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Assistant Secretary, of Defense
(Force Management and Personnel)
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PERSONNEL POLICY MANUAL FOR NONAPPROPRIATED FUND INSTRUMENTALITIES

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- 1015.3 "Armed Services Military Club and Package Stores," May 14, 1982
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August 3, 1984
- 1015.8 "DoD Civilian Employee Morale, Welfare, and Recreation (MWR)
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Compensation," April 24, 1980
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- 7050.1 "Defense Hotline Program," May 20, 1987

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- 5010.39 "Work Force Motivation," November 16, 1984
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- 7600.6 "Audit of Nonappropriated Fund Instrumentalities and Related Activities," April 16, 1987

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- 5200.2-R "DoD Personnel Security Program," January 1987
- 5000.12-M "DoD Manual for Standard Data Elements," October 1987

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- 11137 "Relating to Certain Allowances and Benefits for Civilian Employees of Nonappropriated Fund Instrumentalities of the Armed Forces," January 7, 1964
- 11222 "Prescribing Standards of Ethical Conduct for Government Officers and Employees," May 8, 1965

- 11478 "Equal Employment Opportunity in the Federal Government,"
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- 11491 "Labor-Management Relations in the Federal Services,"
October 29, 1969 11582
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- 12568 "Employment Opportunities for Military Spouses at Nonappropriated
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- 2105 (status of nonappropriated fund employees)
- 2108 (veterans preference eligibility)
- 3110 (restrictions in the employment of relatives)
- 5332 (general schedule pay rates)
- 5342 (definitions)
- 5361 - 5366 (grade and pay retention instructions applicable to
federal wage system employees)
- 5532-5533 (dual pay and dual employment)
- 5542 (overtime rates - compensation)
- 5544 (wage-board overtime and Sunday rates computation)
- 5911 (entitlement of quarters and facilities by civilian employees
in the United States)
- 7101-7103 (Labor management relations)
- 7324 (influencing elections; taking part in political campaigns;
prohibitions with exceptions)
- 7901 (health services programs for civilian employees)
- 7902 (legal status of civilian NAF employees with regard
to safety programs)
- 8171 (extends the provisions of the Longshoremen's and Harbor
Workers' Compensation Act to nonappropriated fund employees)

Title 10, United States Code - Armed Forces

- 1587 (employees of nonappropriated fund
instrumentalities)

Chapter 81 (protection for NAFI Employees and applicants disclosing information)

Title 31, United States Code - Money and Finance

1349 (requires at least one month suspension for certain motor vehicle and aircraft use violations)

Title 38, United States Code - Veterans Benefits

101 (definitions)
301 (definitions)

Title 42, United States Code - The Public Health and Welfare

300e-9, Health Maintenance Organizations
410, Social Security (nonappropriated fund employees)

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Title 5, Administrative Personnel

Part 536, Grade and Pay Retention

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92-261, "Equal Employment Opportunity Act of 1972," March 24, 1972

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93-579, "The Privacy Act of 1974," December 31, 1974, amends Title 5, United States Code by adding Section 552a

95-256, "Age Discrimination in Employment Act Amendments of 1978"

95-595, November 4, 1978, amends the Budget and Accounting Procedures Act of 1950 to require that pension plans provide for annual financial audits with respect to pension plans for employees of the Federal Government, its agencies, and instrumentalities

96-70, "Panama Canal Act of 1979," provides for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977

97-35, "OMNIBUS Budget Reconciliation Act of 1981," August 13, 1981. Title IX, Section 946(b) included NAFIs within the definition of "employer" for purposes of the Health Maintenance Organization Act

98-94, "Department of Defense Authorization Act, 1984," Section 1253, "Employment Protection for Certain Nonappropriated Fund Instrumentality Employees," amends Chapter 81 of Title 10, United States Code, by adding Section 1587

98-397, "The Retirement Equity Act of 1984," improves the delivery of retirement benefits and provides greater equity under pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside of the home, and for other purposes

99-196, December 23, 1985, governs the implementation of flexible and compressed work schedules.

99-603, "Immigration Reform and Control Act of 1986," makes it unlawful to hire, recruit, or refer for a fee for employment, unauthorized aliens in the United States. This law necessitated a rule promulgated by the Immigration and Naturalization Service, U.S. Department of Justice. The rule provides for an employment eligibility verification system designed to prevent the employment of unauthorized aliens.

