leave based upon the employee's rate of pay immediately prior to transfer. If the employee is transferring to a position at a lower rate of pay, the funds transferred will be at the lower rate of pay. Agreement between the gaining activity and the employee on a partial transfer or lump-sum payment is authorized.

d. An entry will be made in item 25 of the DA Form 3434 indicating that leave is to be transferred or paid followed by the parenthetical statement "(subject to verification of leave record)."

e. Lump-sum payment is not authorized when an employee moves to a DOD APF position without a break in service greater than 3 days. Leave credit will be transferred with no transfer of funds. DA Form 3434 will reflect the fact that leave is to be transferred.

f. When an employee moves from a DOD APF position to a NAF position without a break in service greater than 3 days and the NAF position is an appointment category without AL eligibility, no AL will transfer.

g. Verification of AL credit will be accomplished by SF 1150 (Record of Leave Data), which will be retained in the eOPF as supporting documentation.

5-11. Delayed receipt of record of leave data

If the employee transfers and his or her eOPF is delayed in reaching the new employing activity and leave must be taken, the new employing activity will determine the amount of leave to the employee's credit by contacting the releasing activity. If the leave balance cannot be obtained and the employee is required to take LWOP because of this situation, the period of LWOP will be adjusted to paid leave upon receipt of the transferred leave balance. When the leave balance is not sufficient to cover the entire period of LWOP, the portion that it covers will be adjusted.

5-12. Use of annual leave

a. General.

(1) Each employee has a right to the use of AL to his or her credit; however, activity heads have the responsibility for determining when the leave will be used. The decision as to when and to what extent AL may be granted, as well as the responsibility for ensuring that AL can be taken, rests with the activity head or designated representatives. An employee will not be denied the use of AL when he or she may otherwise be required to forfeit accruals because of the maximum accumulation provision. Denial of the use of AL will be based upon factors which are reasonable, equitable, and which do not discriminate against any employee or group of employees. RPT employees, if they so elect, may be authorized to use AL in excess of the regularly scheduled basic workweek up to a maximum of 40 hours per week.

(2) Authority to grant AL immediately prior to separating from service, when separation is known in advance, is limited to cases where the exigencies of the employer require such action, or where the employee substantially worked the entire final pay period and worked part of the last day of that period. This restriction largely eliminates the cost, during employment termination, of employees continuing to accrue leave while using leave, and therefore receiving a payoff greater than lump-sum payment of the unused leave balance.

b. *Advance of leave.* Managers or supervisors may grant AL to an employee in advance of its actual earning in an amount not to exceed the amount that would accrue to the employee during a leave year. If the employee is separated prior to liquidation of advanced AL balance, recoupment will be made from wages due the employee.

c. *Management responsibility.* Managers and activity heads will establish and publish a local policy which will ensure that work schedules provide employees who have AL to their credit an opportunity to use their leave for vacations or personal business. Authority for approving leave should be delegated to the lowest practicable supervisory level within the activity.

d. *Employee responsibility.* Employees have the responsibility for cooperating with management in the use of AL when their services can best be spared.

e. *Request for an approval of annual leave.* Although the use of AL is a right granted to the employee, it is the prerogative of management to determine when leave is to be used. For this reason, the use of AL is subject to the prior approval of the appropriate supervisor. Retroactive approval may be given if the appropriate supervisor determines that the circumstances warrant. Failure to secure proper approval may result in the period being charged to absence without pay. When circumstances beyond the employee's control preclude prior approval of an absence to be charged to AL, the employee should notify the appropriate supervisor as soon as possible or within any reasonable time fixed by appropriate authority.

f. *Annual leave in lieu of sick leave.* The substitution of AL for SL previously granted may not be made retroactively for the sole purpose of avoiding forfeitures at the end of the leave year. An employee whose absence for illness has been approved by management and whose accumulated SL has been exhausted may have the absence charged to AL or LWOP unless additional SL is advanced in accordance with paragraph 5-18.

g. *Charging of annual leave.* The minimum charge for AL is a quarter of an hour. It is within administrative discretion to accumulate charges within a single day for leave charging purposes; however, absences are not cumulative

from day to day for purposes of charging leave. In no case may an employee be required to work during any period for which leave is charged.

5-13. Leave Transfer Program

a. Commanders are authorized to establish a Voluntary Leave Transfer Program. This program permits Army NAF regular employees to donate AL to other Army NAF regular employees for documented medical emergency situations. A medical emergency means a medical condition of an employee or a Family member (to include any individual related by blood or affinity whose close association with the employee is the equivalent of a Family relationship) that is likely to require an employee's absence from duty for a prolonged period of time, and will result in a substantial loss of income to the employee because of the unavailability of paid leave.

b. Installations that implement a Voluntary Leave Transfer Program will establish procedures that provide a single point of approval within a NAFI or in a specific geographic location for all applications from potential leave recipients. The following is to be used as a guide:

(1) Regular employees must make written application to become a leave recipient. If employees are not capable of making application on their own behalf, a personal representative of the potential leave recipient may make written application for the employee.

(2) Each application must be accompanied by the following information concerning each potential leave recipient:

(*a*) The name, position title, and grade or pay level of the potential leave recipient, and the number of hours requested.

(*b*) The reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency and, if it is a recurring one, the approximate frequency of the medical emergency affecting the potential leave recipient.

(*c*) Certification from one or more physicians, or other appropriate experts, with respect to the medical emergency, or any additional information that may be required to support the request and the duration of the absence from work.

(3) The approving official will notify the leave recipient, in writing, within 10 workdays whether or not the application has been approved. Reasons for any disapproval will also be provided to the employee in writing.

(4) Once a medical emergency has been recognized it is important to monitor the status of the emergency to ensure that the leave recipient continues to be affected by the emergency. The first-line supervisor is generally the primary link in accomplishing this evaluation.

c. Leave will be transferred under the following conditions:

(1) A regular employee may submit a voluntary written request to specify a number of hours of accrued AL to be transferred from his or her leave account to the AL account of an approved leave recipient.

(2) AL may be transferred to an approved leave recipient employed in an Army NAF position.

(3) All leave donated will be converted to a dollar amount by multiplying the hours donated by the hourly rate of basic pay of each donor. The total amount is then divided by the hourly rate of basic pay of the recipient to determine the number of hours of donated leave to be credited.

(4) The servicing payroll office will then be informed, in writing, by the servicing CPAC NAF HRD of the hours to be taken from each donor and the hours to be credited to the leave recipient. Since donated leave, once donated, does not revert back to the donor when the medical emergency terminates, a CPAC NAF HRD may stagger the leave donation submissions to payroll as needed and return only those to the donor(s) that are in excess of the medical emergency requirement in order to minimize the unintended benefit that may result when a leave recipient's medical emergency terminates early and the amount of donated leave exceeds the anticipated need. This process will help assure employees who are donating their leave that their donation will be used for the intended purpose and will not be used to build an AL balance for later personal use.

(5) The leave, once transferred, becomes available to the leave recipient for retroactive application for periods of LWOP, to liquidate indebtedness for advanced SL or AL granted as a result of the medical emergency and for usage in the same manner and for the same purposes as if it had been accrued by the individual.

(6) If the employee's medical emergency terminates, the amount of unused leave previously credited will remain in the recipient's leave account. However, no further donation of leave will be credited beyond the termination date of the emergency.

(7) In any 1 leave year, a leave donor may donate no more than a total of one-half of the amount of AL accrued during the leave year in which the donation is made. Additionally, an employee cannot donate more leave than the current balance available at time of donation. Use or lose AL in excess of the maximum above may be donated.

d. AL may be transferred from one installation NAF employee to another. If an approved leave recipient exhausts all donated leave at the installation level, the CPAC NAF HRD may request Armywide donations through HQ CHRA NAF HRD.

Section III Sick Leave

5-14. Earning rates

Regular employees earn SL to be credited to their account at the end of each pay period, at the rate of 5 percent of the total hours in a pay status up to a maximum of 40 hours per week. The minimum accrual is 1/4 hour in a pay period. SL is earned from the first pay period of employment and may be used when earned. There is no maximum for accumulation of SL.

5-15. Amounts to be charged

The minimum charge for SL is a quarter of an hour. RPT employees will be granted SL only for the scheduled hours in the workweek.

5-16. Use of sick leave

Accumulated SL to the employee's credit is available for use in the following circumstances:

- a.* When the employee is incapacitated for the performance of duties because of sickness, injury, pregnancy, or childbirth.
- b.* For medical, dental, or optical examination or treatment.
- c.* Exposure to a contagious disease where the health of co-workers is endangered.
- d.* When the employee must be absent from duty for purposes related to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys, court proceedings, required travel, and other activities necessary to allow the adoption to proceed.

5-17. Administration

- a.* Activity managers will provide means to ensure the proper use of SL and to prescribe the kind of evidence to be furnished to support SL charges. Supervisors authorized to approve SL are responsible for determining in individual cases that the reasons for absence warrant the granting of SL. Incentives for nonuse of SL are not authorized.
- b.* An employee who is absent because of illness should notify his or her supervisor as early as practicable on the first day of the absence (generally within 2 hours of the start of the tour of duty) or as soon thereafter as possible. Failure to give such a notice may result in a charge to AWOL. If an employee has demonstrated a history of potential abuse by excessive requests for SL, a medical certificate may be required to support short absences of less than 3 days. A medical certificate will normally be required to support all absences of more than 3 days. However, when circumstances are such that requirement of a medical certificate is not reasonable, the employee's personal statement of illness may be accepted. When an employee is on SL for more than 2 weeks (except for pregnancy), the employee will be required to submit a doctor's certificate at least every 2 weeks during the absence unless, in the judgment of the approving authority, the circumstances do not warrant a certificate. Requests for medical, dental, or optical examinations or treatment must be made prior to treatment unless the examinations are required by unforeseen circumstances, such as serious injuries, accidents, or sudden illness.

5-18. Advance of sick leave

Subject to the following provisions, management officials may prescribe the conditions under which SL may be advanced to employees under their jurisdiction.

- a.* All of the accumulated SL to the employee's credit must be exhausted, or projected to be exhausted.
- b.* Employees serving in their probationary period should not be advanced SL in excess of the amount that it is reasonably assured they will earn prior to the termination of the probationary period.
- c.* The amount of SL advanced to an employee's account may not exceed 240 hours at any time. When it is known that the employee is to be separated from the rolls or retired, the amount should not exceed an amount that can be liquidated by accruals prior to separation.
- d.* Application for advance SL must be accompanied by a medical certificate signed by a health care provider that supports the request.
 - e.* When an employee who is indebted for advance SL is separated, the employee will be required to:
 - (1) Refund the amount paid for the period covering the advance leave.
 - (2) Have that amount deducted from any pay due. An employee who enters active military service with a right of restoration is deemed not separated for the purpose of this paragraph.
 - f.* This section does not apply when an employee—
 - (1) Dies.
 - (2) Retires for disability.
 - (3) Resigns or is separated because of disability which prevents the employee from returning to duty or continuing in the service, and which is the basis of the separation as determined by acceptable medical evidence.

5-19. Transfer of accumulated sick leave

a. When an employee moves from one DOD NAFI to another, all the accumulated SL at the time of transfer will be credited to the SL account by the receiving activity, provided the employee did not retire from the losing NAFI and did not receive service credit for unused SL in determining credited service for annuity purposes. (Proper notation will be entered in item 25 of DA Form 3434.) No transfer of funds will be made.

b. When an employee moves from a DOD APF position to a NAF position without a break in service of more than 3 days, and the NAF position is in an appointment category with SL eligibility, then all the accumulated SL will be credited to the SL account of the employee by the gaining NAF activity. If the NAF position is an appointment category without SL eligibility no SL will transfer. Verification of SL credit will be accomplished by SF 1150 and will be retained in the merged eOPF as supporting documentation. This transfer procedure will apply to all movements between the two systems on or after 1 January 1987.

5-20. Funding of transferred sick leave within Army nonappropriated fund instrumentalities

a. During the first 12 months after an employee transfers between NAFIs under the exclusive jurisdiction of the DA, the gaining fund will be reimbursed for any accumulated and approved SL the employee has used that is in excess of that which would be earned during the first year with the gaining fund, and does not exceed the amount of the accumulated SL. Reimbursement will be made by the successor fund. For example, an RFT employee who earns 13 days of SL a year transfers from one installation to another installation. If, during the first year of employment, the employee requests and is granted SL, the employer will be liable for the salary payments made for such period of the SL which does not exceed 13 days. However, if the employee requests and is granted SL in excess of 13 workdays during the first year of employment, salary payments for the excess above 13 days of SL used, but not to exceed the SL to the employee's credit, will be reimbursed by the Army MWR fund within the United States or by the appropriate overseas command MWR fund.

b. Requests for such reimbursement must be accompanied by verified statements of the amount of SL transferred and the amount of leave granted. Reimbursement is not authorized for any period of absence covered by advance SL.

c. The provisions of this paragraph apply only to transfers between DA NAFIs. They do not apply to transfers to other DOD NAFIs that are not under the exclusive jurisdiction of the Secretary of the Army.

5-21. Recredit of sick leave

a. Upon reinstatement or reemployment of a former Army NAF employee with an effective date on or after 2 December 1994, the employee will be recredited with any SL balance remaining at the time of separation when reinstated or reemployed as a regular employee. Credit will not be given if SL was used in the computation of a retirement annuity. For effective dates prior to 2 December 1994 but not before 10 October 1990, SL will be recredited upon reemployment of a former Army NAFI employee with a break in service not to exceed 3 years. For actions with an effective date before 10 October 1990, the break in service cannot exceed 180 days for recrediting of SL. SL that transfers with an employee to APF under portability of benefits cannot be recredited to the employee should he or she return to NAF from APF employment with a break in service greater than 3 calendar days.

b. When a regular employee is restored to a position as a result of a grievance, the SL balance at the time of separation will be recredited, plus any accrual that would have been earned had the employee not been separated (see para 3-29a).

c. When an employee is converted from a regular appointment to a flexible appointment, the record of leave data furnished by the payroll office will be placed in the eOPF on the right side. If the employee is subsequently returned to a regular appointment, the SL will be recredited to the employee's leave account.

d. DODI 1400.25-V1406 will be followed for recrediting SL of former DOD NAF employees. A former DOD NAF employee who has a verifiable SL balance from another DOD NAFI will have his or her SL balance restored by applying the same requirements in paragraph 5-21a.

5-22. Separation

a. Under no circumstances is lump-sum payment authorized for accumulated SL when the employee is separated.

b. An employee who is separated for disability will be retained in a SL status until all SL has been exhausted. When the employee is separated prior to application for, or medical approval of, disability retirement, there is no requirement to return the employee to duty to exhaust accrued SL.

5-23. On-the-job injury

a. When an employee is injured on-the-job and medical treatment is necessary, administrative leave will be granted for the initial first aid treatment on the day of injury.

b. If a regular employee loses time as the result of an on-the-job injury and wants to use accumulated SL or AL in lieu of workers' compensation payments, the employee must sign a leave option agreement. If the employee signs the leave option agreement electing the use of leave, the checks received as workers' compensation benefits will be endorsed by the employee to the employing NAFI. The leave balance will then be credited with the appropriate number of hours based on the amount of the payment. Upon exhaustion of leave balance, the employee will be in a LWOP

status and retain the workers' compensation payments. Questions on the leave option agreement should be addressed to U.S. Army Workers' Compensation Administrator, Installation Management Command G-9, 2455 Reynolds Road, Building 2266, Fort Sam Houston, TX 78234-1222.

c. If the employee does not sign the leave option agreement, LWOP is mandatory. Upon request the employee will be granted SL or AL from the employee's accumulated leave balances, provided the leave payments, when added to the workers' compensation benefits, do not exceed the employee's basic salary.

d. If the employee elects to be placed on LWOP for the entire period of absence and if compensation is denied by the Office of Workers' Compensation Programs, any SL or AL to the employee's credit may be substituted for an equivalent amount of LWOP when requested by the employee.

Section IV

Home Leave and Emergency Leave

5-24. Explanation of terms used for home leave and emergency leave

a. *Home leave.* Home leave is leave earned by regular employees performing service abroad for personal use in the United States, the Commonwealth of Puerto Rico, or one of the U.S. territories or possessions.

b. *Month.* Month is a period of time that runs from a given day in 1 month through the day preceding the numerically corresponding day in the next month.

c. *Service abroad.* Service abroad is service on and after 6 September 1960 as an employee of an Army NAFI at a post of duty outside the United States and outside the employee's place of residence as shown in the transportation agreement, if the employee's place of residence is the Commonwealth of Puerto Rico or a U.S. possession. Employees who are performing service in an official PCS status in the Commonwealth of Puerto Rico, or a possession or territory of the United States, and whose place of residence is not in the same Commonwealth, possession, or territory, may be eligible for home leave.

5-25. Provisions of home leave

Home leave provides employees performing service abroad in a NAF regular position sufficient leave for vacation in the United States, Puerto Rico, or one of the U.S. territories or possessions.

5-26. Home leave eligibility

The provisions of 5 CFR 630f are administratively extended to govern eligibility for home leave for NAF employees.

5-27. Computation of home leave

Computation of home leave, earning rates, charges, and maximum accumulation of home leave for regular NAF employees will be the same as specified for APF employees. Upon transfer of an employee, no funds will be transferred for accumulated home leave; home leave will remain on the leave record until used by the employee performing future service abroad. The employing activity at the time home leave is used will be responsible for funding of leave. Lump-sum payment to the employee is not authorized for accumulated home leave.

5-28. Granting home leave

a. *Basic requirement.* The basic requirement for home leave is completion of a continuous 24-month period of service abroad in any regular NAF position, in a foreign area that meets the requirements for the granting of home leave. Home leave may be combined with earned AL.

b. *Conditions.*

(1) The granting of home leave is at the discretion of the employing NAFI. However, since the intent of home leave is to ensure that the regular employee and his or her Family remain familiar with their actual home in the United States during a prolonged assignment to a foreign area, home leave should not be denied except in a bona fide emergency related to the exigencies of the employing NAFI. In this event, the employing NAFI will advise the employee, in writing, of the reason(s) for the denial and the proposed alternative period of home leave.

(2) Home leave may be authorized for use only in the United States, the Commonwealth of Puerto Rico, or a U.S. territory or possession.

(3) Travel at Government expense will be authorized only if home leave is taken in conjunction with renewal agreement travel to and from the employee's actual place of residence specified in the transportation agreement. An exception to the requirement that the renewal travel be to/from the employee's place of residence is authorized when the home leave travel is to and from a U.S. location of shorter distance and lesser travel cost than travel to the employee's actual place of residence.

(4) Home leave travel, other than in conjunction with authorized renewal agreement travel, will be at the employee's expense.

c. *Use of home leave.* Home leave may be authorized under the following circumstances:

(1) After the completion of the one-time continuous 24-month period of service abroad requirement.

(2) In conjunction with renewal agreement travel, TDY travel, or authorized emergency leave, provided the employee meets the requirements of subparagraph 5–28c(1).

d. Separation. Under no circumstances is a lump-sum payment authorized for home leave balance when the employee is separated.

5–29. Emergency leave

Emergency leave may be granted to U.S. citizen or U.S. national, NAF regular employees assigned outside the United States and entitled to return transportation in cases of emergencies such as serious injury, illness, or death in the employee’s Family located in the United States. The period of emergency leave, including travel time, will be charged to AL, home leave, SL, or LWOP, if appropriate. Employees may be provided Government transportation on a space-available basis. Red Cross confirmation of the emergency should be secured prior to approval of the leave and transportation.

Section V Leave Without Pay and Absent Without Leave

5–30. General

a. LWOP is a temporary nonpay status and absence from duty granted at the regular employee’s request.

b. Periods of LWOP of less than 5 consecutive workdays ordinarily need no documentation other than the appropriate entry on the time and attendance records. Periods of 5 workdays or more will be documented on DA Form 3434.

c. During periods of LWOP, employees participating in the Army Medical/Life Insurance Program must continue to pay contributions if they wish to continue coverage. Arrangements for payment of contributions by the employee are the responsibility of the NAFI manager. Automatic deductions for the employee’s contributions will be charged to the NAFI by the servicing payroll office. The servicing payroll office will notify the NAFI of the amount the employee should reimburse the employer. Retirement, 401(k), and the flexible spending account are suspended during the period of LWOP.

5–31. Granting leave without pay

a. LWOP will be granted as a right to regular employees in the following cases:

- (1) For disabled veterans needing medical attention.
- (2) For Reserve and National Guard personnel authorized military training or duties.
- (3) For employees injured in the performance of their duties (see para 5–23).
- (4) Upon request of the employee, for a period not to exceed 1 year, for the purpose of seeking employment at a new location due to the transfer of a spouse. No further extension of time is authorized.
- (5) Upon request of an employee under the coverage of the FMLA (see para 5–2).
- (6) For military furlough.
- (7) Regular employees and regularly scheduled flexible employees, to include those with opposite sex and same sex domestic partners, may use up to 24 hours of LWOP in a leave year to meet the needs of an employee’s same sex or opposite sex domestic partner or partner’s children for school and early childhood educational activities; routine Family purposes; and elderly health and care needs.

b. Upon approval of the NAFI manager, LWOP may be granted for illness or disability not of a permanent or disqualifying nature or for other reasons acceptable to the manager. If an employee applies for and is granted LWOP, the period of LWOP may not, at any time thereafter, be converted to AL or SL except as provided in paragraph 5–23d.

5–32. Approval of extended leave without pay

Before approving extended LWOP, the approving authority should determine that the employee expects to return to duty (unless the request is made under para 5–31a(4)) and that a benefit will accrue to the activity. Since extended LWOP encumbers a position and limits the ability of management to utilize resources, approval should be carefully considered. Approval for a regular employee participating in the Army Medical/Life Insurance Program entails the obligation to continue payment of employer contributions during the period of LWOP. Management may disapprove requests for LWOP except for reasons stated in paragraph 5–31a.

5–33. Duration of leave without pay

If an employee fails to return to duty within 3 calendar days of the expiration of the approved period of LWOP, he or she may be separated for abandonment of position. The maximum period of LWOP that may be granted is 1 year, except for military service protected by USERRA. An employee that has been granted LWOP due to an on-the-job injury will, at the end of 1 year, be separated without prejudice when it has been determined by medical authority that the employee is unable to return to duty and if reasonable efforts to reassign the employee to another position for which he or she qualifies have failed. This separation action does not independently affect or prejudice any claims or

payments under workers' compensation or disability retirement. If the employee subsequently becomes available for duty, he or she may be reinstated noncompetitively. Absence in a LWOP status does not alter an employee's status in a BBA.

5-34. Absent without leave

a. A regular employee's absence from duty that was not authorized or approved is charged on the time and attendance record as AWOL. Pay is withheld for the entire period of such absence. If it is later determined that the absence is excusable, the charge to AWOL may be changed to AL, SL, or LWOP, as appropriate.

b. Periods of AWOL are charged in multiples of 15 minutes. Only absences during the regular employee's scheduled tour of duty may be considered as AWOL.

c. When a regular employee's request for leave, either with or without pay, is approved, he or she has the right to return to his or her position at the expiration of the approved period of absence. This does not preclude normal BBA.

Section VI

Absence for Maternity or Paternity Reasons

5-35. Consideration of request

NAFI managers will apply the same leave policies, regulations, and procedures in cases of requests for maternity or paternity absences as are applicable to requests for leave generally.

5-36. Leave for maternity

RFT and RPT female employees may request SL, AL, and/or LWOP when incapacitation related to pregnancy and confinement has been properly established by medical authority. Employees may have entitlements under the FMLA (see para 5-2a).

5-37. Leave for paternity

Regular male employees may request AL and/or LWOP for purposes of assisting or caring for their minor children or the mother of their newborn child while she is incapacitated, as established by medical authority, for maternity reasons. Employees may have entitlements under the FMLA (see para 5-2a).

Section VII

Military Leave, Military Furlough, and Court Leave

5-38. Military leave

a. *Entitlement to military leave.* An employee who is serving in a regular position is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reservist of the Armed Forces without adverse effect on performance rating or loss of pay. This leave is "military leave." The procedures for use of, charge to, and documentation of military leave will be the same as those governing military leave for APF employees of DOD.

b. *Reserve Components.* The Reserve Components of the Armed Forces of the United States include the Reserves of the Army, Navy, Air Force, Coast Guard, and Marine Corps and the National Guards of the Army and the Air Force.

c. *Flexible employees.* Flexible employees are not entitled to military leave regardless of the number of guaranteed hours.

d. *Types of military duty not covered.* The service listed below is excluded. Absence of regular employees for any of these reasons will be charged to AL or LWOP—

- (1) Summer training as members of Reserve Officers' Training Corps.
- (2) Temporary Coast Guard Reserve duty.
- (3) Participation in parades by members of the State National Guard, except for District of Columbia National Guard (who are entitled to military leave for this purpose).
- (4) Training with a State Guard or other State military organization.
- (5) Civil Air Patrol duty.

e. *Maximum amount of military leave.*

(1) Military leave for training purposes is limited to a maximum of 120 hours for full-time employees during each fiscal year, regardless of the number of training periods in the year, and regardless of whether taken intermittently or all at one time. Any part of this military leave that is not used in any fiscal year accumulates for use in succeeding years, not to exceed a 120-hour maximum carryover per fiscal year. Therefore, a regular employee could have a maximum of 240 hours for use during a fiscal year. In the case of RPT employees, the rate at which military leave accrues will be a percentage of the full-time authorization of 120 hours. The percentage will be determined by dividing the number of hours in the employee's basic workweek by 40. While on military leave, employees will receive their full compensation from the employing NAFI and will retain all military pay and allowances.

(2) Regular employees who are members of the National Guard or Armed Forces Reserves and who are called to

duty to provide military aid to enforce the law or in support of a contingency operation as defined in 10 USC 101(a)(13) may be granted additional military leave, not to exceed 22 workdays in a calendar year. Payment to the employee will be reduced by any amount of pay (other than travel, transportation, or per diem allowances) received by the employee for military service up to the amount by the NAFI for the same period of time. Civilian pay will be reduced by only the amount received for military service performed on a workday; any amount of military pay the individual may receive for nonworkdays is not considered.

f. Computation. The minimum charge for military leave is 1 hour and additional charges are in multiples of 1 hour. An employee will not be charged military leave for hours that he or she would not otherwise work.

5–39. Military furlough

Regular and flexible employees in continuing positions (without time limits) will be placed in a military furlough status for purposes of induction into the Armed Forces of the United States or recall to active duty. When the employee returns to NAF duty from military furlough, he or she will be placed in the same position and will have the same seniority, status, pay, and leave accrual entitlements he or she would have enjoyed had he or she remained in the NAF position. If the employee's position was abolished by BBA during furlough, the NAFI must place the employee in another position of like status, and pay. Returning employees are protected from separation by a BBA for a period of 1 year after exercising their reemployment rights under USERRA if their period of uniformed service was more than 180 days, or for 6 months after exercising their reemployment rights if the uniformed service was more than 30 days but less than 181 days. An employee on furlough must not be demoted or separated except for cause in accordance with 5 CFR 353.209.

5–40. Court leave

a. Policy. Regular employees will be authorized court leave or absence without charge to AL for jury duty and to appear in court in an unofficial capacity as a witness when the United States, the District of Columbia, or a State or local Government is a party to the proceedings. This policy does not apply to a judicial proceeding which involves only private parties or employees called as court witnesses in an official capacity.

b. Employee eligibility. Regular scheduled flexible employees that have guaranteed hours identified in item 25 on DA Form 3434 are eligible for court leave.

c. Evidence to be submitted. When an eligible employee is called to court service, either as a witness or a juror, he or she is required to present the court order, subpoena, or summons, if one was issued, as far in advance as possible. Upon return to duty, written evidence of attendance at court is required, showing the dates (and hours if possible) of the service. Usually, statements may be obtained from the clerk of the court. If the court clerk does not furnish a statement, the employee must submit a certified statement containing the required information.

d. Pay.