REGULATIONS

Joint Travel Regulations, Volume 2 (payment for official travel and transportation of U.S. Government employees)

Department of State Standardized Regulations (Government Civilians - Foreign Areas), April 2, 1961, as amended:

Section 030 (eligibility for allowances and differentials)

Section 270 (education allowances for dependents of civilian personnel employed overseas)

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Chapter 310, Employment of Relatives

Chapter 591, Allowances and Differentials Payable in Nonforeign Areas

Chapter 713, Equal Employment Opportunity

Chapter 731, Suitability

Chapter 850, Unemployment Benefits

FPM Supplement 296-33, The Guide to Processing Personnel Actions, Subchapter 7,
Adjudication of Veterans Preference Claims

FPM Supplement 512-1 Craft and Trades Job-Grading Standards

FPM Supplement 532-2 Federal Wage System - Nonappropriated Fund Employees

FPM Supplement 990-2 Hours of Duty, Pay and Leave

FPM 551 Letters and Bulletins, Fair Labor Standards Act

FPM Letter 792-15, Federal Employees' Health and Counseling Programs

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A-76 "Performance of Commercial Activities," (current edition)

CHAPTER I

INTRODUCTIONA. PURPOSE

1. This Manual sets forth the personnel policies of the Department of Defense with respect to Nonappropriated Fund Instrumentality (NAFI) civilian employment consistent and in conformance with the principles and authorities contained in DoD Directives 1400.5, 1400.6, and 5120.42.

2. The purposes to be served by these policies are

a. Ensure that employees of the NAFIs are treated equitably and fairly in accordance with applicable laws, executive orders, and other pertinent regulations.

b. Provide the basis for achieving a desired degree of uniformity among NAFIs in the management of their personnel.

c. Recognize and provide a basis for dealing with labor organizations.

d. Promote those practices and processes that will facilitate obtaining, developing, and retaining a NAFI work-force of well qualified individuals.

e. Achieve optimum utilization of available manpower resources.

f. Recognize fully the contributions of the NAFIs to the overall morale, welfare, and recreation programs for military personnel, their dependents, and civilian employees of the Department of Defense by seeking to develop and maintain personnel programs that serve to preserve NAFI operational and financial integrity.

B. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) is responsible for all personnel policy matters related to nonappropriated fund employees of the Department of Defense. Pursuant to DoD Directive 5120.42, the ASD (FM&P) shall establish the necessary formal and/or informal committees to develop, formulate and implement personnel policies for nonappropriated fund employees. Coordination within DoD, i.e., the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies (hereafter referred to collectively as "DoD Components"), are handled through normal staff channels.

2. The ASD (FM&P) has designated the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD(CPP)) the administrator for this Manual. In this capacity the DASD (CPP) shall:

a. Maintain the Manual in coordination with appropriate authorities and publish necessary revisions and changes in accordance with DoD Directives System Procedures.

b. Maintain surveillance over the policies and programs set forth in the Manual, ensuring consistent implementation and continuous application throughout the Department of Defense.

3. The authority and responsibility for the development and execution of NAFI personnel management programs are delegated to the Heads of DoD Components as outlined in this Manual.

C. DEFINITIONS

The following definitions apply except where they may conflict with public law:

1. Appropriated Fund Employee. A person paid from funds appropriated by the Congress of the United States.

2. Nonappropriated Fund Instrumentality (NAFI) Employee. A person employed by a Nonappropriated Fund Instrumentality and compensated from nonappropriated funds.

3. Concessionaire. An entrepreneur placed under contract to an authorized Nonappropriated Fund Instrumentality for the purpose of providing goods and/or services.

4. Private Organization. A generally self-sustaining, non-Federal instrumentality, incorporated or not, and constituted or established and operated on a DoD installation with the written consent of the installation commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Government.

5. DoD Components. The Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and the Army and Air Force Exchange Service. (See DoD Instruction 1401.1 for special interpretation of DoD Components as it applies to this Manual.)

6. Local National NAFI Employee. A national or citizen of a host country who is employed in that country by or for a NAFI.

7. Third (Other) Country National NAFI Employee. A citizen or national of a country other than the United States or the host country who is employed by a NAFI.

8. Foreign Areas. Areas (including the Republic of Palau (Belau), Federated States of Micronesia, and the Republic of the Marshall Islands, all formerly the Trust Territory of the Pacific Islands) situated outside the United States, the Commonwealth of Puerto Rico, the Panama Area and the possessions of the United States (including the Commonwealth of the Northern Mariana Islands, a United States Territory).

9. Host Country. A foreign country where U.S. Forces are stationed.

10. Host Government. The political authority of the foreign country where U.S. Forces are stationed under provisions of a treaty and/or agreement.

11. Resident Aliens. People who are foreign born residing in the host country and who have not become naturalized citizens.
12. Non-U.S. Citizens. A person who is not a citizen of the United States.
13. U.S. National. A person born:
 - a. In an outlying possession of the United States on or after the date of formal acquisition of that possession;
 - b. Of parents who are U.S. nationals, in an outlying possession of the United States; or
 - c. Of unknown parents in an outlying possession of the United States.
14. Indirect Hire System. A system that provides that the host country assumes the responsibility of ensuring that the needs of the U.S. Forces for local national personnel are met and that the host country is in fact the official employer of such personnel.
15. Local Prevailing Rates. Rates, determined by wage surveys, paid to local national personnel employed in retail, wholesale, service, and recreation establishments for comparable jobs.
16. Nonappropriated Fund Instrumentality (NAFI). An integral DoD organizational entity through which (a) an essential Government function is performed, and (b) other DoD organizations are provided or assisted in providing morale, welfare, and recreational programs. The NAFI is established and maintained individually or jointly by the Heads of the DoD Components.
 - a. As a fiscal entity, the NAFI maintains custody of and control over its nonappropriated funds, and is also responsible for the prudent administration, safeguarding, preservation, and maintenance of those appropriated fund resources made available to carry out its function.
 - b. The NAFI contributes to the morale, welfare, and recreational programs of other organizational entities when so authorized, 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.
17. Nonappropriated Funds (NAFs). Consist of cash and other assets received by NAF instrumentalities from sources other than monies appropriated by the Congress of the United States. NAFs are Government funds and are used for the collective benefit of military personnel, their dependents, and authorized civilians who generated them. These funds are separate and apart from funds that are recorded in the books of the Treasurer of the United States.

D. LEGAL STATUS OF CIVILIAN EMPLOYEES OF NAFIs

1. NAFI employees are Federal employees within the Department of Defense.

2. Section 2105(c)¹ of Title 5, U.S.C., provides that:

"An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the Armed Forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Armed Forces is deemed not an employee for the purpose of

(1) Laws (other than subchapter IV of chapter 53² and sections 5550³ and 7204⁴ of this title) administered by the Office of Personnel Management; or

(2) subchapter I of chapter 81⁵ and section 7902⁶ of this title.

This subsection does not affect the status of these non-appropriated fund activities as Federal instrumentalities."

3. Subchapter IV of chapter 53 of Title 5, United States Code, (as amended by P.L. 92-392) provides for a pay system under which the rates of pay of prevailing-rate employees are fixed, and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates.

4. The acts quoted above removed NAFI employees from the provisions of laws or regulations administered by the U.S. Office of Personnel Management (OPM), except Equal Employment Opportunity (EEO) and wage fixing for prevailing-rate employees covered under the provisions of P.L. 92-392 and except for application of the Fair Labor Standards Act (as amended by P.L. 93-259).

5. NAFI personnel policy is governed or guided by DoD Directives, Instructions, Manuals, executive orders, public laws, OPM issuances, DoD circulars, and other regulations. Documents pertaining to this Manual are listed (the list may not be complete) on pages xi through xvi.

E. NEW OR REVISED PROGRAMS

1. The provisions of this Manual shall not be construed as limiting NAFIs in the continuance, development, implementation, and administration of personnel policies deemed appropriate to the establishment and maintenance of sound, progressive career development and management programs. However, such programs must meet the basic objectives of DoD policy set forth in this Chapter.

¹ Definition of employee.

² Prevailing rate pay systems.

³ NAF employee pay for Sunday and overtime work.

⁴ Certain areas of equal employment opportunity.

⁵ Compensation for work injuries.

⁶ Safety programs.

2. New programs or revisions to existing programs that increase the levels of NAFI employee compensatory benefits and allowances so that they exceed those authorized in this Manual will be subject to approval, prior to implementation, by the ASD (FM&P) upon recommendation of the appropriate Head of the requesting DoD Component.

3. DoD Components are encouraged to carry out research and demonstration projects that test new approaches to personnel management. Such projects require prior approval of the DoD NAF Personnel Policy Office and consultation with employees or consultation and negotiation with unions when negotiated agreements exist. The DoD NAF Personnel Policy Office may waive personnel policies in the conduct of projects, provided such waivers do not violate laws, rules, or regulations relating to political activities or equal employment opportunity; leave, insurance, or annuity provisions; merit system principles; or prohibited personnel practices.