(1) A regular employee who is granted court leave will collect all fees due for such service and forward them, exclusive of transportation, meals, or expense allowances, to the employing NAFI. Employees must be instructed, in writing, of this requirement by the appropriate supervisor prior to such service. The fees will be applied against the salary due the employee. Any fees in excess of regular salary will be returned to the employee. Regular salary includes premium pay otherwise due the employee. When the employee appears in court on days that do not conflict with the employee's basic workweek, court leave is not authorized, and the employee retains all fees.

(2) An FWS night shift regular employee who appears in court during the day will be granted court leave for his or her regularly scheduled night tour of duty and is entitled to the shift differential.

e. Leave status. Regular employees on AL when summoned for a court appearance are entitled to have court leave substituted for AL. Regular employees in a LWOP status when summoned may not be granted court leave. The LWOP status remains unchanged and the employee is entitled to retain all fees and allowances.

f. Non-Government witness. When a regular employee is called as a witness in a judicial proceeding involving only private parties and not in an official capacity, the absence from duty must be charged as either AL or LWOP, and the employee is entitled to retain all fees and allowances due for such service.

Section VIII

Excused Absences

5–41. Uncontrollable shutdowns

When conditions warrant, commanders or their designated representatives have the authority to shut down all or part of a NAFI. The shutdown may be due to military necessity, weather conditions, an act of God, or other events beyond the control of management.

5–42. Effect of shutdown

a. During periods of shutdown caused by events beyond the control of management, all appointment categories of employees at work or scheduled to be present for duty will be excused without charge to leave or loss of pay.

b. When regular employees are already on leave at the time the NAFI is closed, they will be placed on administrative leave only for that portion of the shutdown that extends beyond the period of their previously approved leave.

c. The authority to excuse employees administratively should not be used when the period of interrupted or suspended operations can be anticipated sufficiently in advance to permit arranging for assignment to other work or the scheduling of AL. When 24–hours advance notice is given, regular employees who cannot be assigned to other work within the same pay period may be placed on AL, with or without their consent, or LWOP in the event they do not have sufficient AL to their credit. Efforts will be made to keep to a minimum the occasions on which a regular employee is required to take leave with 24–hours notice.

5–43. Foreign holidays

When all or part of a NAFI in a foreign country is closed in observance of a local holiday that prevents regular U.S. citizen employees from performing their regular duties, every effort should be made to assign them to other work. If reassignment is not possible, they may be excused without charge to leave or loss of pay.

5–44. Exception

Employees may not be excused without charge to leave or loss of pay solely because of the occurrence of a State or local holiday.

5–45. Excused absences

a. Managers are responsible for determining the situations in which they will excuse employees from duty with no charge to leave or loss of pay. Such excused absences will be administered on an impartial basis and applicable to all employees.

b. The granting of time off as an employee incentive is authorized (see chap 9).

5–46. Shutdowns or curtailment of work for managerial reasons

a. When all appointment categories of employees are prevented from working for managerial reasons (such as early closure because of no patrons, training holidays, construction, refurbishing, fumigation, and so forth), they will be excused without charge to leave or loss of basic pay for their scheduled hours for that day, unless reassignment or rescheduling can be accomplished within the same pay period. Every effort will be made to reassign affected employees to other duties.

b. When shutdowns or curtailments of work for managerial reasons are in excess of 1 workday, regular employees may be placed on enforced AL or LWOP. An advance written notice equal to the period of shutdown is required. When it is known that the period will exceed 7 calendar days, BBA procedures will be used when assignment to another position is not possible (see chap 10).

c. Every effort will be made to utilize such shutdown periods for training or other work where feasible to minimize adverse impact upon employees.

d. When executive departments and agencies of the Federal Government are closed by EO of the President of the United States, NAF employees will be excused from duty to the same extent and under the same conditions as APF employees. This provision is applicable when employees are excused, but a holiday has not been declared. A day designated as a holiday by Federal statute or EO is covered by chapter 4.

Chapter 6 Performance Evaluation and Rating

Section I General

6–1. Applicability

The provisions of this chapter apply to employees serving under a regular or flexible appointment category.

6–2. Purpose

The purpose of this chapter is to establish a system for evaluating the quality of employee performance on a continuing basis against realistic performance requirements. The system provides for advising employees about these requirements and the evaluation of their performance, for recognizing exceptional performance, for action to improve performance, and for administering unsatisfactory performance actions.

6–3. Policy

a. The performance of NAFI employees will be evaluated fairly and objectively on both a scheduled and continuous basis with the results of such evaluation discussed individually with each employee.

- b. Performance evaluation will be utilized to increase the efficiency of both employees and supervisors.
- c. Performance evaluation will be used as a basis for making decisions on training, retention, promotion, reassignment, removal, and other personnel actions. Performance evaluations will also be used to—
 - (1) Keep employees continuously aware of the performance required.
 - (2) Give employees a reasonable opportunity to achieve their best performance.
 - (3) Provide constructive help in correcting weak points in performance.
 - (4) Resolve misunderstandings.
 - (5) Develop constructive relationships between supervisors and employees.
 - (6) Advise employees on whether they meet, fail to meet, or exceed the standards for satisfactory performance.
- d. Employee performance will be evaluated only under reasonable standards that are in effect during the rating period, are known to the employee, and that the employee has had a fair opportunity to meet.
- e. Written performance plans and/or standards will be established, communicated, and discussed with employees within 30 days from the start of the annual rating cycle, entrance on duty of a new employee, or employee job change.
- f. No requirement will be established that performance ratings conform to a predetermined distribution, numeric quota, or ratio for the various types of ratings.
- g. The performance rating process or method will be made known to both employee and supervisors.
- h. No policy, control, or procedure will be established which prevents fair evaluation of performance in relation to the appropriate performance requirements.
- i. Employees will be evaluated on the basis of their application of knowledge and skills pertinent to their positions, the quality and quantity of their work, and the work relationships and personal traits that contribute to their value and efficiency as employees.
- j. Each employee will be furnished a copy of the performance standards used to rate him or her at the beginning of the rating cycle and a copy of his or her annual performance evaluation (DA Form 3612 (Nonappropriated Fund Instrumentality Employee Performance Rating)) at the end of the rating cycle.
- k. Supervisors will discuss with each employee the employee's annual performance evaluation on or near the date the evaluation is made. He or she will also advise the employee, when it appears necessary, of unsatisfactory performance and offer assistance in helping the employee improve.
- l. Senior executives in pay level NF-06 will have their performance evaluation system administered in accordance with DODI 1400.25-V1404, Encl 5 and any additional Army supplemental policies.

6-4. Administration of the Performance Evaluation System

- a. *First-line supervisors.* The first-line supervisor is responsible for developing performance standards for each position supervised and for continuously evaluating the employee's performance. He or she will acquaint each employee supervised with the performance rating system and the performance standards pertinent to the employee's position. He or she should informally discuss with the employee from time to time the degree to which the employee meets, fails to meet, or exceeds the standards, and should counsel the employee on how to become more efficient. The supervisor is responsible for the annual performance rating and for providing to the employee a copy of the approved DA Form 3612. He or she will evaluate each employee serving a probationary period and recommend retention or removal. He or she is also responsible for preparing justifications to support outstanding and unsatisfactory ratings and for initiating letters of warning. He or she is also responsible for initiating proposals for awards based on performance.
- b. *Second-line supervisors.* The second-line supervisor is responsible for reviewing ratings recommended by the first-line supervisors including related justifications, letters, and notices. He or she has final authority. When the second-line supervisor is distant geographically or organizationally and is not in a position to have knowledge of the performance, the first-line supervisor may be delegated full authority to approve evaluations.
- c. *Servicing Civilian Personnel Advisory Center Nonappropriated Fund Human Resources Office.* The servicing CPAC NAF HRD is responsible for administering the Personnel Performance Evaluation Program and will ensure supervisors have been notified when annual performance ratings and probationary ratings are due. The CPAC NAF HRD will track compliance and report to commanders the status of complete and incomplete performance evaluations. The servicing CPAC NAF HRD will maintain a record copy of each annual DA Form 3612, with supporting documents, including the performance standards used, in the employee's eOPF (see para 6-8).

6-5. Performance standards

Performance standards will be established for each critical major duty that is essential to successful performance; must be results-oriented and aligned with the organization's mission. Standards will indicate the quality of performance which is satisfactory for a specific position. They must be reasonable and of such a nature that an employee meeting the minimum qualification standards for the position can be expected to perform satisfactorily within a reasonable time after assignment to the position. They should be sufficiently high to assure an efficient operation but not so high that outstanding performance is beyond the achievement of a competent employee. Employees should be given an opportunity to provide input. Performance standards will be established in writing for each position. No specific form

or format is prescribed and forms may be developed to meet local needs. Supervisors are responsible for ensuring that their employees understand what constitutes an acceptable level of competence for their specific positions.

6-6. Probationary period evaluations

Supervisors of probationary employees will observe their conduct and performance closely and assist them in adjusting to the job and in performing their duties in a satisfactory manner. Upon determination that the employee should be retained, the supervisor will so indicate on DA Form 3612. If retention is not recommended, separation will be accomplished in accordance with paragraph 2-20j. Absences in a nonpay status of more than 15 workdays will not be included in computing the probationary period.

6-7. Performance ratings

a. Annual ratings. Each employee will be given a performance evaluation annually. The rating will be due on a specified date each year or on the anniversary date of the employee's service computation date, as determined jointly by the servicing CPAC NAF HRD and the commander or Director of Family, Morale, Welfare, and Recreation. The determination will be applied to all NAFI serviced. The rating will ordinarily cover the most recent continuous, 12-month period of employment (time served in a probationary period is included). An annual performance rating remains in effect until superseded by the next successive annual rating.

b. Interim ratings. Commanders may establish procedures and criteria for providing interim performance ratings. If established, interim appraisals will cover no less than a minimum period of 90 calendar days.

c. Rating cycle extension. When a performance, interim, or probationary rating cannot be prepared at the time specified, the rating cycle will be extended until the time necessary to meet the 90-calendar day period required to rate an employee's performance.

d. Levels of performance. Any one of five ratings may be assigned to indicate the level of performance as follows:

(1) *Outstanding.* This rating is authorized when all aspects of performance have exceeded the standard for satisfactory performance during the evaluation period and are sufficiently outstanding to deserve special commendation and recognition. Each outstanding rating must be supported in writing by the rating official and approved by the next level supervisor. The employee will be presented a DA commendation certificate. In addition, an award not to exceed 15 percent of annual salary may be awarded for an annual rating (see para 9-3b). The 15 percent limitation will be prorated for an interim rating.

(2) *Excellent.* This rating is authorized when the majority of performance standards are exceeded. Employee performance is of a quality clearly exceeding the standard for a satisfactory rating and merits consideration for a special achievement award not to exceed 5 percent of annual salary for an annual rating (see para 9-3b). The 5 percent limitation will be prorated for an interim rating.

(3) *Satisfactory.* A satisfactory rating is authorized when the employee's performance meets, but does not exceed the standard required for a rating of excellent. This rating meets acceptable level of competence requirements. A maximum of 1 percent of the employee's annual salary may be awarded for an annual rating. The 1 percent limitation will be prorated for an interim rating.

(4) *Minimally satisfactory.* The employee meets established performance standards in a marginal manner and is often below the satisfactory level in one or more non-critical areas. The employee will be counseled on duty requirements and given an opportunity and training to improve performance. Employees rated minimally satisfactory will not be granted a pay increase.

(5) *Unsatisfactory.* An unsatisfactory rating is authorized when an employee's performance fails to meet established requirements for satisfactory performance for one or more critical major duties, in spite of a written warning notice and reasonable effort by the supervisor to help the employee improve. Action will be immediately taken to reassign, demote, or separate the employee in accordance with paragraph 6-10. Employees rated unsatisfactory will not be granted a pay increase.

6-8. Performance rating records

Each supervisor will use DA Form 3612 to record the performance evaluation of each covered employee he or she supervises. The original DA Form 3612 will be used to notify the employee of his or her annual performance rating. A copy of each DA Form 3612, signed by the employee, the rater, and the approving official, will be placed in the permanent folder of the employee's eOPF. A copy will also be retained by the employee's supervisor. All DA Form 3612 will be placed in the permanent folder and all statements of justification for ratings will be considered a part of the rating and will be retained accordingly. Completed DA Forms 3612 will also be documented by the CPAC NAF HRD in the DCPDS.

Section II

Unsatisfactory Performance Actions

6-9. Communication

Counseling employees about specific performance deficiencies as soon as they arise and offering appropriate assistance

often can prevent more serious performance problems. It is important that employees be given a reasonable chance to demonstrate acceptable performance. The determination of the appropriate length of time for an employee to improve should be made on a case-by-case basis. Individual supervisors are in the best position to understand the work requirements of their units and the nature of the employee's duties and responsibilities and, therefore, to exercise judgment in determining how to reasonably structure the employee's opportunity to improve.

6–10. Administration of unsatisfactory performance actions

a. When an employee is determined to be failing to meet established levels of performance, the supervisor must notify the employee, in writing, of the specific elements for which performance is unsatisfactory. The employee will be informed of the level of performance that must be attained and the time that will be allowed to provide a reasonable opportunity to achieve the required level of performance. A tool that in some cases can help in accomplishing this is a formal written performance improvement plan. Such a plan provides a structured means of identifying the areas of deficiency and laying out a plan for improving the employee's performance. In all cases, the employee should be given all assistance reasonable to achieve acceptable performance.

b. An employee who has completed the probationary period may be rated unsatisfactory only after a prior written warning of proposed unsatisfactory performance rating giving the employee no less than 30 days during which he or she will be given a reasonable opportunity to demonstrate satisfactory performance. The written warning will state—

- (1) What performance requirements the employee fails to meet.
- (2) What must be done to bring performance to a satisfactory level.
- (3) What efforts will be made to assist improvement.
- (4) That failure to improve will result in adverse action up to and including separation.

c. After affording the employee an opportunity to improve in accordance with paragraph 6–10*a*, the first-line supervisor who determines that the employee's performance is still unsatisfactory may propose an adverse personnel action in coordination with the servicing CPAC NAF HRD and the servicing legal office. The proposal notice will—

(1) Identify the specific action proposed and effective date.

(2) State that the proposed action will be made effective no earlier than 30 calendar days from the date of receipt of the notice.

(3) State specifically and in detail the reasons supporting the proposed action. The proposal will identify the performance requirements which the employee has failed to meet and what action was taken to assist the employee to improve.

(4) Inform the employee of the right to review the material relied on as a basis for proposing the action and where it may be reviewed.

(5) Inform the employee of the right to reply orally, in writing, or both, to submit affidavits in support of the answer, and to be represented by a person of his or her own choosing, provided that the person chosen is willing to represent the employee and is free to do so. The representative, however, cannot serve in that capacity if there is priority needs of the NAFI, unreasonable costs to the NAFI, a conflict of position, or conflict of interest.

(6) Identify the person to receive the written and/or oral reply. (The person designated to hear the reply will be the person who has authority to make the final decision, ordinarily the approving official for the employee's performance rating but never the same supervisor who issued the proposal notice.)

(7) Specify the time limit for submission of the reply, which will not exceed 15 calendar days from the date the employee receives the notice.

(8) Inform the employee of the amount of official time which will be permitted, without loss of pay or charge to leave, for preparation of the reply.

(9) Inform the employee that the reply will be considered before a final decision is made to effect, modify, or cancel the proposed action and that he or she will be notified, in writing, of the final decision.

d. Where possible, the proposed notice should be delivered personally to the employee and a written acknowledgment of receipt obtained. If the notice is to be delivered by mail, provision should be made to obtain proof of delivery.

e. The first-line supervisor will forward to the deciding official, through the servicing CPAC NAF HRD, a copy of the proposal notice and supporting documentation, the warning of proposed unsatisfactory performance rating, and the DA Form 3612 with the rater's portions completed. Action to finalize the performance rating will be held in abeyance until the employee has had the opportunity to reply to the proposed adverse action provided for by paragraph 6–10*c*.

f. After coordination with the servicing CPAC NAF HRD and the servicing legal office, a written notice of decision will be issued to inform the employee of—

- (1) The specific action to be taken.
- (2) For regular employees (other than those on limited tenure appointments), the right to grieve the adverse action.
- (3) Where applicable, the requirement that a grievance must be filed within 15 calendar days following the effective date of the action, and the exact name and address of the individual to whom the grievance should be addressed.
- (4) The effective date of the action may not be earlier than 30 calendar days from the date the employee received

the notice of proposed action; the day the notice was delivered and the day the personnel action is to be effected will not be counted in this 30-day period.

g. The finalized performance rating (DA Form 3612) will be delivered to the employee at the same time as the notice of decision. A copy of the official adverse personnel action (DA Form 3434) will also be delivered to the employee unless the decision is to cancel the proposed action.

6-11. Adverse action records

a. The servicing CPAC NAF HRD will maintain records relating to each action that will, as a minimum, consist of—

- (1) A copy of the written warning of proposed unsatisfactory performance rating.
 - (2) A copy of the notice of proposed adverse action.
 - (3) The material relied on to support the proposal.
 - (4) Any answer from the employee.
 - (5) The notice of decision that effects the adverse action.
- b. Such records will be included in the employee's eOPF.

Chapter 7 Disciplinary Actions

7-1. Introduction

This chapter provides guidance on the maintenance of discipline within NAFIs and furnishes information on procedural requirements that must be met in taking disciplinary actions.

7-2. Coverage

- a. The provisions of this chapter apply to all employees paid from NAFs.
- b. This chapter does not apply:
- (1) To any action taken under any statute or other DA regulation independently authorizing the suspension or separation for cause of an employee (for example, a suspension or separation for cause in the interest of national security under authority of 5 USC 7532).
 - (2) To separations from limited tenure or flexible appointments; authority to separate employees with such appointments is contained in chapter 2.
 - (3) To an action recommended against a NAF employee in a position of authority found to have engaged in reprisal against an employee or applicant who made a protected disclosure (whistleblower). The disciplinary action will be as directed by the Deputy Assistant Secretary of Defense (Administration) or the appropriate commander.

7-3. Principles

- a. Maintenance of discipline will be achieved, to the maximum extent possible, through cooperation, fairness, good supervisory practices, and adherence to reasonable standards of conduct.
- b. Supervisors should, when appropriate, admonish and counsel employees as the first step in constructive discipline to correct breaches of regulations and standards of conduct and to prevent repetition of offenses.
- c. Reasonable and, to the extent possible, timely penalties will be imposed on employees whose conduct is detrimental to the efficiency of the service.
- d. Responsible judgment must be exercised in selecting among the variety of disciplinary penalties that may be imposed. The following must be considered in reaching a decision on the appropriate penalty to be imposed:
- (1) The seriousness of the offense.
 - (2) The past record of the employee.
 - (3) The circumstances surrounding the offense, including whether the offense was intentional, technical, or inadvertent, or was committed maliciously or for personal gain, or was frequently repeated.
 - (4) The probable effectiveness of the penalty in stimulating improvement.
 - (5) The consistency of the penalty with those imposed upon other employees for the same or similar offenses in similar circumstances.
 - (6) The time period since a previous offense.
 - (7) The impact of the offense on the morale of other employees. In addition, there may be factors and considerations other than those mentioned above that are pertinent to the selection of the penalty, including any mitigating circumstances surrounding the offense. The penalty selected should be reasonable and of such a nature as to promote the efficiency of the NAFI. (Since NAFIs generally are operated in the same manner as business enterprises and employees are often engaged in handling cash, food-stuffs and liquor, incidents of theft or drinking on duty must be treated as major offenses that can result in separation for a first offense.) In selecting penalties, table 7-1 will be used as a guide.

Since many factors must be considered in selecting a penalty, the table is not intended to be directive but is provided for illustrative purposes.

e. Disciplinary action and/or official investigation of an incident should be initiated on a timely basis (usually within 10 calendar days of the occurrence of the incident or within 10 calendar days of the discovery of the incident by appropriate supervisory officials).

f. When an applicant is hired by a NAFI with full knowledge of certain facts concerning his or her past behavior, a disciplinary action may not be proposed against that employee based on one or more of such facts. However, such information may be used in support of a charge to show a pattern of conduct or behavior carried over into an individual's employment with a NAFI.

g. If an employee has been disciplined for an offense, no further disciplinary action will be proposed against that employee for the same offense. Action may be proposed for a similar or repeated offense. In addition, prior offenses may be used in support of a charge to show patterns of conduct or behavior, and prior disciplinary action may be used in determining an appropriate penalty for a current offense.

h. When a supervisor considers that formal disciplinary action may be required to correct misconduct on the part of a subordinate employee, the supervisor should obtain all available information concerning the alleged misconduct. The supervisor should discuss the incident with the employee to—

- (1) Ensure that all the relevant facts are known to both parties.
- (2) Afford the employee the opportunity to explain the basis for his or her actions.
- (3) Advise the employee that disciplinary action is under consideration. Since disciplinary action could result from this interview, a bargaining unit employee must be provided the opportunity to be accompanied by a personal representative if the employee requests representation. If the employee presents a satisfactory explanation for his or her conduct, the matter will be closed and the employee so advised. Otherwise, the supervisor will prepare a memorandum of record of the meeting and initiate appropriate disciplinary action.

7-4. Alternative discipline

Commanders may choose to use an alternative discipline program. In such cases clear program guidelines must be established which conform to the notification requirements contained in this chapter. Supervisors and employees must be made aware of the guidelines. A copy of any alternative discipline plan will be forwarded to the DCS, G-1 (DAPE-CPZ-NF) prior to implementation.

7-5. Types of disciplinary actions

Informal disciplinary actions consist of oral admonishments and written reprimands. Formal disciplinary actions consist of suspensions from duty without pay (for a maximum of 14 calendar days except for a limited number of certain offenses or when statute requires a greater penalty) or separations for cause.

7-6. Oral admonitions

An oral admonishment should be employed as promptly as may be necessary in situations of a minor nature involving violation of a rule, regulation, standard of conduct, safety practice, or authoritative instruction. Supervisors are responsible for maintaining discipline in their organizations and, therefore, are the most appropriate individuals to admonish a subordinate employee. To be most effective, it should be conducted promptly, privately, and in an informal manner so as not to embarrass the employee in front of co-workers. The employee should be advised of the specific infraction or breach of conduct, exactly when it occurred, and be permitted to explain his or her conduct or act of commission or omission. The supervisor should advise the employee that continued violations may result in formal disciplinary action.

7-7. Letters of reprimand

a. When a determination is made that a written reprimand is necessary, the supervisor will prepare the letter of reprimand in draft and submit it to the servicing CPAC NAF HRD for technical review and coordination with the servicing legal office. The servicing CPAC NAF HRD should ensure that the letter of reprimand is consistent with governing regulations and local disciplinary policy and practices before delivery of the letter to the employee. The letter of reprimand will be signed by the appropriate supervisor and will include the following:

- (1) A description of the offense in sufficient detail to enable the employee to understand fully the violation, infraction, conduct, or offense for which he or she is being reprimanded. Such specifics as time, place, dates, and events should be included in describing the incident which gave rise to the disciplinary action.
- (2) In the event the reprimand is a follow-up to previous offenses and the action is considered a continuation of constructive discipline, the former incidents will be re-stated. Additionally, if the employee failed to take any remedial action as previously directed or agreed to, that fact will be included.
- (3) A warning should be included in all letters of reprimand that future misconduct may result in formal disciplinary action.
- (4) If appropriate, advice will be given to the employee regarding assistance available to the employee for remedial

purposes or as a means to help overcome the deficiency and avoid future recurrence. Additionally, the employee will be informed regarding any specific action required of him or her.

(5) A statement that the reprimand will remain in the employee's eOPF for a specified period of no more than 2 years, unless sooner removed by the issuing authority.

(6) Information regarding the right to request a review of the action within 10 calendar days after receiving the letter of reprimand.

b. A written reprimand is not permanent in nature and must be removed from the temporary folder in the employee's eOPF—

(1) Upon expiration of the period specified in the letter of reprimand.

(2) Upon separation of the employee from the rolls of the employing activity.

(3) Upon determination through an appropriate adjudicative procedure that the reprimand is unwarranted and must be withdrawn.

(4) Upon determination by management that the reprimand should be withdrawn because the employee has sufficiently corrected his or her behavior and the letter of reprimand has served its purpose.

c. A review of the issuance of a letter of reprimand will be made under the following circumstances:

(1) An employee may request a review of the issuance of a letter of reprimand within 10 calendar days of receipt of the letter. This request must be presented to the next level supervisor above the issuing supervisor who is not a party to the issue. Such presentation may be made orally or in writing. The right to representation will be the same as stated in paragraph 8-5.

(2) The review process will not include calling of witnesses unless determined by the reviewing official to be essential to a full and fair review of the action. The review decision will be issued promptly in writing and will address all issues raised in the request for review. The reviewing official will notify the employee that no further review is authorized.

7-8. Suspensions

a. A suspension is a period during which an employee is placed in a temporary nonduty, nonpay status as a formal disciplinary measure. The supervisor of an employee is the individual primarily responsible for initiating suspensions. Notices of proposed suspension ordinarily will be prepared and signed by the first-level supervisor and, upon technical review by an official of the servicing CPAC NAF HRD and coordination with the servicing legal office, delivered to the employee. Decisions to suspend an employee ordinarily will be made and signed by the second-level supervisor and, after review by an official of the servicing CPAC NAF HRD and in coordination with the servicing legal office, delivered to the employee. A suspension for more than 14 calendar days is not authorized, except for a limited number of certain offenses (see table 7-1). A suspension for more than 30 days is not authorized.

b. The proposed suspension will be issued as far in advance of the action as feasible, and must allow for an advance notice period of 10 calendar days.

c. The notice of a proposed suspension must—

(1) Specify the earliest date the proposed suspension will begin and its duration.

(2) State all reasons supporting the proposed suspension specifically and in detail.

(3) Inform the employee of the right to review any material relied on as a basis for taking the action and where it can be reviewed.

(4) Advise the employee that he or she may make a reply within 5 calendar days of receipt of the notice, whether in person, in writing, or both.

(5) Inform the employee of the right to be accompanied by a representative when presenting an oral reply. Representation and use of official time are covered in paragraphs 8-5 and 8-6.

(6) Advise the employee that his or her reply will be considered in reaching a decision on the proposed suspension if filed within the 5 calendar day period following receipt of the notice.

(7) Identify the deciding official to whom any reply should be addressed (usually the second-level supervisor but never the same person who issued the proposal).

d. If the employee makes a timely reply, it will be given consideration prior to any decision to effect the proposed suspension. If a decision is made that the proposed suspension will not be effected, the employee will be notified, in writing. If the decision is to effect the proposed suspension, or a lesser disciplinary action, a notice of decision will be delivered to the employee on or before the time any penalty is scheduled to become effective. DA Form 3434 is prepared for suspensions.

e. The decision to effect the suspension must inform the employee of the reasons for the decision, and of the right to file a grievance, provided it is filed no later than 15 calendar days after the effective date of the suspension. The reasons for the decision stated in the letter of decision must be the same as those stated in the notice of proposed suspension; unless it has been determined that one or more of the reasons are no longer considered as justifying the decision. The decision may not be based on a reason which was not included in the notice of proposed suspension.

7-9. Separations for cause

Separations for cause will be taken only for such reasons as will promote the efficiency of the service.

a. Notices of proposed separation will be prepared and signed by the supervisor and, upon technical review by an official of the servicing CPAC NAF HRD and coordination with the servicing legal office, delivered to the employee. Decisions will be prepared and signed by the deciding official (usually the next higher level supervisor but never the same person who issued the proposal) and, upon technical review by an official of the servicing CPAC NAF HRD and coordination with the servicing legal office, delivered to the employee.

b. An employee against whom a separation is proposed will be given at least a 30-calendar day advance notice of the proposed action. The full 30-calendar day advance written notice is not required for a separation when the circumstances are such that retention of the employee in a duty status during the notice period may be injurious to the employee, to fellow workers or the general public, may result in damage to property or loss of funds, or because the nature of the employee's offense may reflect unfavorably on the public perception of the Army. Under these circumstances, the employee may be placed in a nonduty status with pay (within the employee's basic workweek). The advance notice of proposed separation will provide no less than 5 calendar days for the employee to reply and such time as would be reasonable under the circumstances for the separation to be effective.

c. When a 30-calendar day advance notice period is given, the notice will state that the proposed separation will be effective no earlier than 30 calendar days from the date of receipt of the notice of proposed separation. If the full 30-calendar day advance notice period is not required pursuant to the above paragraph, the notice will state the specific date on which the proposed action will become effective.

d. In computing the advance notice period, the day the notice is delivered and the effective date of the separation will not be counted in the notice period.

e. Separation will be effective at midnight on the date specified in the notice of decision, unless a different time is specified in the notice.

f. The notice of proposed separation will—

(1) State specifically and in detail the reasons supporting the proposed separation, including names, dates, times, and places.

(2) Include a detailed statement of any part of the employee's past record that is considered as contributing to the severity of the proposed separation.

(3) Inform the employee of the right to review the material relied on as a basis for taking the proposed separation and where it can be reviewed.

(4) Inform the employee regarding the right to reply orally, in writing or both, with representation if desired, and to submit affidavits in support of the reply.

(5) Identify the person to receive the written and/or oral reply (normally the second-level supervisor but never the same person who issued the proposal).

(6) Specify the time limit for submission of the reply which will, normally, not exceed 15 calendar days.

(7) Inform the employee regarding official time permitted, without loss of pay or charge to leave, for preparation of the reply.

(8) Inform the employee that any reply timely made will be considered before a final decision is made to effect, modify, or cancel the proposed separation, and that he or she will be notified, in writing, of the final decision.

g. The notice of proposed separation should be delivered personally to the employee and, if possible, a written acknowledgment of receipt obtained. If the notice must be delivered by mail, provision must be made to obtain a receipt of delivery. When the NAFI issuing the notice has made every reasonable effort to effect delivery and it is evident that the employee has acted to evade timely delivery or acceptance of the notice, the notice is valid as far as the issue of delivery is concerned.

h. If the employee chooses to reply to the advance notice orally, he or she will be afforded an opportunity to be heard and may be accompanied by a representative if desired. The employee will be permitted to make any presentations that the employee believes should be considered before the final decision is made. The right to make a reply in person does not include the right to a hearing with testimony from witnesses for both sides of the controversy, but is an opportunity for refutation of the advance notice. When a reply is made in person, the deciding official will ensure that a written summary is made of the personal reply and, if possible, the employee's signature will be added to it as an indication of its accuracy.

i. When a reply is received from an employee against whom a separation is proposed, the official rendering the decision will give it careful, detailed, and objective consideration. The proposed separation may be withdrawn, or a less severe penalty substituted without issuing a new notice. The decision may not be based on reasons not specified in the initial notice of the proposed separation. If any additional reason or reasons are used to support the decision, a new proposal notice is required which will specify a new advance notice period.

j. The notice of decision should be reviewed for technical compliance by the servicing CPAC NAF HRD in coordination with the servicing legal office prior to delivery to the employee. The notice of decision will be dated and in writing and will be issued promptly after the decision is made. DA Form 3434 may be used and enclosed with the notice of decision.

k. Each notice of decision will include the information indicated in paragraphs 7–9k(1), (2), and (3), and when the proposed separation is not withdrawn, also the information in paragraphs 7–9k(4), (5), and (6)—

- (1) Include the date the notice of proposed separation was issued.
- (2) Identify each reason which was included in the notice of proposed separation and discuss those relied on to sustain the decision and those reasons that were not sustained.
- (3) State the decision.
- (4) Inform the employee of the right to grieve the action and that the grievance must be filed before the expiration of the 15–calendar day period immediately following the effective date of the penalty.
- (5) Furnish the exact name and address of the person or office to which the grievance should be addressed (see chap 8).
- (6) Specify the date on which the penalty will be effective.

7–10. Records

a. *Location of records.* Letters of reprimand and employee replies will be placed in the temporary folder of the employee’s eOPF. A letter of reprimand will not be placed in the eOPF when a review has been requested, unless and until a decision is made on the request for review. Letters of reprimand may be removed from the personnel folder at any time the issuing authority determines the employee has made sufficient progress to warrant such removal. Letters of decision to suspend or separate an employee for disciplinary reasons, notices of proposed formal disciplinary actions and employee replies will be retained in the permanent folder in the employee’s eOPF.

b. *Release of information.* An exact copy or an extract of the actual language of a written reprimand, notice to suspend, or notice to separate for cause normally should not be released to sources other than authorized Federal or NAFI officials without the written consent of the person who received the disciplinary action. However, if determined that the release would not be prohibited by law, the reason shown on the DA Form 3434 (for a separation for cause) or a brief statement of the nature of the offense and the specific disciplinary action imposed may be furnished without the consent of the employee. The employee’s right to privacy should be the paramount consideration in determining whether to release information to other employers or individuals. In all cases, requests for information should be referred to the installation Freedom of Information Act official for guidance concerning the disclosure of information from civilian personnel records. For specific guidance, see AR 25–55 and AR 340–21.

Table 7–1
Penalties for delinquency or misconduct¹

Offense	First offense	Second offense	Third offense
1. Insubordination (refusal to obey orders, impertinence, like offense).	Official written reprimand or 1 day suspension.	2 to 5 day suspension.	6 to 14 day suspension or separation.
2. Fighting or creating a disturbance resulting in an adverse effect on morale, production, or maintenance of proper discipline.	1 to 3 day suspension.	4 to 6 day suspension.	7 to 14 day suspension or separation.
3. Sleeping on duty (where safety or personnel or property is not endangered thereby).	Official written reprimand or 1–3 day suspension.	4 to 6 day suspension.	7 to 14 day suspension or separation.
4. Sleeping on duty (where safety of personnel or property is endangered thereby).	5 to 14 day suspension or separation.	Separation.	
5. Theft. ²			
6. AWOL (any absence from duty which has not been authorized and for which pay must be denied. If absence is for 3 workdays or more, see paragraph 2–18e.	Official written reprimand or suspension of 1 to 3 days.	4 to 6 day suspension.	7 to 14 day suspension or separation.
7. Debt complaints (neglecting or avoiding payment without sufficient excuse or reason).	Counseling. See AR 690–700, chapter 735, appendix E.		
8. False statements, misrepresentation, or fraud in completing application for employment or promotion or in other official records submitted to DA. Apparent oversights and errors, where satisfactorily explained, may be excused where not otherwise disqualifying.	5 to 14 day suspension or separation.	Separation.	
9. Loafing (willful idleness or deliberate failure to work on assigned duties).	Warning or official written reprimand.	Official written reprimand or 1 to 3 day suspension.	6 to 14 day suspension or separation.

**Table 7-1
Penalties for delinquency or misconduct¹—Continued**

Offense	First offense	Second offense	Third offense
10. Unauthorized use, possession, or transfer of alcohol, drugs, or controlled substances while on government premises or in a duty status; or reporting for duty under the influence to a degree which would interfere with proper performance of duty, be a menace to safety of persons or property, or be prejudicial to the maintenance of discipline. ³	1 to 14 day suspension or separation.	Separation.	
11. Gambling on duty.	Official written reprimand or 1 to 5 day suspension.	5 to 14 day suspension.	Separation.
12. Notorious misconduct off-duty. (With regard to off-duty conduct, all employees have an obligation to conduct themselves so that no disgrace or disrepute will be visited on DA.)	1 to 14 day suspension, if offense is minor. Separation for major offenses.	Separation.	
13. Failure to observe any written regulation or order prescribed by appropriate authority.	1 to 5 day suspension or separation.	6 to 14 day suspension or separation.	Separation.
a. Violation of administrative regulations where safety of persons is endangered, or funds or property is jeopardized.	Official written reprimand.	1 to 5 day suspension.	
b. Violation of administrative regulations where safety of persons is not endangered or funds or property is not jeopardized.	1 to 5 day suspension or separation.	6 to 14 day suspension or separation.	6 to 14 day suspension or separation.
c. Refusal to testify in a properly authorized inquiry or investigation conducted by representatives of DA except where such refusal is based upon the grounds of self-incrimination.			Separation.
14. Immoral or indecent conduct.	3 to 5 day suspension or separation.	Separation.	
15. Knowingly making false or malicious statements against other employees, supervisors, or officials with the intent to harm or destroy the reputation, authority, or official standing of those concerned.	Official written reprimand or 1 to 14 day suspension.	Separation.	
16. Transferring, selling or introducing intoxicants on Government premises except where authorized. ³	Official written reprimand or 1 to 3 day suspension.	4 to 6 day suspension.	7 to 14 day suspension or separation.
17. Off-duty misconduct of such major significance that the employee cannot fulfill his or her job responsibilities. Off-duty misconduct that has an adverse effect upon the Army. ⁴	Official written reprimand to separation.	Separation.	
18. Unauthorized use of an official motor vehicle ⁷ .	30 day suspension or separation.	Separation.	
19. Threatening or inflicting bodily harm, physical resistance to competent authority.	Official written reprimand to separation.	Suspension or separation.	
20. Discrimination because of race, color, religion, age, sex, national origin, political affiliation or disability, or marital status. ⁵	Written reprimand to separation.	Separation.	
21. Sexual harassment. Influencing, offering to influence, or threatening the career, pay, job, or work assignments of another person in exchange for sexual favors; or deliberate or repeated offensive comments, gestures or physical contact of a sexual nature. ⁶	Involving a subordinate: 1 day suspension to separation. Not involving a subordinate: Written reprimand to 30 day suspension.	Involving a subordinate: 10 day suspension to separation. Not involving a subordinate: 5 day suspension to separation.	Involving a subordinate: 30 day suspension to separation. Not involving a subordinate: 10 day suspension to separation.

**Table 7-1
Penalties for delinquency or misconduct¹—Continued**

Offense	First offense	Second offense	Third offense
<p>22. Reprisal.</p> <p>a. Intentional interference with an employee's exercise of, or reprisal against an employee for exercising a right to grieve, appeal, or file a complaint through established procedures.</p> <p>b. Reprisal against an employee for providing information to an DOD Inspector General, Office of Special Counsel, Equal Employment Opportunity Commission, DOD Investigations and Resolutions Division, or other investigator, or for testifying in an official proceeding.</p>	Written reprimand to separation.	5 day suspension to separation.	30 day suspension to separation.

Notes:

¹ This table may be used as a general guide in imposing disciplinary action against NAF employees to ensure like penalties for like offenses throughout DA. This list of offenses and suggested penalties does not encompass all possible offenses, and therefore is to be considered as illustrative only. The fact that an offense is not listed in the above table does not mean that a penalty cannot be imposed if the offense is committed. If an offense is not listed in this table, a reasonable penalty can be determined through comparison with those listed. A prior offense of any type may form the basis for proposing an enhanced penalty. (For example, a documented first offense of insubordination followed by a charge of AWOL could trigger the penalty for a second offense identified in the table of penalties.) Final decision as to the action to be taken will rest with the responsible administrative officials.

² It is the policy of the Army that an employee found to have engaged in theft, fraud, or other intentionally dishonest conduct will be considered for removal from NAF employment. Any lesser penalty will require justifiable, mitigating circumstances. It is the duty of all supervisors to ensure that this is implemented. This strong disciplinary posture is a necessary element in the Army's campaign against fraud, waste, and abuse.

³ Actions involving these offenses should be evaluated in consonance with the Army Substance Abuse Program.

⁴ Removal is mandatory when U.S. citizen employees in foreign areas commit serious offenses against host-government laws that reflect unfavorably upon the U.S. and/or affect the accomplishment of the Army mission.

⁵ Appropriate penalty depends on the facts in a given case weighed against DA policy that discrimination is prohibited.

⁶ In any given case the appropriate penalty depends on the situation weighed against DA policy that sexual harassment will not be tolerated. Where conduct created a hostile or offensive work environment, removal is warranted for a first offense.

⁷ Unauthorized use of an official motor vehicle penalty cannot be mitigated to less than 30 days.

Chapter 8 Employee Grievances - General

8-1. Coverage

Requests by an employee or by a group of employees for personal relief from matters of concern or dissatisfaction related to their employment will be processed in accordance with the requirements of this chapter. Included are requests for relief from personnel actions.

8-2. Exclusions

The following are matters excluded from coverage of this chapter. Grievances on these matters will not be accepted by the servicing CPAC NAF HRD:

- a. Grievances covered by a negotiated agreement. The negotiated grievance procedure is the exclusive procedure available for resolving grievances that fall within the coverage of the collective bargaining agreement.
- b. Actions taken under the provisions of chapter 11, pertaining to the security program.
- c. Separation during the probationary period provided all procedural requirements have been met.
- d. Separation from a flexible appointment (unless the separation is for BBA and the employee has been on the rolls of the NAFI for 3 continuous years).
- e. Allegations of discrimination on the basis of race, age, color, religion, sex, disability, or national origin. These cases should be referred to the EEO office.
- f. Personnel actions voluntarily requested by the employee.
- g. Granting or not granting an honorary or monetary award.
- h. The content of published policy applicable to NAF employees.
- i. A specific action required by an authority outside DA or any matter subject to final administrative review outside the HQDA.
- j. Wage or salary rates or schedules established by appropriate authority.
- k. Terminating a temporary promotion.
- l. Separation from a RFT or RPT limited tenure appointment.
- m. Nonselection from a referral list of properly certified candidates.
- n. Warning of a proposed unsatisfactory performance rating.
- o. Management decisions regarding budget, workload, organization, and mission that result in BBA.

- p.* Allegations of mismanagement when no form of personal relief to the employee is appropriate.
- q.* The substance and content of an employee's performance elements, standards, or work objectives.
- r.* Release of information and records from Army files.
- s.* Reassignment to a position at the same rate of pay and grade/level, in the same appointment category and within the same command.
- t.* Separation for abandonment of position.
- u.* Separation of ODM employees upon withdrawal of their commanding officer's approval to work.
- v.* Any matter that has its own review or appeal procedure stated as part of its regulatory provisions
- w.* Letters of reprimand.
- x.* Matters accepted by the Inspector General or Auditor General for review.
- y.* Any issue previously decided in an earlier grievance brought by the employee.

8-3. NF pay banded and child and youth classification complaints

- a.* NF and CY employees may grieve the assignment of their position to a particular payband. Where levels within a payband have been established, the assignment of a position to a particular level may be grieved.
- b.* Bargaining unit employees may use the grievance procedures in this chapter for classification complaints about actions that do not result in a reduction of pay or payband. In accordance with 5 USC 7121, negotiated grievance procedures may be used only if the classification results in a pay or payband reduction.

8-4. Employee rights

- a.* All employees will be treated fairly and equitably in all respects. Those who feel they have not been so treated have a right to present their grievances to appropriate management officials for prompt consideration and decision. This right may be exercised by an employee personally or through a personal representative. In exercising this right, the employee will be unimpeded and free from restraint, coercion, discrimination, or reprisal. Dissatisfactions and disagreements arise occasionally in any work situation; the filing of a grievance will not be construed as reflecting unfavorably on the quality of supervision or on the general management of an organization.
- b.* Grievances will be resolved or decided at the lowest practicable organizational level and in the shortest time possible.
- c.* Grievance of a BBA may only be made when the employee alleges that processes or regulations were not properly applied.
- d.* Consideration of a grievance must be expeditious, fair, thorough, and impartial. Lengthy delays in the resolution of a grievance may overshadow the original matter about which the grievant was dissatisfied, with an accompanying adverse effect on morale.
- e.* Upon request, grievants will be given information from official records related to their grievances; however, records will not be released if prohibited by law or regulation. Also, grievants will be given full access to relevant regulations and official directives. (When feasible, extracts or copies of these regulations and directives will be given to the grievant on request.)
- f.* Both the aggrieved and the designated representative may be present at any phase of the process and may review documentary evidence. Review of the documentary evidence or attendance at group meetings or interviews will not be permitted by any individual whose involvement is not required for resolution of the case.
- g.* A grievant may seek advice in resolving a grievance from a representative of an employee organization, any supervisor or management official, EEO counselors or officers, or from any other individual who can provide guidance. The servicing CPAC NAF HRD will freely supply information on the grievance procedures, including information on the time limits, but CPAC NAF HRD personnel may not serve as the grievant's advocate. When an individual is grieving a disciplinary action, a personnel specialist, other than the one advising management on the matter, should be assigned to supply information to the grievant.

8-5. Representation

- a.* A grievant may be accompanied, represented, and advised by a representative of choice. The representative's service must not result in a conflict or apparent conflict of interest or position, conflict with the priority needs of the service, or cause unreasonable cost to the NAFI. Similarly, supervisory personnel may not be represented by a representative of a labor organization. The commander may not designate a representative for an employee nor require any employee or individual to serve as a representative of another employee. Except as provided in paragraph 8-6, all expenses of the grievant and representative must be borne by the grievant, the representative, or both.
- b.* Representatives must be designated in writing. The representative's name will be sent through the grievant's immediate supervisor to the servicing CPAC NAF HRD. Changes in representatives must be made in writing in the same manner. If the representative is a DA employee, the servicing CPAC NAF HRD should promptly provide the representative's supervisor a copy of the written designation.
- c.* The commander may disapprove a grievant's choice of representative at any time. The employee will be told, in writing, the specific reasons for the disapproval, and how to obtain a review of such decision.

d. The representative must obey the same rules of conduct and procedures as the grievant. If classified information is involved, the representative must have the proper security clearance. If the representative does not, the grievant has the following choices:

- (1) Pick a representative who has the proper clearance.
- (2) Forego representation.

(3) Let the case proceed without the representative being allowed to challenge or otherwise have access to or comment on the classified information.

e. If the employee's choice of representative is disapproved, the employee may send a written request for reconsideration to the person who receives formal grievances (see para 8–9). The request for reconsideration must be sent within 7 calendar days of receiving the notice of disapproval. The request for reconsideration will state why the grievant believes he or she should be allowed the representative who was disapproved. The activity will have 7 calendar days after receiving the written request for reconsideration to try to resolve the matter to the grievant's satisfaction. If it cannot be resolved, the activity will send the written request for reconsideration, a copy of the notice of disapproval, and other relevant material to the next higher level for resolution. The processing of the grievance will stop until a decision is made on the grievant's request for reconsideration of employee representative.

8–6. Use of official time and resources

a. The aggrieved employee and designated representative, if otherwise in an active duty status, may use reasonable amounts of official time subject to supervisory approval. The time allowed depends on the facts of the specific case. Official time may be used to—

(1) Get advice on rights and privileges from official sources (for example, meet with a representative of the CPAC NAF HRD).

(2) Get information on or assistance with the grievance from official sources (for example, get copies of witnesses' statements, and so forth).

(3) Present grievances.

b. Official time will not be granted for preparing a grievance, organizing materials, writing, or typing it.

8–7. Discontinuance of consideration

a. A grievance may be canceled at any time at the grievant's request. The request will be in writing and should state briefly the reasons for the request. When a grievant requests that a grievance be canceled, a subsequent grievance on the same matter may not be filed.

b. Any unjustified delay or dilatory tactic on the part of the grievant will serve as a basis for closing out action on a grievance. Specifically, failure without reasonable basis to furnish requested information within specified time limits, or any other unjustifiable delay in the processing of the case, will justify closing the case and rendering a decision on the basis of the information available. Unjustified delay on the part of management will serve as basis for the employee to request that the grievance move to the next higher level.

c. If the grievant resigns, dies, or is separated before a decision is reached, the action will be stopped and all interested parties will be notified promptly, in writing, by the servicing CPAC NAF HRD that the case is being closed without decision. A copy of this notification will be made a part of the case record. If a separation under chapters 6, 7, or 10 is involved, or a pay issue is involved in a grievance, the case will be processed to conclusion in the same manner as though the grievant had remained on the rolls.

d. When a grievance is closed, the grievant will be informed of the reasons in writing, unless the grievant has been separated from the rolls voluntarily or unless the case is closed because of death.

8–8. Grievance procedure-first stage

a. The informal procedure must be completed before a grievance may progress to the formal grievance procedures. Exceptions are as follows:

(1) When management officials and the employee agree that the informal procedure would serve no useful purpose, it may be waived. For example, it may be waived if the employee and the supervisor have recently discussed the matters fully, but failed to reach a resolution. Since this action fulfilled the requirements for the first stage of the grievance procedure, it is unnecessary to repeat it. When management officials and the employee agree to waive the informal stage, management will document the reason for the waiver in the grievance file. The employee and a management official will sign the waiver.

(2) When the grievance is on a disciplinary action to which the grievant has already replied.

b. Processing the grievance.

(1) The employee and representative (if any) will present the grievance to the employee's immediate supervisor or the lowest level management official who can grant the relief requested.

(2) The employee must present the grievance informally no later than 7 calendar days after the effective date of a BBA, 15 calendar days after the effective date of other personnel actions, or 15 calendar days after the date of the event for other matters. The fact that an employee only recently learned of an occurrence does not automatically

guarantee that the employee's grievance will be considered timely. Grievances over continuing conditions may be submitted at any time.

(3) The supervisor or official to whom the grievance is presented will make every effort to resolve the matter promptly and fairly, to include requesting assistance from the next level of supervision, if appropriate. A written response will be provided to the employee within 7 calendar days of receipt of the informal grievance, summarizing the issue, the consideration given, and advising the employee of the right to file a formal grievance within 7 calendar days of receipt of the first stage grievance decision, if he or she is not satisfied. In the event that the supervisor fails to respond to the employee within 7 calendar days from receipt of the first stage grievance, the employee may proceed to the second stage.

8-9. Grievance procedures-second stage

a. A formal written grievance will be submitted to the garrison commander or equivalent. The grievance will be submitted in writing, signed, dated, and contain a sufficiently detailed statement of the specific matter(s) being grieved and the specific personal relief sought. At the HQDA or regional level the grievance will be submitted to the next higher official in the chain of command above the official who considered the grievance at the first (informal) stage. If the official to whom the grievance would ordinarily be submitted is a party to the issue, it will be submitted to the next higher level in the chain of command.

b. Upon receipt of the grievance, the deciding official may resolve the grievance on the basis of the record. If further information is required, a disinterested third party may be designated to review the facts and make a recommendation to the deciding official. This fact finder may not be a subordinate of an official involved in the grievance, unless that official is the garrison commander. In more complex cases the deciding official may elect to purchase the services of a professional mediator.

c. The deciding official may approve and implement the recommendation of the fact finder, or determine another resolution. A written decision will be provided to the employee within 45 calendar days of receipt of the grievance. The deciding official may extend the time limit for a decision when warranted, for example, if the fact-finding process may be lengthy. In such cases, the employee will be advised of the expected date of decision. Failure to render a decision within 90 calendar days is a basis for the employee to request forwarding the grievance to the next higher level. The decision must summarize the grievance and the consideration given. The employee will be advised that, except as provided in paragraph 8-10, the decision is final and no further review of the same grievance is authorized.

8-10. Third stage review

a. A RFT or RPT employee who has been affected by a BBA may appeal a second stage grievance (or a failure to render a decision within 90 calendar days) within 15 calendar days after receipt of the second stage grievance decision, by requesting a review of the written grievance record and a decision by the next higher official in the chain of command at the region (or equivalent) level. At the HQDA or region level the third stage review will be conducted by the next higher official in the chain of command above the official who considered the grievance at the second stage.

b. The designated official considering the case at this third stage of review will issue a written decision to the employee based on the written record within 30 calendar days of receipt of the request for review. There is no further review or appeal above this level.

8-11. Grievance file

A grievance file will be established and maintained by the servicing CPAC NAF HRD and must contain all documents related to the grievance.

8-12. Regulatory interpretation

a. When the only issue in a grievance involves the interpretation of a regulation or policy, the proponent of the regulation or policy may be requested to provide interpretation and decision. The activity will obtain the employee's written concurrence to resolve the grievance this way.

b. The activity will provide a record of facts on the case to the servicing CPAC NAF HRD. This record will cite the regulation or policy involved and will include a copy of the grievance and other supporting material.

c. The employee and any representative have 7 calendar days to review this material and submit written comments to the servicing CPAC NAF HRD for inclusion as a part of the record.

d. The grievance file will be sent to the proponent of the regulation or policy for interpretation, and the servicing CPAC NAF HRD will also send a copy of the file to the command levels in between. The proponent will inform the employee and activity of its interpretation and that its decision is final.

8–13. Issues previously decided

If an employee attempts to grieve an issue that was decided in an earlier grievance by the same employee, the servicing CPAC NAF HRD will cite the previous grievance decision and reject the grievance.

Chapter 9 Incentive Awards

9–1. Principles

a. Employees may be recognized individually or in groups for performance, or for suggestions in accordance with paragraph 9–7.

b. The incentive awards program will be administered as an integral part of the total NAF personnel administration program and coordinated to the fullest extent possible with the performance evaluation, training, promotion, cost reduction, safety, health, and management improvement programs of NAFIs. All operating budgets should include provisions for incentive awards. Although cash awards can and should be tied to activity profitability where appropriate, it is counterproductive to prohibit awards within a non-profitable activity since an active incentive awards program is a proven productivity motivator.

c. Action will be taken on a continuing basis to promote full understanding of and participation in the incentive awards program by both management and the servicing CPAC NAF HRD.

d. One honorary award and one monetary award may be granted to an employee for the same special act or service, providing the criteria for each award is met.

e. When disciplinary actions are pending on employees for whom performance awards have been recommended, all action on the awards will be suspended pending final determination on the disciplinary action.

f. Only one Sustained Superior Performance (SSP) award based on performance of assigned duties may be granted an employee for any 12-month period of service. This period of time may be reduced to 90 calendar days for commands who have established procedures and criteria for providing interim performance ratings in accordance with paragraph 6–7*b*. Payband employees, both NF and CY, may receive a cash award and a pay adjustment based on performance in accordance with paragraph 9–3*a*. FWS employees may only receive a cash award and/or time-off award.

g. NAF employees may be nominated on DA Form 1256 (Incentive Award Nomination and Approval) for awards listed in AR 672–20, in accordance with the procedures in that regulation.

h. DA Form 5167 or SF 52 with justification is required for any award authorized by this regulation. One copy signed by the nominating official, supervisor, and approving official (one level above the nominating official) will be placed in the permanent folder in the employee's eOPF. A DA Form 3434 will be prepared. The effective date will be the beginning of the first full pay period following receipt by the CPAC NAF HRD of a properly completed and approved DA Form 5167 or SF 52. When the commander is also the nominating official, higher level approval is not required unless the amount of the award exceeds the commander's delegated authority. The documents related to the award, to include a copy of the DA Form 3434, will be made available to employees for their records.

i. In accordance with IRS requirements, monetary incentive awards are considered a part of gross salary subject to income tax (Federal and State), FICA, retirement, and 401(k) deductions.

9–2. Funding

a. The cost of employee monetary incentive awards will be paid by the employing NAFI.

b. Suggestion awards will be financed as follows:

(1) By the benefiting NAFI when the approved suggestion applies only to that NAFI.

(2) By the benefiting NAFIs on a prorated basis when an approved suggestion applies to two or more NAFIs on a single installation.

(3) By the Army MWR fund when approved suggestions have Armywide application.

c. Suggestions will be coordinated with the NAFIs benefiting from the suggestion and responsible for funding or sharing the funding, prior to final approval of the award.

9–3. Special achievement awards

a. Awards based on sustained superior performance. A certificate of commendation may be issued for SSP. A cash award and/or time-off may be authorized for FWS employees. Payband and CY employees may be awarded a pay adjustment, time-off award, and/or a cash award.

b. The following requirements apply in authorizing a special achievement award based on SSP:

(1) The award must be in recognition of a period of continuous service of no less than 90 days sufficiently superior to deserve special recognition.

(2) The amount of the monetary award will be recommended by the supervisor to the designated approval authority.

The total amount of the monetary award(s) issued during a 12-month period will not exceed 15 percent of the annual salary for an outstanding performance, or 5 percent for excellent performance. The limits for time-off awards will be in accordance with paragraph 9-8d.

(3) The performance of the employee must have been at least satisfactory in every respect and must have clearly exceeded the standard for satisfactory performance on the majority of major duties that are critical to the total job.

(4) Nomination for or approval of a special achievement award is not authorized when a disciplinary action is pending.

(5) The recommendation for an incentive award must provide justification in writing. The servicing CPAC NAF HRD will provide technical review of the approved DA Form 5167 or SF 52 and supporting documentation for regulatory compliance.

9-4. Awards based on special acts or services

a. Special acts or services. Certificates of commendation and cash, time-off or merchandise awards may be issued as outlined in paragraph 9-1d. The amount of any cash award will depend on the significance of the contribution. The recommendation for the award must be submitted by the supervisor in writing to the designated approval authority and will include justification for granting the award.

b. On-the-spot cash award.

(1) The on-the-spot cash award is designed for spontaneity, and to reward employees for acts or services at a less significant level than that required for a special act of service monetary award. This award must be for actions clearly recognizable as beyond what should normally be expected of the employee.

(2) On-the-spot cash awards of up to \$250 may be authorized by the activity manager. Awards of \$251 to \$500 (the maximum) may be authorized by the fund manager.

(3) On-the-spot cash awards will be processed as close in time to the act or service being recognized as practicable.

(4) Employees may receive more than one on-the-spot award, but the maximum combined total is \$2,000.00 in any 12-month period. An on-the-spot cash award may not be authorized for the same accomplishments during the same period.

9-5. Length of service awards

Length of service emblems (pins) and certificates are authorized in accordance with AR 672-20. All Federal, military, and NAF service will be creditable; however, the last full year of service must have been as a NAF civilian employee of DA.

9-6. Suggestion awards-general

The Army Ideas for Excellence Program (AR 5-17) is applicable to NAF employees. Suggestions should be submitted according to instructions as described in that regulation. NAF employees are not eligible for cash awards funded by APF.

9-7. Suggestion awards

a. Awards paid from NAF may be authorized for suggestions on the basis of estimated or actual savings resulting to NAFIs from the implementation of the suggestion. The amounts of such awards are as follows:

(1) First-year savings, \$250 — Award: \$25.

(2) First-year savings, \$250 to \$1,000 — Award: \$25 for the first \$250, plus \$5 for each additional \$50 or fraction thereof.

(3) First-year savings, \$1,000 to \$10,000 — Award: \$100 for the first \$1,000 in benefits, plus \$10 for each additional \$100 or fraction thereof.

b. Awards paid by NAF may also be authorized for adopted suggestions which result in intangible benefits that cannot be estimated in terms of increased productivity or in actual cash savings. The amount of such awards will be based on the value of the suggestions and extent of their application. Table 9-1 may be used as a guide for establishing the amount of the award.

Table 9–1
Guide for intangible benefits suggestion awards

Potential value	Extent of application			
	Limited	Extended	Broad	General
Moderate	\$25 to \$50	\$50 to \$100	\$100 to \$200	\$200 to \$400
Substantial	\$50 to \$100	\$100 to \$200	\$200 to \$400	\$400 to \$1,000
High	\$100 to \$200	\$200 to \$400	\$400 to \$1,000	\$1,000 to \$2,500
Exceptional	\$200 to \$400	\$400 to \$1,000	\$1,000 to \$2,500	\$2,500 to \$5,000

Notes:

¹ The maximum award is \$5,000. Limited application will be interpreted to mean the suggestion's application is limited to within an activity on an installation; extended application means it affects more than one activity on an installation; broad application is region-wide, and general application is Armywide.

9–8. Other incentives

a. Revenue sharing. Commanders may establish a revenue sharing program that includes all regular NAF employees in the activity. A copy of the Revenue Sharing Program will be provided to the DCS, G–1 (DAPE–CPZ–NF).

b. Management incentives. Garrison commanders may establish management incentive policies and plans for category “C” activity managers (see AR 215–1). To be eligible a manager must have full program responsibility, including manpower and budget authority, and must maintain a satisfactory level of performance throughout the specific period of the plan. Quantifiable financial goals, a specific period of time covered, and the monetary award for attainment of the goals must be established prior to implementation of the plan. Management incentive awards may not exceed \$25,000 in a 12–month period and must, at a minimum, be approved by the garrison commander. A copy of the management incentive plan will be placed in the permanent folder of the employee’s eOPF. A properly executed DA Form 5167 or SF 52 is required each time management incentives are to be paid.

c. Alternative incentive. Commanders may authorize an alternative to the traditional cash award for special acts or services. Gift cards and merchandise such as television sets, video cassette recorders, jewelry, travel packages, and so forth, may be substituted for the cash award. The cash value of the gift card or merchandise will be entered on DA Form 5167 or SF 52 and is considered income, subject to income tax and FICA.

d. Time-off awards. Commanders may establish a time-off award program. Time-off with no charge to leave may be authorized in lieu of the traditional cash award for a special act or service or in conjunction with a special achievement award (para 9–3). The DA Form 5167 or SF 52 will indicate the number of hours approved. At the time the hours are used the time card will indicate the time used as administrative leave. Employees may receive more than one time-off award. The maximum for a single award is 40 hours. The maximum for a 12–month period is 80 hours. The time-off award must be scheduled and used within 1 year of the approval date. A time-off award will not be converted to a cash payment under any circumstances. A NAF employee may retain the time-off award balance he or she has on a move from one activity to another activity within an Army NAFI or from one NAFI to another NAFI within the Army.

9–9. NF–06 incentive awards policy

Receiving a performance bonus does not preclude an NF–06 executive from receiving other awards, provided that the employee is not monetarily awarded twice for the same accomplishment. An award may be based on a suggestion, invention, superior accomplishment, productivity gain, or other personal effort that contributes to the efficiency, economy, or other improvement to DA operations or achieves a significant reduction in paperwork. The award may be monetary or honorary, or a combination of the two.

Chapter 10

Business-Based Actions

10–1. Coverage

This chapter provides methods for effecting workforce reductions and realignments that are necessary to conduct operations in an effective manner. This chapter applies to all RFT and RPT employees. It also applies to flexible employees who have been employed by the NAFI effecting the BBA for 3 continuous years, except that flexible employees may not be furloughed.

10–2. Advance planning and advance information

a. Reductions and realignments should be given top management attention to decrease adverse effects on employees and on the future effectiveness of the activity involved. Careful planning is necessary to lessen the impact, prepare employees, and to avoid administrative problems caused by hasty action. Good employer-employee relationships

require that management show concern for the employees' problems, morale, and economic security. Employees should be kept informed of plans that will affect them. In no case will BBA be used to separate, demote, or reduce pay or hours for inadequate performance, or for disciplinary reasons.

b. In planning to reduce or realign the workforce, it is important to consider each of the various actions that can be taken. For example, in order to meet a need to reduce the scope of an operation, a reduction in hours of work for all employees may be more acceptable than the separation of some employees. VERA or Discontinued Service Retirement (DSR) for eligible employees affected by BBA will be authorized in accordance with paragraph 15–24. Garrison commanders or equivalent who have been delegated the authority, may approve VSIP to encourage certain employees to retire or resign voluntarily to reshape and reduce the workforce, and reduce the need for voluntary separation by BBA, see 10–2*e*. The tools available to management are sufficiently diverse to allow the effects of reductions to be broadly spread, thereby minimizing the impact on the workforce.

c. All reductions and realignment actions which will result in the reduction or relocation of 50 or more RFT or RPT employees require that written notification be furnished through command channels to the DCS, G–1 (DAPE–CPZ–NF) no less than 30 days prior to implementation.

d. All employees in the activity which may be affected will be provided initial information simultaneously. This may be done in writing. The written notification should provide general information not specific to identified positions. Employees should not perceive the notice as an official BBA proposal. A group meeting may also be helpful, especially one in which employees may ask questions and receive answers. Labor organizations that have exclusive recognition will be consulted regarding reductions prior to the initial announcement to employees.

e. A VSIP is made in a lump-sum payment equivalent to an employee's severance pay, up to a maximum of \$25,000. For the purposes of calculating VSIP for NAF employees, the severance pay calculation may not exceed the amount calculated using the civil service formula in 5 USC 5595(c). A VSIP is paid upon the voluntary resignation, early retirement, or optional retirement of designated eligible employees. NF–6 employees are equivalent to SES and are ineligible for VSIP except where approved by the Office of the Assistant Secretary of Defense (Force Management Policy).

10–3. Types of business-based actions

a. BBAs are nondisciplinary, management-initiated actions taken to adjust personnel resources with a minimum of disruption to operations. While some NAFI activities are not businesses, they still must be staffed in the most economical manner consistent with maximum efficiency.

b. BBAs include—

- (1) Reduction in pay rate (applicable only to NF employees).
- (2) Change in employment category.
- (3) Furlough of a regular employee.
- (4) Separation.

10–4. Administration

a. When it becomes necessary to reduce or realign the workforce, the head of the activity will obtain the concurrence of the next higher level (or a specified official if required by local policy) prior to initiating any actions.

b. The determination of positions to be affected, and the type of personnel actions to be taken with respect to each of the employees, will be made by the head of the activity. Such decisions will consider the cause of the reduction or realignment, whether it is a temporary or permanent situation, the importance to the activity of the various functions, and the changed mission or organization.

c. In some cases, identification of specific positions or functions may be sufficient to determine which employees will be affected. However, in those cases in which more than one employee in the same employment category is performing the functions to be impacted, determination of the specific employees to be affected will be based on factors such as employee knowledge, skill, and ability as demonstrated through performance. Employees must be ranked to determine the order in which they will be affected. The ranking process must include performance and seniority, although other factors such as job related training and formal education may be included. Performance may be the primary criterion. In determining ranking, the employee's performance ratings for the most recent 2 years must be considered, as a minimum. In the absence of documented performance ratings, a satisfactory rating will be presumed.

d. Efforts will be made by the servicing CPAC NAF HRD to find positions for employees separated from their positions. If they cannot be placed in other positions they will be given assistance in finding positions through the installation Army Career Alumni Program Office.

e. Employees have a right to grieve within 7 calendar days after the effective date of the BBA if they believe that regulations and procedures were not properly applied. An employee may not grieve the management decision to conduct a BBA.

10-5. Transfer of function

a. A transfer of function is the transfer of a continuing function from one DOD NAFI and its addition to one or more other DOD NAFIs, or the movement of the function to another commuting area, except when the function involved is virtually identical to functions already being performed in the other NAFI or commuting area. A function is transferred when it disappears or is discontinued at one location and appears in identifiable form at another location.

b. When one or more functions of a NAFI are transferred, RFT and RPT employees identified with the transferring function will be transferred with the function if the alternative is separation or demotion. If they decline to move, they may be separated without prejudice to reemployment. A written offer of transfer will be made at least 30 calendar days prior to the effective date of the transfer. Each employee who declines to move with the function being transferred must submit a written declination of the offer of transfer within 15 calendar days of receipt of the offer.

c. When a transfer of function results in a PCS move, at a minimum, the employee will be authorized basic (non-discretionary) JTR moving expenses.

10-6. Dissolution of a nonappropriated fund instrumentality

a. When it has been determined that a NAFI will be dissolved, with all its functions and positions to be abolished, the usual BBA procedures will be applied except that a minimum of 60 days advance notice of separation will be provided.

b. The servicing CPAC NAF HRD will process the personnel actions. If the installation is deactivated before all the NAFI personnel actions have been processed, the commander of the next higher echelon in the chain of command will complete the processing of the personnel actions.

10-7. Tenure following active military duty

a. Regular employees restored to NAFI positions through exercise of statutory rights following active military duty are entitled to the retention priorities specified below (see para 5-39).

(1) Employees who are entitled to be retained for 1 year after exercising their reemployment rights under USERRA, 38 USC 43 will be given priority in retention over other employees until the expiration of the 1-year period. This protects employees whose period of uniformed service was more than 180 days.

(2) Employees who are entitled to be retained for 6 months after exercising their reemployment rights under USERRA, as amended, will be given retention priority over other employees until the expiration of the 6-month period. This protects employees whose period of uniformed service was more than 30 days but less than 181 days.

b. If the employee's position was abolished by BBA during his or her furlough, the NAFI must place the employee in another position of like status and pay. An employee on furlough will not be demoted or separated except for cause in accordance with 5 CFR 353.209.

10-8. Effecting business-based action

a. Upon identification of the specific employees to be affected, the official initiating the action will record the basis for the actions to be taken. This record will include the following:

- (1) The business or operational conditions that necessitated the reduction or realignment.
- (2) The basis used for determining which employees are impacted.
- (3) The names of all employees included in the BBA and the actions taken on each.

b. Employees with retention priority based on military service will be by-passed until completion of the mandatory retention period. If the situation is such that they cannot be retained in their same position, they will be placed in a position of like seniority and pay for which they are qualified.

c. In overseas areas, retention is authorized when necessary to complete transportation arrangements or because the employee or a Family member is incapacitated and cannot travel.

10-9. Notices and notice periods

a. Written notice will be provided to all affected employees. Notices will not be issued or made effective between 15 December and 3 January. Employees not in a duty status at the time of notification will be informed by means of certified mail.

b. The notice clearly and specifically must inform the employee of the action to be taken and the reasons for the action. As a minimum the notice must—

(1) State the action being taken, including position title, series, grade or payband level and rate of pay, when applicable.

(2) State the reason why the action was necessary.

(3) Advise of the right to review the records used to determine employees to be affected. (Applicable only when more than one employee occupies an affected position.)

(4) If the action is separation, include the statement: "This action is nondisciplinary and does not preclude reemployment."

(5) Advise of severance pay entitlement, when applicable.

- (6) Advise FWS employees of grade and pay retention eligibility, if applicable.
- (7) Advise on loss of retirement, savings plan, and insurance participation benefits, including the opportunity for extension of health insurance, when applicable.
- (8) If the action is a separation, provide information on unemployment compensation, the RPL, or other applicable priority placement program.
- (9) If the action is separation, provide information on eligibility for Civil Service positions for 1 year from date of separation under the DOD/OPM Interchange Agreement, eligibility for DSR and other civilian assistance and reemployment benefits, when applicable.
- (10) Advise of employee's right to grieve and the deadline for doing so.

c. Except for separations, all actions requiring a DA Form 3434 will be made effective on the first day of a pay period. The length of the notice period is determined by the action being taken and the appointment category of the employee, as follows:

- (1) *Separation.*
 - (a) RFT and RPT employees will receive a minimum 30-calendar day advance written notice.
 - (b) Flexible employees who have been on the rolls over 3 years will receive a minimum 7-calendar day advance written notice.
- (2) *Reduction in pay rate.* This action may only be taken on NF employees and requires a minimum 30-calendar day advance written notice. Reduction in pay rate does not require a change in duties.
- (3) *Change in employment category.* An advance minimum written notice of 30 calendar days will be given when a RFT employee is changed to RPT or flexible, when a RPT employee is changed to flexible, or when a RFT or RPT employee is changed to seasonal.
- (4) *Furlough.* Furlough is a nonduty status appropriate only for RFT and RPT employees. During a furlough period no type of leave may be used. Advance written notice will be provided that is equal to the length of the furlough up to a maximum of 30-calendar days. For furloughs in excess of 30 days, a 30-day advance notice is required.

10-10. Placement of employees

The servicing CPAC NAF HRD will attempt to place the employee in any vacant position at the same or lower level/grade for which qualified. If the employee accepts such an offer, placement may be made noncompetitively. There is no authority to displace another employee.

10-11. Records

The record outlined in paragraph 10-8a, together with copies of employee notifications, will be retained by the employing activity for a period of 1 year. When a NAFI is dissolved, the record and notifications will be retained by the commander in the next higher echelon in the chain of command for a period of 1 year.

10-12. Reemployment priority list

a. Each installation that has separated RFT or RPT employees by BBA will retain such employees' names on a RPL until reemployed but not longer than 1 year from the date of separation.

b. When the NAFI is filling a vacancy by other than detail or position change, an employee on the RPL will be offered a position when a vacancy occurs in the NAF activity from which the individual was separated if the position is:

- (1) In the same or lower employment category as the position from which separated, and
- (2) In the same or lower grade or pay level as the position from which separated, and
- (3) In a position that has substantially the same duties as the position from which separated. (In areas outside the continental U.S., the requirement to offer reemployment does not apply to an employee who is precluded from future employment under U.S. programs by host nation laws or treaties.) If more than one person is eligible, the one with the earliest date of separation will be offered the position. If the separation dates are the same, the employee with the higher performance rating will be offered the position. Reinstatement under this paragraph is not subject to competitive procedures. If the separation and performance rating dates are the same, the criteria used to determine the BBA should be applied.

c. An employee separated from a RFT position will be deleted from the RPL when he or she accepts or declines a RFT position with a pay rate the same or higher than that of the position from which separated. Under similar criteria, a RPT employee will be removed from the list when he or she accepts or declines a RFT or RPT position with a pay rate at the same or higher level.

d. A person on the list will also be offered priority consideration for positions in other DOD NAFIs in the commuting area if the vacancy is being filled on a competitive basis. Information on employees to be separated will be shared with other DOD activities in the commuting area.

Chapter 11

Civilian Applicant and Employee Security Program

11-1. Program goal

The Civilian Applicant and Employee Security Program is designed to ensure the meeting of investigative requirements for NAF employment, the evaluation of investigation reports, and the making of determinations in the case of applicants as to whether the employment or retention in employment of the individual concerned is consistent with the interests of national security.

11-2. Coverage

All NAF employees and applicants for NAF employment will be subject to the investigative requirements and the standards and criteria prescribed in AR 380-67. A background investigation is required on all employees in sensitive positions or nonsensitive positions of public trust. This investigation may be required before employment or after the employee reports for duty depending upon the urgency of the fill and the sensitivity of the position. The results of this investigation will be a determining factor for appointment or continued employment. Employment candidates or applicants will be made aware of the investigative requirements for the position being filled. This requirement will be made a part of the vacancy announcement, which will spell out clearly the investigation requirements for the vacancy being filled. The statement that the final appointment for this position is contingent upon successfully passing this investigation must be on the vacancy announcement. Also, upon request from an applicant the investigation forms package will be provided. This will allow the potential candidate to be aware of the information required and to decide if he or she wishes to continue the application process. Additionally, the investigative package will be provided to the employee at the time of selection and acceptance of an official job offer. This will allow the employee to gather the required information and submit the investigative package in a timely manner.

11-3. Suspension and removal

The use of the suspension and removal procedures prescribed in AR 380-67 will be limited to cases in which the interest of national security is involved. Maximum use will be made of the normal procedures prescribed by this regulation where such procedures are adequate and appropriate. When an investigation discloses derogatory information that reflects on the individual's suitability for retention in employment, is of such nature as to warrant suspension or removal, and can be disclosed to the employee, the action will be taken under the normal suspension or removal procedures prescribed in this regulation.

11-4. Reassignment

Nothing contained in this chapter will be deemed to limit or affect the responsibility and authority of a commander to reassign persons under their respective jurisdiction to nonsensitive positions when in the interests of national security.

Chapter 12

Employee Development

12-1. Concept

a. To provide opportunities for employees to develop and advance within available Armywide and local career field management, a Civilian Leader Development Common Core model has been developed that identifies essential training for all the civilian leaders of America's Army from intern (management trainee) through the executive level (NF-6). This civilian leadership training is progressive and sequential and is intended to parallel the institutional training pillar of the officer development model. The Army will also provide training to help ensure maximum efficiency of NAF employees in the performance of their duties, to institute career and executive programs, and to encourage employees in their efforts for self improvement. Training needs will be reviewed continuously to meet present and anticipated needs.

b. DA facilities will be used to the maximum extent possible for the training and development of NAF employees.

c. IMCOM serves as personnel proponent for career program 29. As proponent, the commander is responsible for career development of the MWR workforce based on the eight personnel lifecycle functions.

12-2. Administration

a. Training-related management functions include, but are not necessarily limited to, the following:

(1) Developing individual training and professional development plans in accordance with ACTEDS Plan for career program 29. The plan describes the knowledge, skills, and abilities needed for key positions and outlines the training necessary to accomplish the competencies. It identifies mission essential mandatory training that the employee must have to support and/or achieve an acceptable performance level. Successful completion of priority I training within the

specified time period will be considered a factor in determining whether an employee and/or supervisor has satisfactorily completed the required probation period. Equivalency credit for mandatory, priority II MWR functional requirements may be granted by the proponent for career program 29 (Installation Management) on a case-by-case basis.

- (2) Scheduling of time and programming of resources to support individual plans.
 - (3) Monitoring to ensure that plans are fulfilled.
 - (4) Assigning duties and responsibilities that reinforce training received, and conducting on-the-job or cross-training programs to supplement formal training.
 - (5) Ensuring that subordinates include formal training in their individual development plan.
 - (6) Identifying other requirements and providing for general, unique or specialized training or experience in addition to that prescribed in plans.
- b.* The career program 29 (Installation Management) personnel proponent will manage and administer the training-related management function of this program. The CPAC NAF HRD will provide consulting on an as-needed basis.
- c.* IMCOM G-9 will establish requirements for training, continuing education, and certification standards for all NAF contracting personnel in job series 1102, 1105, and 1106.

12-3. Required training and funding

- a.* Each NAFI is responsible for providing the funds for meeting the training needs of personnel employed by the NAFI. This does not preclude the use of command funds for command-wide training programs.
- b.* RFT employees may be reimbursed for the cost of approved educational courses taken during off-duty time, including required books and materials. The course must be directly related to the employee's current duties and must be approved in advance by the head of the employing NAFI. Commanders will set local guidelines for such training.
- c.* Mandatory training, which is considered mission essential, identified in the ACTEDS Plan for career program 29 (Installation Management), and which the employee must have to support and/or achieve an acceptable performance level, is centrally funded by IMCOM G-9.
- d.* Newly appointed NAF supervisors must complete supervisory development training within 12 months after assignment to their first supervisory position. The NAF HR for Supervisors course provides new supervisors, training in their responsibilities on civilian HR management. The course covers HR legal and regulatory requirements, HR processes, and the automated HR tools designed to assist supervisors in requesting and tracking personnel actions. In order to ensure that all new supervisors receive this training in a timely manner, the CPAC NAF HRD is responsible for presenting this course onsite to supervisors at their serviced installations and activities. The instructions and information are accessible on the Civilian Personnel On-Line Web site for CPAC NAF HR specialists who will manage and teach the course. Failure to complete supervisory development training may be considered when making determinations regarding satisfactory completion of the 1-year supervisory probation period.
- e.* NAF supervisors and managers are required to participate in the Civilian Leadership Training, Common Core courses, and MWR functional training as described in ACTEDS for career program 29 (Installation Management).
- f.* Supervisors will receive annual training in the development of supervisory responsibilities and skills (see para 1-4k(10)).

Chapter 13 Labor Management Relations

13-1. Administration

Labor management relations programs relating to DA NAF employees will be administered in accordance with DODI 1400.25-V711 and V1471 and this regulation. The Assistant G-1 for Civilian Personnel Policy is the representative for the Secretary of the Army on all labor relations issues elevated to HQDA.

13-2. Cost containment

Increased costs resulting from any NAFI's collective bargaining agreement will not be involuntarily shared by other NAFIs.

13-3. Extension of negotiated provisions

- a.* Nonstandard provisions covering bargaining unit employees may be extended to cover non-bargaining unit employees when—
- (1) The provision provides a greater benefit than provided by existing Army regulations.
 - (2) Failure to extend the provision would cause financial or administrative hardship to the NAFI.
 - (3) The extension of the benefit will not create the appearance of a conflict of interest.
- b.* Requests to extend negotiated provisions to non-bargaining unit employees will be submitted through the chain of

command to DCS, G-1 (DAPE-CPZ-NF) for approval. Requests are required whenever granting a nonstandard benefit that would result in additional costs. Such provisions will not be extended prior to approval.

Chapter 14

Unemployment Compensation

Section I

General

14-1. Coverage

Civilian employees of NAFIs and military personnel employed voluntarily during off-duty hours may be considered as having rendered “Federal service” within the meaning of 5 USC 8501 through 8508, entitling them to unemployment benefits.

14-2. Information coordination

a. The program manager will ensure that noncompliance cases forwarded by HQDA are expeditiously handled and monitored to preclude further delay.

b. The servicing payroll office will provide required reports to the State employment security agencies and the Secretary of Labor to determine employees’ eligibility for unemployment compensation.

c. The NAFI manager will ensure that State eligibility determinations were made properly and benefits were authorized only for eligible employees. When former employees appear to be granted benefits inappropriately, appeals will be filed in accordance with paragraph 14-5.

14-3. Notice to separated employees

a. The servicing CPAC NAF HRD will—

(1) Inform employees of the provisions of the unemployment compensation program when effecting separation.

(2) Provide a copy of SF 8 (Notice to Federal Employee about Unemployment Insurance) to each employee whose services are terminated for any reason or placed in a furlough status for a period of 7 or more consecutive calendar days. Supplies of SF 8 are available through normal publications supply channels. The address insertion on the SF 8 will be completed and must reflect on the top line “NONAPPROPRIATED FUND ACTIVITY-ARMY-425” followed by the complete mailing address of the payroll office maintaining the payroll records.

b. In overseas areas, a SF 8 will be prepared and issued only to U.S. citizen employees under the conditions specified in paragraph 14-3*a.*

14-4. Request for wage and separation information

Upon receipt of an application for unemployment compensation from a former NAF employee, the State agency will submit form ES-931 (Request for Wage and Separation Information). When the form is received by the servicing CPAC NAF HRD, it will be forwarded without delay to the appropriate payroll office. The payroll office will provide the State Unemployment Compensation Agency a salary history for the employee and any information concerning the reasons for the separation. In the event circumstances exist that might preclude payment of unemployment compensation to a separated flexible employee, the personnel office will note on the payroll copy of the separation DA Form 3434: “For information on this action, contact (name and telephone number of the individual who can provide information on the action).”

14-5. Appeals

State employment security laws provide for administrative appeals from State agency determinations. Appeals may be made by the claimant or the employer.

a. An employer may file an appeal when—

(1) The State determination challenges the finality of the employer’s finding.

(2) The State agency appears to have misinterpreted or disregarded the employer’s findings.

(3) The employer believes that as a result of legal review the determination is not in accordance with the provisions of the State law.

b. In those cases where an appeal has been initiated, the employer, upon notice of hearing, may appear and present oral argument. In the event the employer does not desire to appear at a hearing to present oral arguments, written argument may be presented to be included in the record. Such written argument should be submitted in sufficient time to reach the appellate authority before the date of the hearing.

c. The NAFI will coordinate with the servicing legal office as to the applicable State procedures and before initiating an appeal and presenting oral or written argument. When an appeal is initiated by a NAFI or by a former

civilian employee thereof, any argument of the NAFI considered necessary in the appeal will be in writing unless the circumstances of the case are so exceptional as to demand oral argument. The commander, after consultation with the servicing legal office, may authorize oral argument. A judge advocate officer or legal advisor from the servicing legal office may be detailed to present the oral argument to the State appellate authority. Expenses for travel of APF personnel in representing the NAFI will be paid from APF.

Section II Reports

14–6. Concept

DA Form 1599 (Initial Listing of Nonappropriated Fund Instrumentalities) and DA Form 1600 (Changed Listing of Nonappropriated Fund Instrumentalities) are designed to furnish the individual State agencies and the DOL with employment and payroll information needed in preparing workload and benefit cost estimates for appropriation requirements. It is important that these forms be prepared in an accurate, complete, and timely manner. The information provided to the various State agencies through the submission of these forms is compiled and forwarded to the DOL. This data provides employment and wage statistics and has a direct influence on economic and fiscal policies. The payroll office is required to report quarterly to the DOL, Bureau of Labor Statistics the monthly employment and quarterly payroll. Reporting on magnetic media is permitted as provided by DOL, Bureau of Labor Statistics. This report and the DA Form 1599 NAFI will be paid from APF.

14–7. General report instructions

These reports will be submitted on each NAFI at military installations located in the United States, Puerto Rico, and the Virgin Islands.

a. An initial listing of NAFIs was submitted by installations in 1978 upon initiation of the reporting requirement. An initial report is required therefore, only upon activation or assumption of a new NAFI. The report will be prepared by the CPAC NAF HRD on DA Form 1599. The original of the listing is mailed to the appropriate State employment agency, the duplicate copy to the responsible major command, and the triplicate copy will be retained in the NAFI file.

b. A revised listing will be prepared by the CPAC NAF HRD in triplicate using DA Form 1600 whenever organizational changes are made which necessitate changes in the original listing, such as the activation, deactivation, or redesignation of a NAFI.

Chapter 15 Employee Benefits

Section I General

15–1. Eligibility to participate

a. Regular full- and part-time Army NAF employees of United States. Army NAFIs worldwide, except off-duty military and those employed by NAFI's excluded in AR 215–1 (exclusions), are eligible to participate in NAFI employee benefit programs. This includes NAF employees of the DOD NAFIs established under AR 215–1.

b. As to retirement coverage elections only, civilian employees (NAF or APF) affected by PL 101–508, Act of 1990, as amended by PL 104–106, section 1043 and PL 107–107, section 1131 and 1132.

c. Same sex domestic partners are eligible for medical coverage.

d. Flexible employees who have averaged 30 hours of work per week over the previous 26 pay periods must be afforded participation in medical insurance coverage only. This coverage regardless of the number of hours worked will remain in effect until the next calendar review period.

15–2. Interpretation

a. Where changes to this regulation make the provisions of the applicable plan document inconsistent with Army policy, the plan document must govern. Upon discovery of any such inconsistency, IMCOM G–9 will act promptly to either amend the plan to bring it into conformity with policy, or seek a waiver to the applicable policy or regulatory provision consistent with statutes that govern employee benefit plans.

b. Requests for interpretation of this chapter should be directed through command channels to DCS, G–1 (DAPE–CPZ–NF).

c. Comments concerning administration of the benefits programs will be submitted, in writing, to the IMCOM G–9 (IMWR–HRB).

d. All contract provisions relating to the U.S. Army NAF Group Life Insurance Plan are in the Master Group Insurance Contract on file with IMCOM G-9 (IMWR-HRB).

e. All contract provisions relating to the Group Medical Insurance Plan are in the Master Contract on file with the DOD NAF Personnel Policy Office.

f. All contract provisions relating to the Group Long Term Care Insurance Plan are in the Master Group Long Term Care Policy on file with IMCOM G-9 (IMWR-HRB).

15-3. Administration

a. The benefits program manager administers the program for the Commander, IMCOM.

b. Supervisors are required to inform their employees of the full range of benefit elections that may be available to them and the importance of updating their beneficiary information. This will be accomplished and documented by the supervisor during the employees' orientation and documented on DA Form 7428.

c. The servicing CPAC NAF HRD promulgates, as necessary, information on employee benefits and processes changes or elections from employees.

Section II

Group Medical, Dental, and Life Insurance and Long Term Care Insurance Plans and Flexible Spending Accounts

15-4. General

a. The DOD NAF Health Benefits Plan (HBP) is designed to provide medical and dental insurance benefits at a moderate cost to the employer and employee on a shared basis. Life insurance benefits are provided by the U.S. Army NAF Group Insurance Plan. Long term care insurance is provided under the NAF employee group long term care insurance plan and flexible spending accounts medical and dental care are available.

b. Benefits are as follows:

(1) Life insurance, accidental death and dismemberment benefits, and Family member life insurance benefits.

(2) Life insurance for retired employees.

(3) Medical insurance benefits of the DOD NAF HBP and, where offered, health maintenance organization (HMO).

(4) Dental insurance.

(5) Employee and Family members' temporary continuation coverage for medical.

(6) Medical and dental insurance for retired employees.

(7) Long term care insurance for employees, retirees and their spouses, in-laws, parents, and grandparents.

(8) Flexible spending account for employees, their spouses, and dependent children.

15-5. Plans

a. Employees may elect to participate in—

(1) Group medical/dental or HMO medical insurance where available.

(2) Medical insurance and/or dental insurance.

(3) Medical insurance, dental insurance, and group life insurance.

(4) Group life and medical insurance or HMO.

(5) Group life insurance. Subject to plan minimums, employees may elect the following:

(a) One times their basic annual salary.

(b) Two times their basic annual salary.

(c) One or two times their basic annual salary plus optional life insurance up to twice the basic life insurance amount. The maximum basic life insurance is \$250,000. The maximum optional life insurance amount is \$500,000.

b. Employees can participate in group dental insurance without medical insurance effective 1 January 2008.

c. NAFIs cannot sponsor or contribute to any other group medical, dental, or life insurance plans for their employees.

d. Employees may participate in the group long term care insurance plan. Employees and retirees must pay the full cost of the premium without any subsidization by the NAFL.

e. Employees may participate in flexible spending accounts.

15-6. Eligibility for medical, dental, or life and long term care insurance coverage and flexible spending accounts

a. Regular NAF civilian employees may participate if they work for a NAFL in the 50 United States, the District of Columbia, or Puerto Rico.

b. Regular NAF civilian employees in foreign areas may participate if they are U.S. citizens, or the spouse or child of a U.S. citizen, subject to Status of Forces agreements, where applicable.

c. Same sex domestic partners are eligible for medical coverage only.

d. Flexible employees working on an average of 30 hours per week over the previous 26 pay periods will be eligible for medical coverage only.

15–7. Effective date

a. For new employees group insurance becomes effective the day the employee signs and submits the enrollment election forms to the CPAC NAF HRD, provided the employee does this within the first 31 days of employment.

b. During an open enrollment period, the effective date will be as specified by the benefits program manager.

15–8. Family members

a. Effective 1 January 1989, employees enrolled in the U.S. Army NAF Group Life Insurance Plan have Family member life insurance for their spouse and eligible children. If the spouse dies, the employee will receive a \$5,000.00 benefit. If an eligible child dies, the employee will receive a benefit of \$2,500.00 for each eligible child. Employees in an LWOP status who have elected to continue insurance coverage are eligible for Family member life insurance benefits. Employees may purchase additional optional Family member life insurance as specified in the U.S. Army NAF Group Life Insurance Plan.

b. Family members may be included under the U.S. Army NAF Group Life Insurance Plan and the DOD NAF HBP pursuant to the rules established in those plans.

c. An employee who is enrolled in single (self-only) coverage may apply for DOD NAF HBP Family coverage within 31 days of gaining a new Family member (for example, through marriage or the birth of a child).

d. Children under age 26 regardless whether those children have access to their employer-sponsored health care coverage are eligible to participate in medical insurance coverage under the DOD HBP.

15–9. Open enrollment periods

a. Application for group insurance may be made, using the required enrollment forms:

- (1) During an employee's initial 31-day eligibility period.
- (2) During an open enrollment period.

b. An open enrollment for group insurance will be announced from time to time. The open enrollment period will normally be a 30-day period. Employees who did not apply for group life insurance during the initial 31-day eligibility period may apply during this period without evidence of insurability. During this period insured employees also may—

- (1) Apply for group medical and/or dental insurance for Family members.
- (2) Add dental insurance to medical insurance.
- (3) Drop dental insurance and keep medical insurance only.
- (4) Add life insurance or change life insurance coverage.
- (5) Change medical coverage.
- (6) Add or change flexible spending account.

15–10. Changes in medical, life, or dental insurance coverage

a. The amount of basic life and accidental death and dismemberment insurance coverage will change with the effective date of the pay adjustment, unless the employee is not in a pay status on that date. When the employee is not in a pay status on the date of the pay adjustment, the amount of coverage will not change until the employee returns to a pay status for 1 full day. Employee deductions will change the first full pay period on or after the pay adjustment.

b. When an insured employee enrolls in family medical insurance within 31 days of gaining a Family member, insurance will become effective when the employee signs and submits the enrollment forms to the CPAC NAF HRD. A newborn child will be covered from the date of birth, if application for family coverage is made within 31 days of birth.

c. For life insurance purposes, employees on LWOP must return to work for life insurance increases or for coverage to become effective.

d. Absent a qualifying event, an employee may not change from family coverage to single coverage or cancel medical insurance option plans unless the employee declines participation in the plan covered by IRS Section 125. The reduced coverage will become effective the date deductions are decreased.

e. Dental coverage cannot be discontinued unless medical coverage is also discontinued. When medical coverage is discontinued, dental coverage is automatically discontinued.

15–11. Transfer of employment

a. A transfer from one DOD NAFI to another will not cancel existing DOD NAF HBP medical and dental insurance coverage as long as there is no break in service.

b. Participating employees who transfer from an installation where they are covered by an HMO, may enroll in the DOD NAF HBP Plan or HMO program approved pursuant to paragraph 15–15 with the same class of coverage as was in effect at the former installation without a break in insurance coverage.

15–12. Termination of insurance

- a.* An employee ceases to be insured on the earliest of the following:
- (1) The date employment ends.
 - (2) When a regular employee converts to a flexible position averaging 30 hours per week, their medical insurance coverage will continue for the next 26 pay periods and all other benefit entitlements will cease (life, dental, retirement, 401(k), as applicable).
 - (3) When a flexible employee who has averaged less than 30 hours per week for the previous 26 pay periods will become ineligible for medical insurance.
 - (4) When an employee on LWOP requests discontinuance of insurance and deductions from pay stop, or when an employee is determined to be in default on required premium payments.
 - (5) The date the master group contract terminates.
- b.* A Family member ceases to be insured on the earliest of the following dates:
- (1) The date the Family member becomes ineligible in accordance with the applicable plan document.
 - (2) The date the Family member commences active duty in the Armed Forces of any country.
 - (3) The date the employee is no longer insured.
 - (4) The last day of the last pay period for which an employee makes contributions for Family member coverage.
 - (5) The day the master group contract terminates.
- c.* Employees covered by medical insurance benefits may elect temporary continued coverage in accordance with the rules of the NAF DOD HBP.

15–13. Retiree Medical Program

- a.* Effective 1 January 1991, the Army Retiree NAF Medical Program was implemented. The following are the eligibility criteria:
- (1) An active employee who was participating in the Army NAF medical program Preferred Provider Organization and/or HMO on 31 December 1999, with a minimum of 5 years of participation immediately preceding retirement and who receives an immediate annuity from the U.S Army NAF Retirement Plan is eligible for subsidized retiree medical and dental insurance.
 - (2) An active employee who was participating in the Army NAF medical program Preferred Provider Organization and/or HMO on 31 December 1999, who subsequently retires between the ages of 62 and 65 on an immediate annuity and has 15 years of participation in the Army NAF medical program, of which 5 years must immediately precede retirement, will receive free retiree medical and dental insurance until age 65. After age 65, the retiree is eligible for subsidized retiree medical and dental insurance (post retirement medical coverage).
 - (3) Effective 1 January 2000, an active employee who does not meet the eligibility in paragraphs 15–13a(1) and (2), is eligible to continue in the DOD NAF HBP following retirement (post retirement medical) if he or she meets the following three conditions:
 - (a)* Is enrolled in the DOD NAF HBP (either HMO or non-HMO) on the day before retirement. Employees who wish to continue dental coverage must also be enrolled in the dental plan associated with their medical plan the day before retirement.
 - (b)* Has 15 years of cumulative participation in any combination of DOD NAF component medical plans and the DOD NAF HBP (both HMO and non-HMO). Participation does not have to be continuous. Continuation of dental coverage also requires 15 years of cumulative participation in the dental plan associated with his or her medical plan.
 - (c)* Receives an immediate NAF annuity, or Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS) annuity provided the employee elected CSRS or FERS coverage under the provisions of the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, amended by PL 104–106 and 107–107.
- b.* Eligible retirees may elect single or family medical and dental coverage. Survivors may continue participation in accordance with the DOD NAF HBP.
- c.* Retirees who were members of HMOs may choose to—
- (1) Convert their coverage to an individual policy with the HMO. The retiree should contact the appropriate HMO member services office to arrange for conversion and premium payment procedures.
 - (2) Convert their coverage to the DOD NAF HBP upon retirement, provided they meet the eligibility criteria for post retirement medical benefit.

15–14. Contributions

- a.* Funding of the basic group life insurance plans and all classes of medical and dental insurance coverage is accomplished by cost sharing between the participating employee and employing NAFI. Optional life insurance is offered on an employee-pay-all basis. Contributions applicable to the group life, medical, and dental insurance plans are subject to change by interim announcement.
- b.* Employees who join the group life or medical and dental insurance plans make premium payment through payroll

deductions. Deductions begin the first pay period on or after the date the DA Form 3473 is signed and submitted by the employee and processed by payroll.

c. Participating employees on approved LWOP in excess of one pay period must document his or her decision to continue or discontinue his or her insurance coverage on DA Form 3473 when starting LWOP. Employees who cancel coverage will not be eligible to re-enroll until the next open enrollment.

d. For participating employees on LWOP or whose pay is insufficient to cover the required contributions, the servicing payroll office will—

- (1) Deduct the employee and employer contributions from the employing NAFI account.
- (2) Notify the NAFI of the payment and the amount to be collected from the employee.

e. Seasonal employees in a nonduty, nonpay status will be treated as any other employee in a LWOP status for payment of premium contributions in a LWOP status.

f. If financial hardship is placed upon the employee through no personal fault, the employing NAFI fund manager may waive the requirement for the employee to repay the NAFI.

15–15. Health maintenance organizations

a. The HMO Act of 1973 (PL 93–222) was amended in 1981 by PL 97–35. NAFIs were required to offer the services of HMOs to NAF employees as competitive health care plans under certain circumstances. Effective 25 October 1995, the HMO Amendments of 1988 eliminated the requirement for offering HMOs. Existing agreements with HMOs will remain in effect until canceled, or replaced.

b. HMOs are made available to employees as an alternative means of health care coverage to the uniform DOD NAF HBP. HMOs may not compete with the DOD NAF HBP.

c. For an HMO service agreement to remain in effect, an HMO must—

- (1) Be qualified by the Department of Health and Human Services.
- (2) Operate in areas where 25 or more NAF employees live who are eligible for the NAF Employee Benefits-sponsored program.
- (3) Contact IMCOM G–9 NAF Employee Benefits between 1 January and 30 June requesting that their services be offered the following 1 January.
- (4) Establish a letter of agreement with IMCOM G–9 (IMWR–HRB) which includes effective dates, payment arrangements, and other administrative procedures.

d. Employees who elect to use HMO services deal directly with the HMO for all medical treatment, complaints, and disputes. Agreements between IMCOM G–9 (IMWR–HRB) and HMOs are established only for the purpose of facilitating the insurer-insured relationship between the HMO and the employee. IMCOM G–9 (IMWR–HRB) assumes no responsibility for the services provided by the HMO. HMO premium contributions will be withheld from participating employees' biweekly pay and distributed to the HMO, as determined by IMCOM G–9 (IMWR–HRB), along with such employer contributions as have been approved by the MWR board of directors.

e. Employee eligibility, enrollment procedures, and other policy matters as they pertain to employee participation in an HMO will be as prescribed in directives on the DOD NAF HBP. An employee may switch between an HMO and the DOD NAF HBP only during open enrollment periods or as authorized under the Health Insurance Portability and Accountability Act. When an HMO offers an allied dental plan, employees desiring dental insurance who elect HMO health coverage will participate in the HMO dental plan. Employees may elect the HMO health plan and the DOD NAF HBP dental coverage in areas where the HMO does not offer a dental plan.

f. HMO representatives will provide employees information describing the HMO services, coverage, conversion rights, facilities, and costs. Commanders are encouraged to allow HMO representative's access to employees to describe their existing plans a month before and during the open enrollment period.

Section III

Retirement Plan for Nonappropriated Fund Employees

15–16. General

a. The U.S. Army NAF Employee Retirement Plan was established on 1 January 1966. It is designed to give retirement income benefits to NAF civilian employees, and is for that purpose only. These retirement benefits, when combined with social security benefits, give retired or disabled NAF employees, or their eligible survivor(s), a degree of financial security.

b. NAFIs cannot sponsor or contribute to any other retirement plan for their employees.

15–17. Retirement plan administration

a. The trustees of the U.S. Army NAF Retirement Plan Trust, appointed by the Commander, IMCOM or his designated representative, are to receive and invest contributions from both employees and employers, and provide funds to pay retirement benefits to NAF employees. The Commander, IMCOM, will appoint a retirement fund manager to safeguard and supervise the administration of the fund.

b. Benefits cannot be attached or garnished, or be subject to debt collections, except as permitted by law. Retirement benefits are paid to the retiree or his or her eligible beneficiary(s).

c. Recoupment may be made from refunds of retirement contributions in satisfaction of obligations to a NAFI, or collection of overpayments of travel expenses paid from APF.

15–18. Retirement plan eligibility

To participate in the retirement plan, an employee must be a regular employee:

a. Working in one of the 50 United States, the District of Columbia, or Puerto Rico.

b. A U.S. citizen or the spouse or child of a U.S. citizen, if working for a NAFI in a foreign area, subject to Status of Forces agreements where applicable.

c. A participant who moved without a break in service of more than 1 year and signed the OPM Form RI 38–134 (Election to Retain Nonappropriated Fund (NAF) Retirement Coverage as a Result of a Move from Nonappropriated Fund Position to a Civil Service Position on or after December 28, 2001), and made a irrevocable election to continue participation in the U.S. Army NAF Retirement Plan under the National Defense Authorization Act, PL 107–107, section 1131. A participant who moved on or after 1 January 1987 but prior to 28 December 2001 must have been vested in the NAF Retirement Plan (5 years participation in NAF Retirement Plan).

15–19. Retirement plan participation

a. Participation in the retirement plan is mandatory for the first 6 months for employees hired on or after 1 January 2001. Regular employees may join the retirement plan at any time, subject to paragraph 15–19*c*.

b. Employees may discontinue participation at any time.

c. Employees who discontinue participation for reasons other than retirement, death, termination of employment, or termination of eligible employment status, may rejoin the plan.

d. Former employees who previously participated in the retirement plan and left their contribution on deposit may rejoin the retirement plan upon return to duty in a regular position. Employees will receive service credit for the prior participation. Former employees who requested and received a refund of contributions may repay the refund and receive retirement service credit.

15–20. Contributions

a. Employees contribute a set percentage of gross pay. The percentage is established by management and approved by Army senior leadership in concert with the Office of the Secretary of Defense (Civilian Personnel Policy) consultation with Congress, and based on the established equity level standard of the retirement fund. Gross pay includes base pay, premium pays, lump sum leave when transferring from one Army NAFI to another, monetary awards, tips and bonuses.

b. Employing NAFIs contribute as much as needed to keep the plan financially sound. Changes in NAFI contributions are announced by the program manager as they occur. NAFI contributions are not refunded; they stay in the plan for the benefit of employees.

c. When insufficient contributions have been made by the NAFI to the retirement plan for a participant, a one-time lump-sum payment is required.

d. Employees who separate and withdraw their contributions will, upon reemployment in a regular position, receive their past retirement service credit (see para 15–19*d*) in accordance with the U.S. Army NAF Employee Retirement Plan.

e. Participants who become ineligible to participate may request to have their plan contributions refunded. Employee contributions plus interest computed in accordance with the plan document will be paid to employees who request a refund. Participating employees with 5 years or more credited service are vested and have a right to a lifetime benefit in accordance with the U.S. Army NAF Employee Retirement Plan document. When a vested employee requests a refund of his or her contributions, a waiver from his or her spouse (if married) consenting to the refund of contributions instead of the lifetime benefit will be included with the refund request, DA Form 3715 (U.S. Army Nonappropriated Funds-Disposition of Retirement Benefits).

f. Active employees who discontinue participation in the plan, but remain employed by a NAFI, may not withdraw their contributions until separated or placed in an ineligible employment category.

g. Participants in a LWOP status do not continue retirement contributions.

15–21. Credited service

a. Credited service for purposes of the retirement plan is as follows:

(1) Before 1 January 1966 – years and months of full-time continuous employment, beginning with the date of appointment by a DA NAFI, excluding employment with AAFES or the Motion Picture Service. Service credit ends with the earliest of separation, death, or retirement. There must be no break in employment which exceeded 90 days. Creditable service is not given for breaks in employment. The employee must have been on the rolls as of 1 November 1965.

(2) Between 1 January 1966 and 1 April 1981 – years and months of full-time continuous employment, beginning with date of appointment. Service credit ends with the earliest of separation, death, or retirement. During this time, participation in the retirement plan was mandatory. Contributions began following 12 months continuous employment.

(3) From 1 September 1969 to 1 April 1981 – part-time employment of at least 25 hours a week by employees who had completed 1 year of continuous service and contributed to the plan after 1 September 1969. Employees in this category who had 1 year of continuous service on 1 September 1969 have credited service beginning 1 September 1968.

(4) Effective 1 April 1981 retirement plan participation was voluntary. On or after 1 April 1981 credited service is the months and years of regular employment during which the employee contributes to the plan.

(5) Between 1 July 1974 and 1 October 1979 for citizens of Panama employed during this time by a DA NAFI in the Panama Canal Zone.

(6) Regular seasonal employees participating in the retirement plan receive 1 year of credited service for seasonal employment per 12-month period.

b. Employees on authorized leave of absence and employees in LWOP status as a result of entitlement to workers' compensation benefits will receive up to 1 year of credited service for such leave.

c. Honorable service in the U.S. Armed Forces, for employees who were inducted, enlisted, called to active duty, or recalled to active duty while employed by a DA NAFI is credited, not to exceed 5 years. The employee must have been participating at the time of departure for such duty and must return to NAF employment within the time such reemployment is protected by law. After attaining eligibility for an annuity, such service will be added to arrive at total credited NAFI employee service for purposes of computing the amount of the annuity.

d. Unused SL may not be used to attain retirement eligibility; however, SL will be added to the employee's credited service at the time of retirement if the employee has 5 years of service and 80 or more hours of unused SL. Unused SL is added to normal, early, or deferred retirement. See table 15–1 to determine months of credited service to be added for hours of unused SL.

Table 15–1
Conversion of sick leave for creditable service

Hours of unused sick leave ¹	Months of credited service
80 or less	0
81 to 240	1
241 to 400	2
401 to 560	3
561 to 720	4
721 to 880	5
881 to 1,040	6
1,041 to 1,200	7
1,201 to 1,360	8
1,361 to 1,520	9
1,521 to 1,680	10
1,681 to 1,840	11
1,841 to 2,080	12

Notes:

¹ For unused SL of more than 2,080 hours, add 1 month of credited service for each increment of 160 hours over 2,080 hours.

e. To enable employees to reach first eligibility for a retirement annuity or retiree health insurance, employees will be carried in an AL status beyond the scheduled separation date to the extent such leave is available in the employee's AL account. An employee may not be carried in a leave status to enable the employee to become eligible for optional retirement if he or she is already eligible for early retirement.

f. Service as an APF employee pursuant to an election to participate in the U.S. Army NAF Retirement Plan made under PL 101–508, as amended by PLs 104–106 and 107–107, is credited.

g. For employment with another DOD NAFI, see paragraph 15–29.

15–22. Retirement benefit eligibility

a. Normal retirement. Employees who have participated in the plan 5 years or more and are age 62 or older at the time of retirement will receive an unreduced benefit upon retirement.

b. Early retirement. Employees who have participated in the retirement plan for 5 years and are age 52, or who have participated in the plan 20 years and are age 50, are eligible for a reduced retirement benefit payable immediately.

(1) These employees may also wait to receive an unreduced retirement benefit with payments starting at age 62.

(2) Unless an employee meets the requirements of paragraph 15–22b(3), employees who elect to receive immediate retirement benefits before age 62 will have their benefit reduced by one-third of 1 percent (4 percent per year) for each month that the benefit starts before age 62. The reduction factor compensates for the fact that the retiree will be receiving benefits over a longer period.

(3) Employees who are age 55 with 30 years of credited service, or age 60 with 20 years credited service, may retire at any time with an unreduced benefit.

c. Deferred retirement. Employees who work past age 62 and continue contributing to the plan continue earning benefits under the plan. Their retirement benefit is paid when they retire or their employment is otherwise terminated.

d. Retirement payment options.

(1) *Married employees.* The normal benefit for a married employee will be the benefit earned, reduced by 10 percent, with 55 percent of the earned benefit continued to the spouse when the employee dies. A married employee may also elect a form of benefit with 100 percent of the benefit to be continued to the spouse when the employee dies. With the written notarized consent of the spouse, the employee may elect one of the benefit options available to an unmarried employee (no survivor benefit).

(2) *Unmarried employees.* The normal benefit for unmarried employees is the benefit earned, paid for life. They receive this amount until death. If death occurs before receiving an amount equal to their contributions plus 3 percent interest compounded annually, the difference will be paid to the beneficiary. This is called a modified cash refund benefit. Employees may also elect to—

(a) Have their retirement paid for a minimum of 5 or 10 years, even if they die before then. The benefit will be a reduced amount. If death occurs before the period is over, payments will continue to the designated beneficiaries for the period elected; then payments stop. If the retiree lives beyond 5 or 10 years, the benefit will continue until the retiree's death and then payment will stop.

(b) Receive a reduced benefit with a designated beneficiary as a survivor. Participants may elect a benefit payment option with the survivor receiving 100 percent of the benefit when the employee dies. If the designated survivor dies before the retiree, a new survivor cannot be named. The retiree may, however, designate a new beneficiary to receive any remaining contributions and interest.

e. Small monthly retirement benefits. For any retirement benefit of \$100 a month or less, the benefits program manager may elect to—

(1) Pay an actuarial equivalent single lump-sum in full discharge of the retirement obligation.

(2) Make quarterly, semiannual, or annual payments instead of monthly payments.

15–23. Retirement benefit formula

a. Retirement benefits are based on the participant's years of credited service and the employee's "High 3" average compensation. High 3 average compensation means the highest average rate of basic annual compensation for any 36 consecutive months for which contributions were made to the employee retirement plan. Selection of the High 3 is determined by the dates of actual participation during eligible employment periods.

b. Normal annual retirement benefits are the sum of:

(1) One and two-tenths percent (1.2 percent) of High 3 average plus three-tenths of one percent (0.3 percent) of High 3 average in excess of covered compensation (as annually set by the IRS) multiplied by years of credited service not in excess of 15 years.

(2) One and six-tenths percent (1.6 percent) of High 3 average plus three-tenths of one percent (0.3 percent) of High 3 average in excess of covered compensation (as set by the IRS) multiplied by years of credited service in excess of 15 years up to 30 years.

(3) One and six-tenths percent (1.6 percent) of High 3 average multiplied by years of credited service in excess of 30 years.

c. Disability annual retirement benefits will be equal to the normal annual retirement benefit (less the IRS covered compensation factor) described in paragraph 15–23b, without reduction regardless of the employee's age.

d. Early annual retirement benefits are:

(1) Normal unreduced benefits if a participant has attained age 55 with 30 years of credited service or has reached age 60 with 20 years of credited service.

(2) Reduced early benefits if a participant has attained age 52 with 5 years of credited service or age 50 with 20 years of credited service. For each month that benefits commence prior to the month in which the participant attains age 62, early retirement benefits are reduced one-third of one percent from normal retirement benefits.

(3) Subject to an annual early retirement supplement payable until the participant attains his or her normal retirement date, or dies, if earlier. The amount of the annual supplement is the lesser of credited service up to 25 years multiplied by—

(a) \$192.

(b) One-half of 1 percent of the participant's High 3 average.

15–24. Voluntary Early Retirement Authority and Discontinued Service Retirement

a. VERA is intended to reduce the number of involuntary separations under a reorganization or downsizing BBA process. It allows eligible employees who are not facing involuntary separation to retire early. VERA is used as a restructuring tool and can only be used for the sole purpose of avoiding involuntary separations under a BBA process. This authority may be further delegated.

b. DSR is an entitlement authorized to eligible employees who are involuntarily separated by BBA based on abolishment of position and who are not otherwise eligible for an immediate unreduced annuity at the time of separation. The employing NAFI must make payment to the NAF Retirement Trust to fund the VERA or DSR entitlement as prescribed by the benefits program manager.

c. To be eligible for VERA or DSR employees must—

(1) Have participated in the retirement system for at least 1 year within the 2-year period immediately preceding this separation or retirement; and

(2) Have attained age 50 with 20 years of credited service, as defined in paragraph 15–21, or is any age with completion of 25 years of credited service.

d. For each month benefits commence prior to the month in which the participant reaches age 55, the basic annuity is reduced one-sixth of 1 percent from benefits which would otherwise have been payable at age 62 or later.

15–25. Requesting retirement benefits

a. Employees will inform the CPAC NAF HRD of their retirement date 30 days in advance or as soon as possible.

b. The CPAC NAF HRD will verify employee eligibility for retirement benefits, and assist the employee in completing DA Form 3715.

c. An estimated benefit will be calculated based on credited service and High 3 average.

d. The estimated benefit will be provided the retiree during the period required for the determination of regular benefit option. Retirement benefit options will be provided to the retiree for a final and irrevocable election. The retiree will select an option and return the completed retirement benefit option papers to the program manager within 45 days of receipt. The estimated benefit will stop and the regular benefit will begin the first of the month following receipt of the retirement option papers by the program manager. Adjustment will be made for any discrepancy between the regular benefit and the estimated benefit already paid.

e. Information on the Retiree Medical Insurance Plan or the 18-month extended coverage will be provided to the retiree.

f. Retirees who participated in the group life insurance program for 5 years immediately preceding retirement will be provided with a continuation of life insurance certificate provided they elect an immediate annuity.

g. Additional credited service is given for unused SL in computing normal and early retirement benefits (see para 15–21 and table 15–1).

h. The date of retirement and the date of separation are the last day an employee is in a pay status. Estimated benefit payments will begin on the first day of the month after an employee separates or retires.

15–26. Disability retirement and survivor benefits

a. An employee who participated in the retirement plan prior to 2009 is eligible to apply for disability benefits if they have reached age 52 with 12 months or more of credited service immediately preceding retirement or have 5 years of credited service. If hired after 2009, the employee must have 5 years of credited service.

b. Applications for disability benefits should be initiated as soon as possible, but in all cases application for disability benefits must be submitted within 60 days after the employee's separation.

c. In certain instances, a normal or early retirement benefit may provide the retiree with a larger benefit. When this is the case, the program manager will determine the greater benefit and provide this information to the retiree.

d. Employees receiving a disability retirement may be eligible for 1 year of free medical insurance if they were participating in the DOD NAF HBP preceding the disability retirement. Employees in a noncontributing LWOP status are not eligible for this benefit.

e. A survivor benefit is payable to the spouse of a participant who has 5 years of credited service under the plan and who dies while actively employed. The spouse must have been married to the employee for at least 1 year immediately preceding the employee's death.

f. The benefit is payable upon receipt of a completed DA Form 3715, a certified death certificate (outside the U.S., a notice of the death of the participant), and verification of the date of marriage and dates of births as evidenced by—

- (1) Any legal form or certificate.
 - (2) A life insurance policy at least 5 years old in which ages are recorded, or the survivor is named as the legal spouse, or both.
 - (3) A certified copy of a page from the Family bible.
 - (4) Age shown on a naturalization or school paper.
 - (5) Affidavits of two witnesses to the marriage.
 - (6) A U.S. passport.
- g. When there is no surviving legal spouse or surviving children, contributions and interest only will be refunded to the beneficiary designated on DA Form 3473 or to the estate.

15–27. Cost of living increases for retirees

- a. Effective 1 April 1988, and each 1 April thereafter, each participant and beneficiary receiving retirement or survivor benefits from the plan will be entitled to have the benefit he or she is then receiving adjusted.
- b. The program manager and the trustees will review the financial condition of the plan annually and make recommendations to the commander on benefit increases as the financial condition of the retirement plan permits.

15–28. Employment with another Department of Defense nonappropriated fund instrumentality

- a. Effective 1 April 1983, NAFI employees may carry forward service accrued for retirement annuity purposes when they are employed by another DOD NAFI without a break in service of more than 90 days. Upon retirement, benefits will be computed to include all creditable service with the former DOD NAFI and the current DOD NAFI using the retirement formula for the current DOD NAFI. Where applicable, the retiree will receive multiple benefit payments from the former NAF Retirement Plans and from the current NAF Retirement Plan. This paragraph does not apply to employees who moved between 1 August 1975 and 1 April 1983, unless the employee was affected by an involuntary transfer of function or reduction-in-force.
- b. When contributions have been withdrawn from the former retirement plan, the value of the monthly benefit from the former retirement plan will be used as an offset by the Army NAF Retirement Plan.

15–29. Reemployment of retirees

- a. If an Army NAFI retiree is rehired by an Army NAFI in a regular position, his or her benefit will be discontinued for the period of employment. The retiree may elect to rejoin the retirement plan and earn additional service credit. If he or she elects to rejoin the plan, the extra service will be added and a new benefit will be computed; the employee will receive the greater benefit upon separation.
- b. If an Army NAFI retiree is employed by a DOD NAFI other than Army, his or her Army benefit continues.
- c. If an individual who has retired from a DOD NAFI other than Army is employed by an Army NAFI, his or her preretirement service is not creditable under the Army plan.

15–30. Payroll deductions

- a. Employees who join the U.S. Army NAF Employee Retirement Plan have payroll deductions start with the first full biweekly pay period on or after the date the signed DA Form 3473 is processed by payroll.
- b. Employees who transfer from one Army NAFI to another without a break in service continue contributions to the plan.

15–31. Retirement certificates and pins

Each participant in the Army NAFI retirement plan who retires will be presented with a DA retirement pin, a DA Form 4250 (DA Certificate of Retirement) and a DA Form 4251 (DA Certificate of Appreciation). Both forms are to be encased in a folder. No other retirement certificates or pins are authorized. NAFI employees who separate before retirement age and elect a deferred benefit will be provided a certificate of deferred benefit.

15–32. Proof of survival

Proof may be required that the person to whom a retirement benefit is being paid is living on the date of any retirement benefit payment. Benefits may be suspended until the requested proof of survival is received.

Section IV

United States Army Nonappropriated Fund Employee 401(k) Savings Plan

15–33. General

- a. The USA NAF 401(k) Savings Plan was established on 1 January 1992. The Savings Plan Trust was established at the same time to receive funds from, invest funds for, and disburse funds to or for eligible plan participants.
- b. The USA NAF 401(k) Savings Plan is a defined contribution pension plan and functions as a qualified tax deferred plan pursuant to Section 401(k) of the Internal Revenue Code and other applicable statutes. The USA NAF

401(k) Savings Plan is intended to provide eligible employees with an attractive, convenient, tax deferred way to save additional amounts for retirement.

c. As a qualified plan, both employee and employer contributions, as well as investment earnings credited to participants' accounts are considered tax deferred compensation for Federal income tax purposes and for purposes of State income taxes in all States except Pennsylvania and a few municipalities. Employees may contribute to the USA NAF 401(k) Savings Plan in whole percentages of their pay; the employing NAFI will match the employee's contributions as shown below in table 15-2.

Table 15-2
Employee-employer contributions table

Employee contributes	Employer contributes:
0.0% of pay	0.0% of pay
1.0% of pay	1.0% of pay
2.0% of pay	2.0% of pay
3.0% of pay	2.5% of pay
4.0% and above	3.0% of pay

15-34. Administration

The trustees of the Savings Plan Trust are responsible for selecting an investment manager for the assets of the Savings Plan. Trustees must be participants in the USA NAF 401(k) Savings Plan. Trustees are appointed by and serve at the pleasure of the commander, Community Financial Service Center, without compensation for trust duties.

15-35. Eligibility

To participate in the USA NAF 401(k) Savings Plan, an employee must be a regular employee:

- a. Working in one of the 50 United States, the District of Columbia, or Puerto Rico.
- b. A U.S. citizen or the spouse or child of a U.S. citizen working for a NAFI in a foreign area.
- c. Current NAF employees participating in FERS or CSRS are excluded from participation in the U.S. Army NAF Employee 401(k) Savings Plan. He or she may, however, be eligible to participate in the Thrift Savings Plan.

15-36. Participation

Participation in the USA NAF 401(k) Savings Plan is voluntary. Employees eligible to participate in the USA NAF 401(k) Savings Plan may do so by completing DA Form 3473. Changes to savings plan contribution percentages, beneficiaries, and so forth, must be accomplished by initiating the DA Form 3473. Any requested changes will be effective the first pay period after the request is signed by the employee and processed by the payroll office. Employees who move from NAF to APF under portability of benefits must use DA Form 7426 (Application for U.S. Army NAF Employee 401(k) Savings Plan) for making changes in their contribution percentages.

15-37. Vesting

- a. Participants are vested in their contributions effective the date contributions begin. Separated participants may request and receive their contributions and related investment earnings.
- b. Participants in the USA NAF 401(k) Savings Plan are vested in the employer's contributions—
 - (1) Upon completion of 3 years' service in a regular position.
 - (2) At age 62.
 - (3) Upon approval of disability by the medical authority designated by the benefits program manager.
 - (4) Upon the death of the participant.
- c. Former Army NAFI employees who return to duty with an Army NAFI as a regular employee without a break in service of more than 5 years, and resume contributions, will re-enter the vesting schedule at the point where they separated from employment; any forfeited employer's contributions will be restored to the employee's account.

15-38. Contributions and investments

- a. Employees elect a contribution in whole percentages not to exceed the IRS annual maximum dollar limit. Employees are responsible for compliance with statutory maximums.
- b. Employing NAFIs will match employee contributions as shown in table 15-2.
- c. Employees who do not elect to participate in the USA NAF 401(k) Savings Plan on the date they become

eligible, but later decide to enroll, may participate from their enrollment date forward. Retroactive contributions are not authorized.

d. All contributions are discontinued during periods of LWOP.

15–39. Disposition of accounts at separation

Dispositions may be subject to tax and or penalty in accordance with IRS requirements.

a. Separated participants must elect one of the following options:

(1) *Lump-sum distribution.* The distribution is equal to the vested accrued benefit as of the valuation date coincident with the date of withdrawal.

(2) *Minimum required distribution.* Participants must receive a minimum required distribution once they reach age 70½ unless they are an active employee.

(3) *401(k) contributions.* Rollover 401(k) contributions to an Individual Retirement Account or another Qualified Employer-Sponsored 401(k) Savings Plan.

(4) *Distribution to the spouse of a deceased participant.* Distribution may be rolled over to an Individual Retirement Account within 60 days if the distribution otherwise qualifies for rollover.

b. Separated participants or participants converted from regular to flexible may request a payout of their accrued vested benefit.

c. Participants may request a payout of their accrued vested benefit for an approved hardship as listed in the Safe Harbor Rules under the IRS.

d. Participants should contact their investment manager for additional information.

15–40. Loan program

a. A current employee who is vested, and whose pay is processed by NFS may request a loan through the Savings Plan loan program. Such employees may borrow against the assets of their Savings Plan account in accordance with the provisions of the plan document.

b. Terms of each loan and repayment procedures will be established prior to the investment manager approving the loan. The investment manager will ensure that each borrower receives information concerning loan procedures, the events constituting default, the steps that will be taken in the event of a default and a statement of the charges associated with each loan.

c. Fees charged by the investment manager will be paid by the borrower and made a part of the loan.

Chapter 16 Personnel Records, Files, and Reports

16–1. General

a. The establishment and maintenance of office files in the CPAC NAF HRD will be in accordance with the Army Records Information Management System (AR 25–400–2).

b. The use of standard forms in connection with NAF personnel actions is prohibited, except as specifically authorized by this regulation. Likewise, the use of DA forms designated solely for use in connection with APF civilian personnel actions is prohibited except as specifically authorized by this regulation.

c. The forms prescribed for use in connection with NAF employment of civilian and ODM employees are listed in appendix A and are available electronically. Any supplemental forms designed for local use will be clearly marked “Nonappropriated Fund Instrumentality Employees” and must be approved by the DCS, Assistant G–1 (DAPE–CPZ–NF).

d. These instructions provide for the systematic and uniform creation and maintenance of official records pertaining to the employment of NAF personnel and are intended to eliminate the creation of duplicate or unnecessary records. The entries on the documents of record as prescribed in this regulation give full force and effect to the personnel transactions set forth thereon. These requirements will be observed by all personnel responsible for the creation, maintenance, custody, and disposition of NAF personnel records.

16–2. Electronic official personnel folder

a. An eOPF will be maintained for each civilian and ODM employee paid from a NAFI. All official personnel documents effected during the employee’s service, as prescribed in this chapter, will be electronically filed in the eOPF. The eOPF will be established at the time when the employee receives an initial appointment to a position paid from a NAFI.

(1) If an employee transfers to another NAFI, the gaining activity will process a transfer of action in DCPDS and the eOPF will transfer to the gaining CPAC NAF HRD.

(2) If the former employee is reemployed after a break in service by a NAFI, the gaining CPAC NAF HRD will

request SF 66 or eOPF from the National Personnel Records Center (NPRC), Civilian Personnel Records, 1411 Boulder Boulevard, Valmeyer, IL 62295–2603, if the break in service exceeded 1 year.

(3) Personnel records of employees who move between NAF and APF employment, who are covered by PL 101–508, will be combined in the eOPF as a merged records personnel folder.

b. Requirements for merging personnel folders will be in accordance with the OPM Operating Manual, The Guide to Personnel Recordkeeping. The employing system will maintain the eOPF.

16–3. Contents of the electronic personnel folder

The records listed below will be maintained in the permanent folder of the employee’s eOPF, and further outlined in NAF Master eOPF Forms List.

a. Records originating on appointment—

- (1) Position Description Nonappropriated Fund.
- (2) Application resume and/or DA Form 3433.
- (3) DA Form 3434.
- (4) DA Form 3473.
- (5) DA Form 3436.
- (6) DA Form 3440 (as appropriate).
- (7) DA Form 5521.
- (8) DA Form 7427 (inprocessing portion).
- (9) DA Form 7428.
- (10) Certificate of investigation.

b. Records originating during an employee’s service, filed in chronological order with the most recent filed on top.

- (1) DA Form 3434.
- (2) DA Form 3440.
- (3) DA Form 3473.
- (4) DA Form 4017 or SF 52 documenting details in excess of 30 days.
- (5) DA Form 5167 with attachments.
- (6) Notice of injury or occupational disease. Such records must be kept in a separate file during employment with DA activities (see para 16–5).
- (7) Letters of commendation relating to the performance of official duties clearly above the performance normally expected.
- (8) Records of required training completed.
- (9) Notices of decision to effect nondisciplinary adverse action (for example, disqualification, BBA, and so forth).

c. Records originating with separation or disciplinary actions.

- (1) DA Form 3434.
- (2) DA Form 3473.
- (3) DA Form 3715.
- (4) DA Form 4017 or written resignation on a separate document. (Resignation signed by the employee or a statement signed by the official who received an oral resignation.)
- (5) Transcript of court order if separation resulted from a decision of a court of competent jurisdiction that the individual is mentally incompetent.
- (6) Notice of retirement or notification of approval of application for disability retirement.
- (7) Notices of decision to effect nondisciplinary adverse action (disqualification, BBA, and so forth), disciplinary actions or performance-based actions. Notices of proposed unsatisfactory performance or nondisciplinary or disciplinary actions, with any reply from the employee, or memorandum or other document necessary to support the action if the proposed action is effected. Notices of proposed action will be removed if the proposed action is canceled.
- (8) Completed DA Form 7427 (outprocessing portions).
- (9) Record of creditable leave data (for regular service) or record of creditable service (for flexible).

16–4. Temporary records required

a. Any document or locally developed form originating during NAF employment which is not specified in paragraph 16–3 will be contained in the temporary folder of eOPF. Some examples are requests for personnel actions, letters of reprimand, DD Form 1172–2 (Application for Identification Card/DEERS Enrollment), and internal placement forms.

b. The servicing CPAC NAF HRD will establish—

- (1) A file to retain the background check information and documents used in determining the suitability for employment of applicants or current NAF employees. The suitability file will contain the following if applicable:
 - (a)* Local military records check.

- (b) Local civilian law enforcement check.
- (c) Criminal Investigation Command/Defense Central Investigation Index check.
- (d) FBI fingerprint check.
- (e) Army Substance Abuse Program check.
- (f) Personnel security investigation portal verification.
- (g) Criminal Investigation Command waiver (if applicable).
- (h) OF 306 (Declaration of Federal Employment).
- (i) DA Form 3437.
- (j) DA Form 3439.
- (k) Garrison commander memorandum, adjudication decision for employment.

(2) Security clearances files that must be retained for 2 years from the effective date of separation. The disclosure of information to a State agency from this file is permitted. In no case will this suitability file be part of the employee's eOPF.

c. For CYSS and other child care services positions background checks will be initiated by the commander designated entity. The CPAC NAF HRD will obtain documentation to ensure that all required background checks have been completed and adjudicated favorably. When derogatory information is revealed by the preliminary investigation, this documentation must include the garrison commander or equivalent written approval to hire subject to LOSS.

16-5. Safeguarding personnel records

a. NAF records must be safeguarded in accordance with the applicable Privacy Act systems notice.

b. Documents that have been identified as classified pursuant to AR 380-5 must be stored in files that meet the specifications of that regulation.

c. Records of medical examinations and other miscellaneous medical records will remain under the control of the installation medical facility. Where no medical facility is available, the records will be kept in a separate locked cabinet during the employee's NAF service and may not be made a part of the active personnel folder.

d. Responsible officials will take the necessary steps to protect the confidential nature of the contents of the eOPFs of NAF employees.

(1) Information that can be released to the public consists of the employee's name, position, title, grade, salary, and duty station, except when—

(a) The release of the information is prohibited by law, EO, or regulation in the interest of national security.

(b) It is reasonably believed that such information will be used for purposes which violate the regulatory prohibition against political activity on the part of NAF employees.

(2) In addition to the information listed in paragraph 16-5d(1), a prospective employer may be given the following information about an employee or former employee:

(a) Type of appointment.

(b) Length of NAF service.

(c) Additional information may be released with the written consent of employee or former employee.

(3) Apart from the information that may be made available under paragraphs 16-5d(1) and (2), the home address or other Privacy Act protected information of an employee will only be made available to a third party upon receipt of an order of a court of competent jurisdiction or a written request from the head of a law enforcement activity specifying the portion of the record desired and the law enforcement purposes for which it is sought.

(4) A current and former employee will be permitted access to the information in their own eOPF. After 90 days former employees must request access through their local CPAC NAF HRD or NPRC if the eOPF has been retired.

(5) Committees or sub-committees of Congress, if the matter is within their jurisdiction, may have access to a NAF personnel folder. Individual members of Congress may have access to such records only if pursuant to a congressional made by the individual who is the subject of the records.

e. Medical information about an applicant, employee, or former employee may not be made available to the public. Such information may be disclosed to the applicant, employee, or former employee; however, if it is determined that releasing medical information to that individual could have an adverse effect on his or her mental or physical health; the individual will be asked to name a physician to receive the information. Medical information may be disclosed to any third party upon receipt of a signed and notarized disclosure statement from the applicant, employee, or former employee authorizing release of the medical information to that third party.

f. All NAF eOPFs will be under the control of the servicing CPAC NAF HRD.

16-6. Disposition of the electronic official personnel folders

a. When an employee transfers to another Army NAFI, the gaining CPAC NAF HRD will process the transfer action in DCPDS. The gaining CPAC HRD will then have access to the employee's eOPF. In cases where an employee is separated from employment with an Army NAFI, but is later employed by another Army NAFI before the eOPF has

been retired to NPRC, the eOPF, upon request, will be transferred to the gaining CPAC NAF HRD by the losing CPAC NAF HRD having control of the separated employee's eOPF.

b. When an employee is separated from an Army NAFI and is not subsequently employed by another Army NAFI, disposition of the eOPF will be forwarded electronically to NPRC or manually depending on the gaining system of record.

c. Before releasing the eOPF to the NPRC or another servicing CPAC NAF HRD, the folder will be reviewed to ensure that—

(1) All outstanding permanent records are properly included, arranged in the proper order, and contained in the permanent folder in the employee's eOPF.

(2) Medical information must be kept confidential, with some limited exceptions, and must be filed in separate medical files, not in the employee's eOPF (see para 16-5c). These records are to be put in an SF 66-D and sent to NPRC when the employee leaves NAFI service.

16-7. Defense related employment

a. Employees in positions subject to the filing of financial disclosure reports in accordance with DOD 5500.07-R, Chapter 7, will be made aware of restrictions and reporting requirements concerning employment outside the Federal Government.

b. Employees who receive an employment offer from an Army or NAFI contractor should contact the installation ethics counselor to obtain counseling and written advice concerning applicable employment restrictions.

Chapter 17 Management Controls and Audits

17-1. Key internal management controls

a. Minimum essential internal key management controls for manager evaluation are outlined at appendix E.

b. Evaluation of internal controls includes a detailed, systematic, and comprehensive examination to determine whether controls are in place, are being used as intended, and are effective in achieving their purpose. Formal evaluation of internal key management controls must be conducted at least once every 5 years or more frequently if considered a high risk area. CPAC NAF HRD is required to audit 10 percent of eOPFs, case, and suitability files every year.

c. Evaluations must be based on actual testing of these key management controls and must make a specific determination of their effectiveness. This evaluation must be supported by documentation that clearly indicates who conducted the evaluation and when, what methods were used to test the key controls, what management control deficiencies (if any) were detected, and what corrective actions were taken. Certification that an evaluation was conducted is documented on DA Form 11-2 (Internal Control Evaluation Certification) prescribed in AR 11-2.

17-2. Audits

Audits are performed by the installation internal review offices, U.S. Army Audit Agency, the U.S. Army Evaluation, Propensity, and Communication Division and the DCS, G-1, Policy and Program Development Division.

Appendix A References

Section I Required Publications

AR 25–2

Information Assurance (Cited in para 2–15q(5).)

AR 215–1

Military Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities (Cited in para 1–4m(11).)

AR 380–67

Personnel Security Program (Cited in para 2–15k.)

Army Directive 2014–23

Conduct of Screening and Background Checks for Individuals Who Have Regular Contact With Children in Army Programs (Cited in para 2–15.)

DOD 7000.14–R, Volume 13, Chapter 8

Nonappropriated Fund Payroll (Cited in para 2–15c.) (Available at <http://comptroller.defense.gov/FMR.aspx>.)

DODI 1400.25

DOD Civilian Personnel Management System (Cited in para 1–4e(1)(k).)

Section II Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this publication. Unless otherwise indicated, DOD publications are available at <http://www.dtic.mil/whs/directives>; USC material is available at <http://www.gpo.gov/fdsys>; and CFRs are available at <http://www.efcr.gov/>.

AR 5–10

Stationing

AR 5–17

The Army Ideas for Excellence Program

AR 11–2

Managers' Internal Control Program

AR 15–1

Department of the Army Federal Advisory Committee Management Program

AR 20–1

Inspector General Activities and Procedures

AR 25–30

Army Publishing Program

AR 25–55

The Department of the Army Freedom of Information Act Program

AR 25–400–2

The Army Records Information Management System (ARIMS)

AR 40–5

Preventive Medicine

AR 340-21

The Army Privacy Program

AR 380-5

Department of the Army Information Security Program

AR 570-4

Manpower Management

AR 600-85

Army Substance Abuse Program

AR 608-10

Child Development Services

AR 638-8

Army Casualty Program

AR 672-20

Incentive Awards

AR 690-11

Use and Management of Civilian Personnel in Support of Military Contingency Operations

AR 690-12

Equal Employment Opportunity and Affirmative Action

AR 690-600

Equal Employment Opportunity Discrimination Complaints

DOD 5200.2-R

Personnel Security Program

DOD 5500.07-R

Joint Ethics Regulation (JER)

DOD 7000.14-R, Volume 8

Civilian pay policy (Available at <http://comptroller.defense.gov/FMR.aspx>.)

DOD 7000.14-R, Volume 8, Chapter 3

Pay Administration (Available at <http://comptroller.defense.gov/FMR.aspx>.)

DODD 1344.10

Political Activities by Members of the Armed Forces

DODD 5500.07

Standards of Conduct

DODI 1402.01

Employment of Retired Members of the Armed Forces

DODI 1402.5

Criminal History Background Checks on Individuals In Child Care

EO 12564

Drug-free Federal workplace (Available at <http://www.archives.gov>.)

EO 13150

Federal Workforce Transportation (Available at <http://www.archives.gov>.)

Hatch Act of 1939, as amended in 1993

(5 USC 7321 through 7326)

IRS Publication 15-A

Employer's Supplemental Tax Guide (Available at <http://www.irs.gov/Forms-&-Pubs.>)

JTR

Joint Travel Regulations (Available from [http://www.defensetravel.dod.mil/site/travelreg.cfm.](http://www.defensetravel.dod.mil/site/travelreg.cfm))

Office of Personnel Management Operating Manual

Federal Wage System, Nonappropriated - Fund (Available from [http://www.opm.gov/news/reports-publications/.](http://www.opm.gov/news/reports-publications/))

Office of Personnel Management Operating Manual

Qualification Standards for General Schedule Positions (Available from [http://www.opm.gov/news/reports-publications/.](http://www.opm.gov/news/reports-publications/))

Office of Personnel Management Operating Manual

Guide to Processing Personnel Actions (Available from [http://www.opm.gov/news/reports-publications/.](http://www.opm.gov/news/reports-publications/))

Office of Personnel Management Operating Manual

Guide to Personnel Recordkeeping (Available from [http://www.opm.gov/news/reports-publications/.](http://www.opm.gov/news/reports-publications/))

PL 93-222

The Health Maintenance Organization Act of 1973 (amended in 1981 by PL 97-35)

PL 100-517

Health Maintenance Organization Amendments of 1988

PL 101-189

Title

PL 101-508

The Portability of Benefits for Nonappropriated Fund (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 104-106

National Defense Authorization Act for Fiscal Year 1996 (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 106-56

Organ Donor Leave Act (H.R. 457) (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 107-107, Section 1131

Improved portability of retirement coverage for employees moving between civil service employment and employment by nonappropriated fund instrumentalities (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 107-107, Section 1132

Federal employment retirement credit for nonappropriated fund instrumentality service (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 108-136

National Defense Authorization Act for Fiscal Year 2004 (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 108-411

Federal Workforce Flexibility Act of 2004

PL 111-84

National Defense Authorization Act for Fiscal Year 2010 (Available at [http://www.gpo.gov/fdsys/.](http://www.gpo.gov/fdsys/))

PL 111-148

Patient Protection and Affordable Care Act (PPACA)

U.S. Army Employee Retirement Plan booklet

(Available at <http://www.armymwr.com>.)

5 CFR 300

Employment (General)

5 CFR 353.209

Retention protections

5 CFR 530

Pay Rates and Systems (General)

5 CFR 532.283

Special wage schedules for nonappropriated fund tipped employees classified as waiter/waitress

5 CFR 537

Repayment of student loans

5 CFR 551

Pay Administration under the Fair Labor Standards Act

5 CFR 551b

Exemptions and Exclusions

5 CFR 551.212

Foreign exemption criteria

5 CFR 575.110

Service agreement requirements

5 CFR 575.111

Termination of a service agreement

5 CFR 630.403

Substitution of sick leave for unpaid family and medical leave to care for a covered servicemember

5 CFR 630.405

Supporting evidence for the use of sick leave

5 CFR 630f

Home Leave

5 CFR 630.1202

Definitions

5 CFR 731

Suitability

8 CFR 274a

Control of Employment of Aliens

29 CFR 570

Child Labor Regulations, Orders and Statements of Interpretation

29 CFR 1630.2(r)

Definitions

32 CFR 310

DOD Privacy Program

5 USC Chapter 71

Labor-Management Relations

5 USC 2105(c)

Employee

5 USC 2108(3) – (4)

Veteran; disabled veteran; preference eligible

5 USC 3326

Appointments of retired members of the Armed Forces to positions in the Department of Defense

5 USC 5361

Definitions

5 USC 5362

Grade retention following a change of positions or reclassification

5 USC 5363

Pay retention

5 USC 5364

Remedial actions

5 USC 5365

Regulations

5 USC 5366

Appeals

5 USC 5373

Limitation on pay fixed by administrative action

5 USC 5514

Installment deduction for indebtedness to the United States

5 USC 5533

Dual pay from more than one position; limitations; exceptions

5 USC 5534

Dual employment and pay of Reserves and National Guardsmen

5 USC 5584

Claims for overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowances

5 USC 5595(h)

Severance pay

5 USC 6301(2)

Definitions

5 USC 7121

Grievance procedures

5 USC 7532

Suspension and removal

5 USC 8347(q)

Administration; regulations

5 USC 8461(n)
Authority of the Office of Personnel Management

5 USC 8501
Definitions

5 USC 8502
Compensation under State agreement

5 USC 8503
Compensation absent State agreement

5 USC 8504
Assignment of Federal service and wages

5 USC 8505
Payments to States

5 USC 8506
Dissemination of information

5 USC 8507
False statements and misrepresentations

5 USC 8508
Regulations

10 USC 101
Definitions

10 USC 113
title

10 USC 1073
Administration of this chapter

10 USC 1588
Authority to accept certain voluntary services

10 USC 2687
Base closures and realignments

20 USC Chapter 25
Pay and personnel program for overseas teachers

26 USC 3101
Rate of tax

26 USC 3121(d)(2)
Definitions

26 USC 3401(c)
Definitions

28 USC Chapter 43
United States magistrate judges

29 USC Chapter 8
Fair Labor Standards Act of 1938

29 USC 212

Child labor provisions

33 USC Chapter 18

Longshore and Harbor Workers' Compensation Act

38 USC Chapter 43

Employment and reemployment rights of members of the uniformed services

38 USC 4301 to 4334

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)

Section III

Prescribed Forms

Unless otherwise indicated, Department of the Army forms can be downloaded from the Army Publishing Directorate Web site at <http://www.apd.mil>. DD forms are available from the Office of the Secretary of Defense Web site <http://webl.whs.osd.mil/icdhome/icdhome.htm>).

DA Form 1599

Initial Listing of Nonappropriated Fund Instrumentalities (Prescribed in para 14-6.)

DA Form 1600

Changed Listing of Nonappropriated Fund Instrumentalities (Prescribed in para 14-6.)

DA Form 3433

Application for Nonappropriated Fund Employment (Prescribed in para 2-5b(9).)

DA Form 3434

Notification of Personnel Action-Nonappropriated Fund Employee (Prescribed in para 1-15e.)

DA Form 3436

Department of the Army Appointment Affidavit (Nonappropriated Funds) (Prescribed in para 2-16a.)

DA Form 3437

Department of the Army Nonappropriated Funds Certificate of Medical Examination (Prescribed in para 2-15f.)

DA Form 3439

Nonappropriated Fund Instrumentality Employment Inquiry (Prescribed in para 2-15e.)

DA Form 3440

Department of the Army Transportation Agreement Nonappropriated Fund Employee (Prescribed in para 2-15t.)

DA Form 3473

Application for USANAF Retirement Plan and/or Group Insurance Plan (This form is available at <http://www.NAFBENFITS.com>.) (Prescribed in para 2-16d.)

DA Form 3612

Nonappropriated Fund Instrumentality Employee Performance Rating (Prescribed in para 6-4c.)

DA Form 3715

U.S. Army Nonappropriated Funds-Disposition of Retirement Benefits (Prescribed in para 15-20e.)

DA Form 4017

Request for Personnel Action-Nonappropriated Fund Instrumentality (Prescribed in para 1-4f(6).)

DA Form 4250

DA Certificate of Retirement (Prescribed in para 15-31.)

DA Form 4251

DA Certificate of Appreciation (Prescribed in para 15-31.)

DA Form 4985

NAF Referral and Selection List (Nonappropriated Fund Employment) (Prescribed in para 2–8*b*.)

DA Form 5167

Incentive Awards Nomination and Approval-Nonappropriated Funds (Prescribed in para 3–13*b*.)

DA Form 5521

Record of Emergency Data and Designation of Beneficiary for Unpaid Compensation of Deceased NAF Employee (Prescribed in para 1–15*e*.)

DA Form 7426

Application for U.S. Army NAF Employee 401(k) Savings Plan (Prescribed in para 15–36.) (Available at <http://www.nafbenefits.com>.)

DA Form 7427

Nonappropriated Fund Inprocessing and Outprocessing Checklist (Prescribed in para 2–16*l*.)

DA Form 7428

Nonappropriated Fund Supervisor’s Orientation Checklist (Prescribed in para 1–4*f*.)

**Section IV
Referenced Forms**

DA Form 11–2

Internal Control Evaluation Certification

DA Form 1256

Incentive Award Nomination and Approval

DA Form 2028

Recommended Changes to Publications and Blank Forms

DA Form 5019

Condition of Employment for Certain Civilian Positions Identified Critical Under the Department of the Army Drug-Free Federal Workplace Program

DA Form 5556

Personnel Requirements Document

DD Form 214

Certificate of Release or Discharge from Active Duty

DD Form 1172–2

Application for Identification Card/DEERS Enrollment

DOL Form LS–202

Employer’s First Report of Injury or Occupational Illness (Available at <http://www.dol.gov/owcp/dlhwc/>.)

DOL Form WH–384

Certification of Qualifying Exigency for Military Family Leave (Family and Medical Leave Act) (FMLA) (Available at <http://webapps.dol.gov/libraryforms/>.)

ES Form 931

Request for Wage and Separation Information (Is not available to the public, used by the States to request wage and separation information.)

USCIS Form I–9

Employment Eligibility Verification (Available at <http://www.uscis.gov/forms>.)

USCIS Form I-407

Record of Abandonment of Lawful Permanent Resident Status (Available at <http://www.uscis.gov/forms>.)

IRS Form W-2

Wage and Tax Statement (Available at <http://www.irs.gov/Forms-&-Pubs>.)

IRS Form W-4

Employee Withholding Allowance Exemption Certificate (Available at <http://www.irs.gov/Forms-&-Pubs>.)

IRS Form W-5

Earned Income Credit Advance Payment Certificate (Available at <http://www.irs.gov/Forms-&-Pubs>.)

IRS Form 4070

Employee's Report of Tips to Employer (Available at <http://www.irs.gov/Forms-&-Pubs>.)

OF 306

Declaration of Federal Employment (Available at <http://www.Office of Personnel Management.gov/forms/Optional-forms/>.)

OPM Form RI 38-134

Election to Retain Nonappropriated Fund (NAF) Retirement Coverage as a Result of a Move from Nonappropriated Fund Position to a Civil Service Position on or after December 28, 2001

SF 8

Notice to Federal Employee about Unemployment Insurance (Available at <http://www.gsa.gov/portal/>.)

SF 66

Official Personnel Folder (Available through normal supply channels.)

SF 66-C

Merged Records Personnel Folder (MRPF) (Available through normal supply channels.)

SF 66-D

Employee Medical Folder (Available through normal supply channels.)

SF 52

Request for Personnel Action (Available at <http://www.gsa.gov/portal/forms>.)

SF 85

Questionnaire for Non-Sensitive Positions (Available at <http://www.gsa.gov/portal/>.)

SF 86

Questionnaire for National Security Positions (Available at <http://www.gsa.gov/portal/>.)

SF 87

Office of Personnel Management Fingerprint Card (Available thru normal supply channels.)

SF 181

Ethnicity and Race Identification (Available at <http://www.gsa.gov/portal/>.)

SF 1150

Record of Leave Data (Available at <http://www.gsa.gov/portal/>.)

Appendix B Minimum Qualification Requirements

B–1. Purpose

The purpose of this appendix is to provide qualifications guidance for use in determining eligibility of applicants and employees.

B–2. General

a. When vacancy announcements are issued, they will clearly state the kind of experience required for the occupational series and grade or level of the position to be filled. The kind of experience required will be the same for all positions at the same level and occupational series. In no case may experience be so narrowly defined that competition is unduly limited. If any position in an occupational series is so specialized that special skills and knowledge are required, then these skills and knowledge must have been acquired within or in addition to the required experience. For such positions eligibility will be determined by screening on a selective basis to identify those who possess the specialized knowledge or skills.

b. Satisfactory performance in a current or recently held position with duties comparable to those of the position to be filled, eligibility in an OPM examination, completion of appropriate education, and recommendations from former or current supervisors, employers, or teachers, ordinarily are reliable indicators of qualifications. There will be no requirement that experience must have been gained in a paid position, in DA or DOD, or in a particular type of NAFI.

B–3. Special skills or education

When a position requires a special skill or education, it must be determined that the person selected meets that requirement. For example, possession of a valid driver's license is necessary for operation of motor vehicles, in addition to experience requirements. Likewise, possession of typing skill must be determined for some positions, as evidenced by recent successful typing experience, by eligibility on an appropriate certified test, by a statement of proficiency by a competent authority, or by self certification. A requirement for a special skill may be added to the qualification requirements stated above only when the duties of a position require the special skill. Qualification standards by OPM for GS positions must be used to establish minimum qualifications for payband positions that have a positive educational requirement or when licenses or qualifications are required.

B–4. Qualifications for child and youth positions

The following are special qualification criteria for child and youth positions:

a. Ability to speak, read, and write English at a level adequate to execute health and safety directives, and implement developmental activities for children to satisfaction of Child Development Services Program Director.

b. Minimum 18 years of age and must hold a high school diploma or equivalent.

c. Ability to perform the essential functions of the position with or without accommodation.

d. Does not pose a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

B–5. Qualification of lifeguards and aquatic instructors

a. Lifeguards must have both certification in paragraphs B–5*a*(1) and (2).

(1) A current lifeguard training certification approved by the American Red Cross. This certification includes Community First Aid and Safety.

(2) A current cardiopulmonary resuscitation certification for the professional rescuer approved by the American Red Cross.

b. Instructors must have certification in the “specialty” they are teaching. For teaching swimming and water safety the American Red Cross approved Water Safety Instructor Certification is required.

c. AR 215–1 lists the additional training and certification requirements for lifeguards, aquatic instructors, and other pool staff.

Appendix C Standard Terms for Nature of Actions

C–1. Standard terms

The terms in table C–1 are authorized for use in completing item 11b, NOA, on DA Form 3434. Except accession and separation actions, return to duty, suspensions, LWOP, furloughs, completion of probationary period, corrections, cancelations, or expirations of temporary actions, all other actions will be effective the beginning of the pay period following receipt of the completed request (SF 52) in the CPAC NAF HRD.

Table C-1
Standard terms for nature of action

Nature of action	Basis for action
Appointment actions	
A010 Appointment	Employee serves in a continuing position on either a scheduled or an as-needed basis. Employees who are regularly scheduled must have a guaranteed number of hours entered as a remark in item 25 of DA Form 3434. When the appointment is to meet a temporary need, the not to exceed date must be entered as a remark in item 25 of the DA Form 3434.
A011 Appointment (Concurrent)	Employee serves in multiple NAF appointments concurrently. This NOA is used for appointments beyond the first NAF appointment. Employee may serve in only one RPT appointment.
A012 Appointment Limited Tenure NTE Date	Employee serves for a limited period in excess of 1 year. The not to exceed date prints in item 11b NOA on the DA Form 3434. The employee is eligible for leave accrual and to participate in the employee benefits plans.
A015 Appointment Public Law 101-508	Employee moves from an APF position to an Army NAF position under the provisions of PL 101-508. A remark must be entered in item 25 of DA Form 3434 to indicate the one-time irrevocable retirement plan election. Hard copy of the DA Form 3434 must be transmitted to the payroll office.
A016 Reinstatement	Employee is reinstated to an Army NAFI position within 3 years of separation.
A017 Reinstatement Public Law 101-508	Employee moves to an Army NAF position under the provisions of PL 101-508 within 3 years of separation from an APFs position. A remark must be entered in item 25 of DA Form 3434 to indicate the one-time irrevocable retirement plan election. In that case, hard copy of DA Form 3434 must be transmitted to the payroll office.
A018 Appointment-Transfer of Function	Employee moves with the function from another DOD component NAFI to an Army NAFI; or the employee moves with the function to an Army NAFI in another commuting area.
A020 Appointment - Summer Hire NTE Date	Summer employment of students in overseas areas only.
A021 Appointment-Transfer In (Followed by Appointment Category)	Employee moves from one DOD or Department of Homeland Security NAFI to Army NAFI. This action is processed by the gaining NAFI in coordination with the losing NAFI. Indicate leave transfer in item 25.
A023 Reemployment Public Law 101-508	Employee moves to an Army NAF position under the provisions of PL 101-508 within 3 years of separation from an APFs position. A remark must be entered in item 25 of DA Form 3434 to indicate the one-time irrevocable retirement plan election. In that case, hard copy of DA Form 3434 must be transmitted to the payroll office.
A024 Reemployment	Employee is rehired by an Army NAFI after a break in service of more than 3 years. This is a competitive action.
A025 Transfer-In Joint Basing	Employee moves from a DOD or Department of Homeland Security NAFI to Army NAFI, through a command sponsored and coordinated movement. This action is processed by the gaining NAFI in coordination with the losing NAFI. Indicate leave transfer in item 25 of DA Form 3434.
A026 Emergency Hire NTE Date	Employee is noncompetitively appointed to a flexible position for a period not to exceed 30 days. The appointment must be terminated within the 30-day period and cannot be converted to a regular appointment. In unusual circumstances the garrison commander or equivalent may approve one 30-day extension. Separation action is system-generated 14 days before the not to exceed date.
Separation actions	
A030 Resignation	Employee resigns. Remarks must be entered in item 25 on DA Form 3434 stating the reason for resignation and providing the employee's forwarding address.
A031 Separation-Disqualification	Employee becomes disqualified for any reason. A remark must be entered in item 25 on DA Form 3434 indicating the specific nonmedical disqualification.
A032 Separation-During Probation	**See note 2. Employee is separated during probation. No reason for the separation may be entered in item 25 on DA Form 3434.
A033 Separation-Misconduct	Employee is separated for job related misconduct. Indicate the reason for separation in item 25 on DA Form 3434. The reason must be consistent with the reasons stated in the decision notice of separation.
A035 Separation-Inefficiency	Employee is separated because of unsatisfactory performance. Reasons in item 25 on DA Form 3434 must be consistent with the reasons stated in the decision notice of separation.
A037 Separation-business-based action	Employee is separated because of a BBA. Amount of severance pay must be entered in item 25 on the DA Form 3434.

Table C-1
Standard terms for nature of action—Continued

Nature of action	Basis for action
A038 Separation-(Abandonment Of Position)	See note 1. Employee is separated because of abandonment of position after at least 3 consecutive scheduled workdays in an AWOL status.
A039 Separation - Disability	Employee is separated from Army NAF employment when he or she is impacted by a mental or physical condition that renders them unable to perform the duties of their position.
A040 Separation-Transfer of Function	Employee is separated from Army NAF employment when the function moves to another DOD component NAFI or the movement of the function to another commuting area.
A041 Separation-Failure to Accept Transfer of Function	Self-explanatory. Used only for RFT and RPT employees (see para 10-5b).
A042 Separation-From Flexible Appointment	See note 1. Administrative separation only.
A043 Separation-Retirement	Voluntary employee retirement.
A044 Separation-From Limited Tenure Appointment	Employee is separated at the end of the specified period of employment on the not to exceed date or upon management request if position is no longer required. This action is system-generated 14 days prior to the not to exceed data.
A045 Death	Self-explanatory. Remarks must be entered in item 25 of DA Form 3434 indicating the name, mailing address, and social security number of the beneficiary for unpaid compensation identified on DA 5521. Hard copy of DA Form 3434 must be transmitted to the payroll office.
A046 Separation	For separations which do not meet the criteria for the other separation actions.
A047 Resignation-Public Law 101-508	Employee resigns to accept APF employment (voluntary move). A remark must be entered in item 25 of DA Form 3434 indicating employee's one-time irrevocable retirement election. Hard copy of DA Form 3434 must be transmitted to the payroll office.
A049 Separation-Transfer Out	Employee moves from an Army NAF to another DOD or Department of Homeland Security NAFI. This action is processed by the losing activity in coordination with the gaining NAFI. Indicate leave transfer in item 25.
A050 Separation-Public Law 101-508	Employee moves to APF pay system when the NAF position is converted (involuntary move). A remark must be entered in item 25 of DA Form 3434 indicating employee's one-time irrevocable retirement election. Hard copy of DA Form 3434 must be transmitted to the payroll office.
A051 Transfer-Out Joint Basing	Employee moves from a DOD or Department of Homeland Security NAFI to Army NAFI, through a command sponsored and coordinated movement. This action is processed by the losing NAFI in coordination with the gaining NAFI. Indicate leave transfer in item 25 of DA Form 3434.
Cancelation and correction actions	
A001 Cancelation	Use to cancel any action that is withdrawn or determined to be unjustified or unwarranted. A remark must be entered in item 25 of DA Form 3434 explaining the cancelation. Other than the entries in items 11b and 25, all entries are the same as in the action being canceled. Hard copy of DA Form 3434 must be transmitted to the payroll office.
A002 Correction	Use to correct errors on an action. A remark must be entered to item 25 of DA Form 3434 explaining the correction. Hard copy of DA Form 3434 must be transmitted to the payroll office.
Place person actions (in service placements)	
A048 Transfer	Movement of an employee between NAFIs without a break in service. This action may be non-competitive when to the same or lower grade or payband level. Hard copy of DA Form 3434 must be transmitted to the payroll office. A change of pay cycle may create the need for a different NOA.
A055 Change to Lower Pay Level	NF or CY employee affected by a BBA, reclassification or at the employee's request. (Requires a change of position.)
A056 Temporary Reassignment NTE Date	Employee is reassigned for a temporary period of time. (NF employees may receive a pay adjustment.)
A058 Term of Temporary Reassignment	Employee is returned from temporary reassignment to the previous position.
A059 Conversion of Employment Category	Employee is changed from one employment category to another in the same position. Used only when the change is from flexible to RPT or RFT; or from RPT to flexible or RFT; or from RFT to flexible or RPT.

Table C-1
Standard terms for nature of action—Continued

Nature of action	Basis for action
A060 Promotion	Employee is promoted to a position at a higher grade for pay plans (NA, NL, NS) or to a higher payband level (CY, NF).
A061 Change to Lower Grade	An NA, NL, or NS employee is changed to a lower grade for any reason. When the employee is placed in the new lower graded position, he or she may be entitled to 2 years of grade retention. For employees entitled to grade retention or pay retention, a remark must be entered in item 25 of DA Form 3434 explaining.
A062 Reassignment	Employee is reassigned from one position to another at the same payband level or grade within an Army NAFI. (NF employees may receive a pay adjustment.)
A063 Temporary Promotion NTE Date	Employee is temporarily promoted within the same NAFI. To be used for noncompetitive and competitive temporary promotions. A noncompetitive temporary promotion may not exceed 120 days. (See paras 2-34 and 2-35.)
A064 Position Change-Reclass	Employee's position is reclassified for any reason and employee is placed in the new position. For a "Change To Lower Grade," use A061; for a "Change To Lower Pay Level," use A055.
A082 Change in Servicing Personnel Office	Used administratively to change the servicing personnel office and other organizational data such as the unit identification code or region in an encumbered position.
A083 Leave Without Pay NTE Date	Used to document a period of time during which the employee is not present for duty and as a result is placed in an unpaid status.
A183 Extension of Leave Without Pay NTE Date	Used to extend the period of time during which the employee is not present for duty and as a result is placed in an unpaid status.
A090 Expiration of Temporary Promotion	Temporary promotion expires on the not to exceed date. Employee is returned to the previous position at the appropriate rate of pay.
A091 Termination of Temporary Promotion	Management-initiated action effective prior to the not to exceed date. Employee is returned to the previous position at the appropriate rate of pay.
Employee change actions	
A070 Change in Military Status	Employee is no longer an active duty military member and may no longer be employed as ODM.
A071 Change in Service Computation Date	Accomplished upon receipt of documented proof of prior creditable service. Explanation must be documented in a remark entered in item 25 of DA Form 3434 (for example, former military provides DD Form 214 for leave accrual).
A095 Change in Citizenship	Used to document an employee becoming a U.S. citizen.
A076 Change in Family Member Status	Used to document any change in the employee's Family member status. Reasons for this kind of change could include the military sponsor's separation from military service, the sponsor's death, the employee's divorce from the sponsor, and so forth.
A782 Change in Hours	Used to document a change in the employee's guaranteed hours. There is no change of employment category.
A792 Change in Duty Station	Used administratively to change only the duty station of an encumbered position. If any additional organizational data changes, use A082, Change in Servicing Personnel Office.
Extension actions	
A057 Ext of Temporary Reassignment-NTE Date	Self-explanatory.
A087 Ext of Appointment-Limited Tenure NTE Date	Self-explanatory.
A089 Extension of Temp Promotion NTE Date	Noncompetitive temporary promotion may not be extended beyond 120 days.
A092 Extension of Temporary Appt NTE Date	Used to document extension of a temporary appointment other than a limited tenure appointment.
A182 Extension of Military Leave NTE Date	Employee's military leave is extended with a new not to exceed date.

Table C-1
Standard terms for nature of action—Continued

Nature of action	Basis for action
A184 Extension of Furlough NTE Date	Self-explanatory.
Nonpay actions	
A084 Furlough-NTE Date	Regular employee placed on furlough for 8 calendar days or more.
A085 Furlough-Military NTE Date	Employee reports for active military service. Not to be used for military leave.
Pay actions	
A102 Expiration of Grade Retention	Employee is assigned to the grade of the occupied position. If the employee is eligible for indefinite pay retention beginning the following day, a remark must be added in item 25 of DA Form 3434 so stating.
A103 Termination of Grade Retention	Used to document the termination of the employee's period of grade retention prior to the not to exceed date.
A105 Termination of Pay Retention	Used to document the termination of the employee's period of pay retention.
A880 Retention Allowance NTE Date	Used to document an additional amount of money paid biweekly to the employee as an incentive to remain in the current job. Must be reviewed once per year 45 days prior to the anniversary date.
A881 Extension of Retention Allowance NTE Date	Requires annual evaluation and justification by management. The retention allowance may increase, decrease, or remain the same.
A882 Expiration of Retention Allowance	Retention allowance is discontinued on the not to exceed date.
A893 Within-Grade Increase	Employee progresses from lower step rate to the next higher step rate upon completion of the prescribed waiting period. Use only for employees in pay plans NA, NL, NS.
A894 Pay Adjustment	Used to change the employee's rate of pay for retention, BBA or pay schedule change.
A896 Administrative Pay Increase	Payband employee's rate of pay is administratively increased with no other change.
A897 Administrative Pay Decrease	Payband employee's rate of pay is administratively decreased with no other change.
Position change actions	
A081 Change in Tip-Offset Amount	Enter a remark in item 25 of DA Form 3434 to indicate the new tip-offset amount. Effective date will be the beginning of a pay period.
A093 Change in Position Title	This action is used administratively to change the position title in an encumbered position with no change in duties, grade, pay plan, or rate of pay.
A094 Change in Occupational Code	This action is used administratively to change the occupation series in an encumbered position with no change in duties, grade, pay plan, or rate of pay.
A096 Mass Change	This action is used administratively to change position attributes such as to realign positions to new organization hierarchy, to change the General Services Administration - geographic location code, to change the personnel office identification, or servicing office identification, position's organization address, and so forth.
A097 Change of Standard NAFI Number	Standard NAFI number in the employee's position changes administratively to another standard NAFI number without any other change.
A099 Change in Position Number (CPCN)	This action is used administratively to change the job description number (CPCN) in an encumbered position with no change in duties, grade, pay plan, or rate of pay.
Employee incentive awards	
	<i>(Note: See chap 9 for guidance and applicability of the below actions.)</i>
A825 Separation Incentive	Used only when authority is granted for VERA or VSIP to document the monetary amount of the incentive. This action is processed immediately before the separation action is processed.

Table C-1
Standard terms for nature of action—Continued

Nature of action	Basis for action
A840 Individual Cash Award	Lump-sum payment used to reward an individual employee's act or achievement or to reward job performance in connection with the employee's performance appraisal.
A841 Group Cash Award	Lump-sum payment used to reward a group act or achievement.
A842 Individual Suggestion/Invention Award	Lump-sum payment used to reward an individual suggestion or invention.
A843 Group Suggestion/Invention Award	Lump-sum payment used to reward a group suggestion or invention.
A846 Individual Time Off Award	Time off without charge to leave in lieu of a cash award for an individual employee's special act or service.
A847 Group Time Off Award	Time off without charge to leave in lieu of a cash award for a group's special act or service.
A895 Performance-Based Pay Adjustment	Used to reward job performance (for SSP) in connection with an employee's performance appraisal. Used for payband employees only.
Miscellaneous other actions	
A072 Name Change	Employee's name changes for any reason. Enter a remark in item 25 of DA Form 3434 to explain.
A077 Completion of Probationary Period	This action documents the employee's completion of the probationary period. System-generated in DCPDS 14 days prior to end of probationary period.
A078 Suspension-NTE Date	Documents disciplinary action taken to suspend employee.
A088 Return To Duty	Employee returns to duty from BBA furlough, military furlough, military leave, or an approved period of absence. Enter a remark in item 25 of DA Form 3434 indicating the dates of the furlough period or the period of absence.
A911 Army Reconstruct History	Used in DCPDS to reconstruct the history in employee's people record. Instructions are available.
A999 Manager Initiated Personnel Action	Request for personnel action (SF 52) initiated by supervisor or activity manager.

Legend for Table C-1:

NTE=not to exceed

Notes:

¹ Separation actions: NOA's A032, A038, and A042 do not provide a due process hearing. No remarks will be entered in item 25 of DA Form 3434. This does not preclude oral or written notifications to the employee of specific reasons for separation, if desired. No reasons, explanations, or remarks will be placed on the SF 52, DA Form 3434, or in the eOPF.

² Position change actions: NOA's A081, A093, A094, A096, A097, and A099 are available in DCPDS as either individual SF 52 or in the NAF "Mass Position Change" as mass batch processes.

C-2. Approval of terms

No other terms may be used without prior approval of the DCS, G-1 or his or her designee. These terms may not be combined in item 11b. When more than one action is being effected on the same date, reflect the primary NOA in item 11b and place a remark in item 25 of DA Form 3434 that denotes any other action being effected at the same time. Retroactive actions are not authorized except in accordance with paragraphs 2-4b(7)(a) and 3-29.

Appendix D

Screening and background checks requirements

Table D-1 identifies the screening and background check requirements for CYSS and other positions responsible for the care and well being of children under 18 years of age, and the responsible office by category of personnel.

**Table D-1
Screening and background check requirements**

Category	Requirement	U.S. Employees	Foreign National Employees Overseas
Pre-employment screening (Hiring/responsible organization)	1) Application/ solicitation	X	X
	2) Interview/contract review	X	X
	3) Reference check	X	X
Hiring/responsible organization makes a tentative offer of employment. Statement of previous arrest or charge is required for all applicants and must be updated annually.			
Preliminary investigation (commander designated entity)	1) Installation record checks* a. Local military records b. Local law enforcement (PMO/CPAC) c. Drug and alcohol (ASAP) d. Army Central Registry (MTF)	X	X
	e. Defense central investigations index/CID records (CID)	X	X
	2) FBI fingerprint check (commander designated entity)		

* Installation records check only applies to individuals with current or prior DOD affiliation. The installation records check will be for the 5-year period preceding the date of application.
 - Mental health record and family housing checks will not be conducted.
 - Individual can begin work under LOSS with favorable results from the preliminary investigation or if the preliminary investigation reveals any derogatory information forwarded by the commander designated entity, with the written approval of the garrison commander (or equivalent)
 - Appointments must be made subject to favorable adjudication of the remaining background checks.
 *The local law enforcement check will be for the 5 years period preceding the date of application

Completed background check (commander designated entity)	Child care national agency check and written inquiries (CNACI) (includes the State criminal history repository check)	X	X**
	Host nation background check/CNACI equivalent		X**

Individual is considered cleared and can work outside of LOSS if the completed background check results are favorable. If derogatory information is revealed by the CNACI (or CNACI equivalent) and forwarded by the commander designated entity, the case must be adjudicated through the PRB process.

Re-verification (installation record check and FBI fingerprint check) is required every 5 years.

Other relevant record checks may be initiated if deemed necessary to determine an individual's suitability under DODI 1402.5 to the extent permitted by the law. Any other checks must be GO/SES approved and found legally sufficient by the servicing legal office.

****Foreign national employees overseas.**

(1) When permissible by the laws of the host government, the commander designated entity will directly request the host-government checks. Where the host nation's agreement prevents a background check comparable to the CNACI, foreign nationals will not be eligible for employment overseas where regular contact with children is required.
 (2) For the preliminary investigation, foreign national employees overseas will have at minimum a defense central investigations index check and if they have prior or current DOD affiliation, a full installation records check. A FBI fingerprint special agreement check will be requested unless prohibited by the terms of the host nation agreement.

****Foreign nationals within the United States.** Foreign nationals who have not resided in the U.S. for 3 of the last 5 years will be processed for a FBI fingerprint special agreement check. Foreign nationals who have resided in the U.S. for at least 3 of the last 5 years will receive a CNACI.

Appendix E Internal Control Evaluation

E-1. Function

The functions covered by this evaluation are the administration, operation, and management of the civilian human resources portion of the activity's MWR activities and NAFIs. The internal accounting and administrative controls within the organization must provide reasonable assurance that assets are safeguarded against waste, loss, unauthorized use, or misappropriation. Some of the actions supporting this assurance of assets control include the review of all TDY travel requests or claims for appropriateness and prudence, and review of requests for training to ensure that the most economical and effective location and training is selected. Management and administration of the civilian human resources program are shared responsibilities of commanders, managers, supervisors, and the servicing CPAC NAF HRD.

E-2. Purpose

The purpose of this checklist is to assist commanders, managers, supervisors, CPAC NAF HRD, and all other installation personnel responsible for MWR activities and NAFIs in administering APF and NAF civilian human resources, meeting reporting requirements in evaluating key internal controls listed. It is intended as a guide and does not cover all controls (see chap 17).

E-3. Instructions

Answers must be based on actual testing of key management controls (for example, document analysis, direct observation, interviewing, sampling, simulation, or other). Answers that indicate deficiencies must be explained and the corrective action identified in supporting documentation. These internal controls must be evaluated in accordance with the schedule in the Management Control Plan. Certification that this evaluation has been conducted must be accomplished on DA Form 11-2 (Internal Control Evaluation Certification).

E-4. Test questions

- a. *Commander, manager, and supervisor responsibilities.*
 - (1) *Classification and compensation.*
 - (a) Do supervisors annually certify that duties and responsibilities described in position guides, position descriptions, and performance objectives are accurate by signing the supervisory certification in DA Form 3612?
 - (b) Where DOD and Army approved classification and job grading standards used to classify positions appropriately?
 - (c) Where DA standardized PDs used as appropriate?
 - (d) Are OPM and DOD standards implemented within 6 months of receipt?
 - (e) Are appeal procedures made available to all employees?
 - (f) Are local pay policies in place to track pay adjustments to ensure adherence to merit based distribution of awards among the eligible workforce and adherence to EEO principles?
 - (2) *Incentive or performance awards.*
 - (a) Are nominations for awards issued in a timely manner and in accordance with provisions of AR 215-3?
 - (b) Are awards signed by the nominating and approving official?
 - (c) Are performance awards granted in accordance with this regulation and local award policies?
 - (d) Are incentive or performance awards tracked by senior activity officials to ensure fair and equitable distribution?
 - (3) *Employee relations.*
 - (a) Are new employees informed at the time of employment or entrance on duty of the standards of conduct and behavior expected of them?
 - (b) Are provisions of DOD 5500.07-R brought to the attention of all employees annually?
 - (c) When disciplinary actions are taken, are previous offenses, if any, considered in arriving at disciplinary actions?
 - (d) Was all information concerning alleged misconduct documented?
 - (e) Is disciplinary action initiated timely in accordance with Army regulations?
 - (f) Are employees provided proper advance notice of proposed disciplinary actions?
 - (g) Are employees provided the opportunity to give their side of the matter in question?
 - (h) Do notices to employees about disciplinary actions contain specific charges of the misconduct, including dates?
 - (i) Are employees provided an opportunity to review all the material relied upon in taking disciplinary action against them on their request?
 - (j) Are disciplinary actions receiving a technical and legal review prior to issuance?
 - (k) Are employees provided decision letters including the right of grievance or appeal?
 - (4) *Employee development.*
 - (a) Is training/TDY/travel provided in accordance with this regulation and the JTR?

- (b) Is training job related, beneficial to the organization, and beneficial to the development and performance of the employee?
- (c) Are the training and training location cost effective?
- (d) Have all required paperwork and approvals been completed and submitted in accordance with applicable guidelines?
- (e) Has top activity leadership ensured the CPAC NAF HR officer is an integral partner and active advisor to all serviced commanders, managers, and supervisors with regard to supervisors' responsibilities enunciated here?
- b. *Civilian Personnel Advisory Center Nonappropriated Fund Human Resources Division responsibilities.*
 - (1) *Employee benefits.*
 - (a) Do eligible employees receive an explanation of medical insurance available, enrollment period limitations, related costs, and so forth, for both employees and newly acquired Family members?
 - (b) Are eligible employees receiving an explanation of costs and benefits associated with the basic and optional life insurance plans?
 - (c) Do eligible employees receive an explanation of costs and benefits available from the NAF Employee Retirement Plan and 401(k) Savings Plan?
 - (d) Are changes in medical insurance plans, life insurance plans, and retirement plans made in a timely manner?
 - (e) Were seasonal employees and employees on LWOP status counseled concerning continuation of benefits and medical or life insurance while in LWOP status?
 - (f) Are separated employees or survivors counseled concerning retirement plan options at termination of employment or death?
 - (2) *Legal and regulatory program.*
 - (a) Are NAFI personnel files and records kept in a secure room or locked cabinet in the CPAC NAF HRD?
 - (b) Are medical records properly safeguarded and maintained separate from the eOPFs?
 - (c) Are BBA records retained for 1 year after BBA letter is issued?
 - (d) Are local RPLs maintained for 1 year after separation of an employee by BBA?
 - (e) Where concurrent appointments are held, are employees informed of the 40-hour weekly aggregate work limit between the two jobs and the consequences of exceeding the limit?
 - (f) Are USCIS Form I-9 properly completed and retained for all employees hired?
 - (g) Are position descriptions annotated with FLSA determination prior to appointment or assignment of an employee?
 - (h) Are details to sets of duties evaluated as to grade to ensure the duties are not of a higher nature than the grade of the person detailed and are supervisors advised accordingly?
 - (3) *Recruitment and staffing.*
 - (a) Are references for selected individual obtained prior to employment?
 - (b) Are background checks completed on selected individuals as appropriate?
 - (c) If unfavorable information is contained in the background check, is a suitability determination made by the appropriate official?
 - (d) Are PRBs conducted when appropriate?
 - (e) Is military service documented regarding length of service and type of discharge?
 - (f) Are all applications screened for possible nepotism?
 - (g) Are medical examinations accomplished where required?
 - (h) Are the reasons for selection of an individual on the referral list or certificate?
 - (i) Are selections over preference and priority consideration eligibles approved by the garrison commander?
 - (j) Is there a clearly defined audit trail from the request for personnel action to the job offer?
 - (k) Are vacancy announcements posted so everyone eligible to apply for the position has the opportunity to so?
 - (l) Do vacancy announcements contain all the information required by law and regulation?
 - (4) *Incentive or performance awards.*
 - (a) Are nominations for awards issued in a timely manner and in accordance with provisions of AR-215-3?
 - (b) Are nominations signed by both the nominating and approving official?
 - (c) Are performance awards granted in accordance with this regulation and local award policies?
 - (d) Are incentive or performance awards tracked to ensure fair and equitable distribution?
 - (5) *Employee relations.*
 - (a) Are new employees informed at the time of employment of entrance on duty of the standards of conduct and behavior expected of them?
 - (b) Are provisions of DOD 5500.07-R brought to the attention of all employees annually?
 - (c) When disciplinary actions are taken are previous offenses, if any, considered in arriving at disciplinary actions?
 - (d) Was all information concerning alleged misconduct documented?

- (e) Is disciplinary action initiated in a timely manner in accordance with Army regulations?
- (f) Do supervisors provide employees proper advance notice of proposed disciplinary actions?
- (g) Do supervisors provide employees with an opportunity to give their side of the matter in question?
- (h) Are employees provided the opportunity to review all material relied upon in taking disciplinary action against them on their request?
- (i) Does the servicing CPAC and legal office review disciplinary actions prior to issuance?
- (j) Are employees provided decision letters including the right of grievance or appeal?
- (6) *Employee development.*
 - (a) Is training/TDY/travel provided in accordance with this regulation and the JTR?
 - (b) Is the training job related, beneficial to the organization, and beneficial to the development and performance of the employee?
 - (c) Is the training and location cost effective?
 - (d) Has all the required paperwork been completed and submitted in accordance with applicable guidelines?
 - (e) Is NAF HR supervisory training being conducted on an annual basis?

E-5. Comments

Help make this a better tool for evaluating management controls. Submit comments to the Deputy Chief of Staff, G-1 (DAPE-CP-NAF), 111 Pentagon, Washington, DC 20310-0111.

Glossary

Section I Abbreviations

AAFES

Army and Air Force Exchange Service

ACOM

Army commands

ACTEDS

Army Civilian Training, Education and Development System

AL

annual leave

APF

appropriated fund

AR

Army regulation

ASCC

Army service component command

AWOL

absence without leave

AWS

alternate work schedule

BBA

business-based action

BRAC

base realignment and closure

CFR

Code of Federal Regulations

CHRA

Civilian Human Resources Agency

CNACI

child care national agency check and written inquiries

COLA

cost of living allowance

CPAC

Civilian Personnel Advisory Center

CSRS

Civil Service Retirement System

CY

child and youth

CYPPP

Child and Youth Personnel Pay Program

CYS

child, youth, and school

CYSS

child, youth and school services

DA

Department of the Army

DCPAS

Defense Civilian Personnel Advisory Service

DCPDS

Defense Civilian Personnel Data System

DCS

Deputy Chief of Staff

DFAS

Defense Finance and Accounting Service

DOD

Department of Defense

DODD

Department of Defense directive

DODI

Department of Defense instruction

DOL

Department of Labor

DRU

direct reporting unit

DSR

Discontinued Service Retirement

DSSR

Department of State Standardized Regulations

EEO

equal employment opportunity

EO

executive order

eOPF

electronic official personnel folder

FASCLASS

Fully Automated System for Classification

FBI

Federal Bureau of Investigation

FERS

Federal Employees Retirement System

FICA

Federal Insurance Contribution Act

FLSA

Fair Labor Standards Act

FMLA

Family Medical Leave Act

FWS

Federal Wage System

GS

general schedule

HBP

health benefits plan

HMO

health maintenance organization

HQ

headquarters

HQDA

Headquarters, Department of the Army

HR

human resources

IMCOM

Installation Management Command

INS

Immigration and Naturalization Service

IRS

Internal Revenue Service

ISMP

Involuntarily Separated Military Preference

JTR

Joint Travel Regulation

LWOP

leave without pay

MWR

morale, welfare, and recreation

NACI

national agency check with inquiries

NAF

nonappropriated fund

NAF HRD

Nonappropriated Fund Human Resources Division

NAFI

nonappropriated fund instrumentality

NFS

Nonappropriated Fund Financial Services

NOA

nature of action

NPRC

National Personnel Records Center

NTE (appointment action code)

not to exceed

ODM

Off-duty Enlisted Military

OPM

Office of Personnel Management

PCS

permanent change of station

PL

public law

PRA

permanent resident alien

PRB

Program Review Board

RFT

regular full-time

RPL

reemployment priority list

RPT

regular part-time

SEP

spouse employment preference

SES

senior executive service

SF

standard form

SL

sick leave

SSB

special separation benefit

SSP

sustained superior performance

TDY

temporary duty

U.S.

United States

USANAF

U.S. Army Nonappropriated Fund

USC

United States Code

USERRA

Uniformed Services Employment and Reemployment Rights Act

VERA

Voluntary Early Retirement Authority

VSI

voluntary separation incentive

VSIP

Voluntary Separation Incentive Program

WSB

wage and salary branch

Section II**Terms****Accumulated leave**

The unused leave to the employee's credit at the end of the leave year.

Accrued leave

The amount of leave earned but not used during the current leave year.

Administrative workweek

A period of 7 consecutive calendar days designated in advance by the appropriate official.

Appropriate authority

An entity having authority in the case to correct or direct the correction of an unjustified or unwarranted personnel action.

Appropriated fund employee

A person employed by the United States Government and paid from funds appropriated by the Congress of the United States.

Appropriated funds

Monies made available to the Military Departments by the Congress of the United States. Such appropriations are of two types: annual and multi-year. The purpose for which funds are appropriated is specified by Congress in its appropriation acts.

Army morale, welfare, and recreation fund

Central MWR fund at IMCOM G-9.

Basic pay

The total amount of pay received during any 1 calendar year at the rate fixed by law or administrative action for the position held by the employee, including night and environmental differentials for prevailing rate employees respectively, but before any deductions and exclusive of any additional pay of any kind.

Basic workweek

The days and hours within the administrative workweek for a full-time or for a part-time employee during which an employee is expected to be on duty. These hours may be scheduled as regular, irregular, or rotating tours of duty.

Business-based action

Nondisciplinary, involuntary action taken to adjust personnel resources.

Child care national agency check with inquiries

An investigation conducted by the OPM, Federal Investigative Services Division on CYSS personnel that includes a search of the State criminal history repository(ies). The search is for the purpose of determining suitability for employment in CYSS positions and initiated using SF 85 and SF 87 (Office of Personnel Management Fingerprint Card).

Compensatory time off

Time off in lieu of overtime pay.

Continental United States

The 48 contiguous States and the District of Columbia.

Continuing position

A position that is expected to continue in excess of 1 year.

Covered active duty

Duty of a member of a regular component of the Armed Forces during deployment to a foreign country, and duty of a member of a Reserve Component of the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 USC 101(a)(13)(B).

Covered Servicemember

An individual who is or has been a member of the Armed Forces, including the National Guard or Reserves, during the 5 years preceding the medical treatment, recuperation, or therapy.

Detail

A temporary assignment of an employee to a different position or set of duties.

Direct threat

A significant risk of substantial harm to the individual or others in the workplace that cannot be reduced or eliminated through reasonable accommodation referred to in 29 CFR 1630.2(r).

Disabled veteran

An individual who has served on active duty in the Armed Forces, has been separated under honorable conditions, and has established the present existence of a service connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Department of Veterans Affairs or a military department.

Department of Defense component

Any of the Military Departments, DOD agencies, the AAFES, and the Office of the Secretary of Defense.

Department of Defense personnel

Military personnel (including retired members and reservists on active or inactive duty for training) and DOD Civilian employees paid from appropriated and NAFs.

Duty station

Geographic location where work is performed.

Equivalent position

Position which is sufficiently alike in duties, responsibilities, and requirements that the employee could be moved to without significant employee training or additional increase in skills or knowledge, or without unduly interrupting the work program.

Executive control and essential command supervision

Those managerial functions of planning, organizing, directing, coordinating, and controlling the overall operations of

NAF programs and activities. It consists specifically of program, fiscal, logistical, and other management functions that are separate from the daily working level activities and tasks of the NAF programs. Excluded from this definition is the direct operation of individual MWR programs and activities.

Extended active duty

Full-time duty in the active military Service of the United States entered into with the original expectation of serving for an indefinite or stated period of time, other than active duty for training.

Family member preference

Includes—

- a.* The spouse of a military Servicemember.
- b.* Unremarried widow or widower of a member or former member of a uniformed Service.
- c.* Unmarried child of a sponsor, including an adopted child, stepchild, foster child, or ward who-
 - (1) Has not passed his or her 21st birthday.
 - (2) Is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for over one-half of his or her support.
 - (3) Has not passed his or her 23rd birthday, is enrolled in a full-time course of study in an institution of higher learning approved by a Secretary of an executive department specified in 10 USC 1073, and is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for over one-half of his or her support.

Federal service

For the purposes of unemployment compensation, service performed after 1952 as a civilian or by military personnel during off-duty hours in the employment of the U.S. or any instrumentality thereof. Service outside the U.S. by non-U.S. citizens is excluded from this definition.

Federal wages

All gross pay and allowances, in cash and in kind, for Federal wages.

Flexible employee

An employee who has been appointed to serve in a continuing or time limited position and who is on call or scheduled for a specific number of hours each administrative workweek. Flexible employees are ineligible for all employee benefits.

Foreign areas

Area (including the Trust Territory of the Pacific Islands) situated outside the U.S., the Commonwealth of Puerto Rico and the possessions of the U.S.

Foreign national nonappropriated fund instrumentality employee

A citizen of an overseas host country or foreign country employed by a NAFI and compensated from NAFs.

Full-time employee

An employee hired for a regular position that has a regularly scheduled workweek of 40 hours each week.

Full-time tour of duty

A basic weekly tour consisting of 40 hours of duty each week.

Fund manager

An individual appointed by written authority to a post of responsibility and trust to exercise administrative and executive control of a NAFI and charged with accountability for the NAF resources thereof.

Furlough

A nonduty, nonpay status resulting from a BBA. During the furlough period, no leave of any kind is authorized. This action is only taken to adjust personnel resources and is nondisciplinary in nature.

Garrison commander or equivalent

The term refers to the local commander who has jurisdiction over one or more NAFIs at an installation or military community, such as the garrison commander, deputy garrison commander, area support group, or base support battalion commander, and is responsible for NAF employees. For purposes of this regulation, it also includes the general managers of the Armed Forces recreation centers.

Grievance

A request by an employee or a group of employees for personal relief from matters of concern or dissatisfaction, including requests for relief from personnel actions that have previously been administered as appeals.

Grievance decision

A decision issued as a result of consideration of a formal grievance.

Harmful error

An error made by the activity in applying governing regulatory procedures, which in the absence of correction or cure might have caused the activity to reach a conclusion different than the one reached. The grievance must show, based on the whole record, that the error was harmful.

Head of a nonappropriated fund instrumentality

The individual responsible for the effective and efficient accomplishment of the functions of the instrumentality.

Honorary award

An award in the form of a certificate, pin, emblem, plaque, or other item that can be worn or displayed.

Hourly rate of basic pay

An employee's hourly rate of pay that is determined by dividing the annual rate of basic pay by 2,087 with the result adjusted to the nearest cent.

Incentive award

An incentive term, covering cash awards, honorary awards, length of service awards, and pay adjustments.

Installation morale welfare recreation fund

A NAFI established for the purpose of providing installation/community MWR activities, including food and beverage, retail, recreation, and community support services.

Irregular tour of duty

A tour which may require service on different shifts, different hours of the day, or different days of the administrative workweek.

Leave year

The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

Memorandum for record

A written, factual summary of events relating to a specific action signed and dated by the writer.

Military Departments

The Departments of the Army, the Navy, and the Air Force.

Military spouse

A wife or husband of an active duty member of the U.S. Armed Forces, U.S. Coast Guard, and the full-time National Guard or Reserves.

Nonappropriated fund employee

A person employed by a NAFI and compensated from NAFs.

Nonappropriated fund locality supplement

A rate of pay used to offset the reduction of nonforeign area COLA in areas authorized to receive such an entitlement.

Nonappropriated fund instrumentality

An integral DOD organizational entity which performs an essential Government function. It acts in its own name to provide or assist other DOD organizations in providing MWR programs for military personnel and civilians. It is established and maintained individually or jointly by the heads of DOD components. As a fiscal entity, it maintains custody of and control over its NAFIs. It is responsible for the prudent administration, safeguarding, preservation, and maintenance of those appropriated fund resources made available to carry out its function. With its NAFs, it contributes to the MWR programs of other authorized organizational entities when so authorized. It is not incorporated under the

laws of any State or the District of Columbia and enjoys the legal status of an instrumentality of the United States Government.

Nonappropriated fund

Cash and other assets received by NAFIs from sources other than monies appropriated by the Congress of the United States. NAFIs are Government funds used for the collective benefit of those who generate them: military personnel, their Family members, and authorized civilians. These funds are separate and apart from funds that are recorded in the books of the Treasurer of the United States.

Off-duty military

Enlisted, active duty military personnel employed as civilians by a NAFL.

Part-time tour of duty

A basic weekly tour consisting of 20 to 39 hours of duty each week.

Pay, allowances, and differentials

Monetary benefits to which an employee is entitled by statute or regulation by virtue of the performance of a Federal function.

Pay adjustment

A result of revised pay schedules for FWS employees. A change in the basic rate of pay for a payband employee for rate changes, or employment cost index adjustments, performance recognition, BBA, or for retention purposes.

PL 101-508 - Portability

The Portability of Benefits for Nonappropriated Fund amended by the National Defense Authorization Act to FY 1996 and PL 107-107.

Priority consideration

Consideration in employment for eligible, qualified candidates. Selection is not mandatory and nonselection must be justified, in writing, as appropriate for the particular priority consideration category.

Rate of basic pay

Rate of basic pay for grade and pay retention purposes is the rate of pay fixed by law or administrative action for position held by an FWS employee before any deductions and exclusive of additional pay of any kind, such as night or environmental differentials.

Reassignment

Movement of an employee from one position to another position at the same grade/level in the same NAFL. For payband employees, it may be with or without a pay adjustment. This action may be taken noncompetitively.

Regular employee

Includes—

a. RFT employee is one who has been appointed to serve in a continuing position and who has a basic workweek of 40 hours.

b. RPT employee is one who has been appointed to serve in a continuing position and who has a basic workweek of 20 to 39 hours.

c. Regular, seasonal employee is one who has been appointed to serve full-time or part-time in a continuing position with a duty and pay status of at least 6 months but less than 12 months each year.

d. Regular limited tenure employee is one who has been appointed to serve full-time or part-time in a position in excess of 1 year but with a known termination date.

Regularly scheduled work

Work that is scheduled before the beginning of the administrative workweek and determines premium pay entitlements.

Regular tour of duty

A tour of duty, which requires service on the same days and the same hours or shift of each administrative workweek.

Rotating tour of duty

A tour of duty which periodically requires service on different shifts, different hours of the day, or different days of the administrative workweeks.

Servicing civilian personnel office

The personnel office which provides technical advice, guidance, and administrative staff supervision to the NAF personnel staff which is responsible for implementing this regulation for all NAFIs on an installation.

Special act or service award

Consists of meritorious nonrecurring personal effort, an act, or a service performed within or outside assigned job responsibilities, which contributes to the efficiency, economy, profitability, or other improvement of NAF operations. Included are acts of heroism or other deeds that reflect credit on NAFI operations.

Standard nonappropriated fund instrumentality identification number

Alpha numeric code number assigned by HQDA that uniquely and exclusively identifies each Army NAFI by its ACOM, ASSC, or DRU, installation, classification, and other coded information.

Successor (or successor in interest) nonappropriated fund instrumentality

A NAFI designated by the Army to: provide financial support and assistance to specified or assigned NAFIs, as required; receive and redistribute excess assets of its assigned NAFIs; receive or distribute residual assets of a dissolved or disestablished assigned NAFI; or assume residual liabilities of a dissolved or disestablished NAFI.

Suggestion award

Authorized for an idea adopted by management, which contributes to the efficiency, effectiveness, or economical operation of a NAFI.

Supervisor

Individual employed by an Army NAFI with authority, in the interest of that NAFI, to conduct any or all of the following activities for employees: hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, remove, adjust grievances, or effectively recommend noted activities. Exercise of such authority not in routine or clerical in nature, but requires consistent exercise of independent judgment.

Suspension

A nonduty, nonpay status effected as a disciplinary measure. No leave of any kind is authorized during the suspension period.

Sustained superior performance award

A lump-sum cash award based on individual performance for a period of at least 12 months, which exceeds the requirements for satisfactory performance. For payband employees it may be a lump-sum cash award or a performance-based pay adjustment.

Tour of duty

The hours an employee is scheduled to work.

Unjustified or unwarranted personnel action

An act of commission or an act of omission (that is, failure to take an action or confer a benefit) that an appropriate authority subsequently determines, on the basis of substantive or procedural defects, to have been unjustified or unwarranted under applicable law, rule, regulation, or mandatory DA personnel policy or under a collective bargaining agreement.

Work schedule

The hours of a day and the days of an administrative workweek that makeup an employee's tour of duty.

Section III**Special Abbreviations and Terms****CPCN**

change in position number

NATO

North Atlantic Treaty Organization

UNCLASSIFIED

PIN 055232-000