F. IMPLEMENTATION

Heads of DoD Components or designee shall forward a copy of all implementing documents to the DASD (CPP) within 120 days of the effective date of this Manual or subsequent changes. All Component regulations and documents (including group insurance and retirement plan summaries and employee booklets) that serve to satisfy the requirements of DoD 1401.1-M and applicable laws, etc., shall be provided. The DASD (CPP) is responsible for reviewing such regulations and documents in accordance with DoD 1401.1-M, Chapter I, B.2.b.

CHAPTER II

EMPLOYMENT AND PLACEMENTA. EMPLOYMENT

1. General Policy. Each DoD Component shall ensure that the recruitment, selection, placement, promotion, termination and other related personnel actions involving NAFI employees are in consonance with the fair employment practices and equal opportunity and treatment for both applicants and employees.

2. Specific Policies

a. Categories of Employees. Each DoD Component shall categorize its NAFI employees for purposes of establishing for each employee the status of his or her employment within one of the following definitional categories:

(1) Regular Employees

(a) Regular full-time (RFT) employees are those hired for continuing positions and who have a regularly scheduled workweek of 35 hours or more.

(b) Regular part-time (RPT) employees are those hired for continuing positions for a minimum of 20 hours per week but fewer than 35 hours per week on a regularly scheduled basis.

(2) Temporary Employees

(a) Temporary full-time employees are those who are employed for 35 hours or more per week for not more than 12 months in a continuing pay status in the same NAFI. When their employment goes beyond this period, the category of employment will be changed to that of RFT employees.

(b) Temporary part-time employees are those who are employed for a minimum of 20 hours per week but fewer than 35 hours per week for not more than 12 months in a continuing pay status in the same NAFI. If employed in a continuing pay status beyond this period, the category of employment will be changed to that of RPT employees.

(3) Intermittent Employees. Employees who work less than 35 hours a week. Their employment is on a recurring basis, but only when needed.

(4) Temporary Emergency Employees. Those who are employed for not more than 30 days in the event of an emergency, without regard to normal hiring priorities. One 30-day extension may be authorized by Heads of DoD Components.

(5) Variable Schedule Employees. Individuals employed less than 35 hours a week and whose hours of work, basic workweek and workdays are subject to frequent change without change in employment category.

b. Equal Employment Opportunity

(1) The Heads of DoD Components shall establish, maintain, and carry out a continuing affirmative action program designed to promote equal opportunity in every aspect of personnel policy and practice in the employment, development, advancement, and treatment of their NAFI employees. This includes aliens employed in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. This policy implements Executive Order 11478, P.L. 92-261, 42 U.S.C. 2000e-1, and DoD Directive 1440.1.

(2) The Head of each DoD Component shall:

(a) Provide sufficient resources to administer its equal employment opportunity program among the NAFIs in a positive and effective manner.

(b) Conduct a continuing campaign to eradicate every form of prejudice or arbitrary discrimination based on race, color, religion, sex, age, national origin, or handicapped condition, from personnel policies, practices, and working conditions to include appropriate action against employees who display prejudice or arbitrarily discriminate in action or interaction with other employees.

(c) Communicate this policy and program and employment needs to appropriate sources of job candidates and solicit their recruitment assistance on a continuing basis.

(d) Utilize to the fullest extent the present skills of employees by all means, including the redesigning of jobs where feasible.

(e) Consistent with the organization of the individual NAFI activity and the scope of available advancement opportunities, establish an Upward Mobility Program for NAFI employees that will provide the maximum feasible opportunity for employees to enhance their highest attainable levels of skills, knowledge, and abilities through on-the-job training, job re-engineering, and other development measures so that they may perform at their highest potential and advance in accordance with their capabilities.

(f) Provide orientation, training, and guidance to managers and supervisors to ensure their understanding and implementation of the equal employment policy program.

(g) Provide for participation at the local community level with other employers, schools, universities, and public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(h) Provide for counseling employees and applicants who believe they have been discriminated against and for informally resolving matters raised by them.

(i) Provide for the prompt, fair, and impartial consideration and disposition of complaints involving issues of discrimination.

(j) Establish a system for periodically evaluating the effectiveness of the overall equal employment opportunity effort.

c. Employment of Relatives. The employment, appointment, or promotion of relatives of commissioned officers, noncommissioned officers, and civilian officials who hold administrative positions in which they exercise jurisdiction or control over the employing NAFI is prohibited. Further, such officials may not advocate a relative's appointment, employment, promotion or advancement anywhere within the Department of Defense. This policy is consistent with provisions of 5 U.S.C. 3110. The policy does not prohibit the exercise of reemployment rights after military service as provided by the Military Selective Service Act of 1967, as amended. Component implementing directives should contain adequate instructions to ensure compliance with the provisions of 5 U.S.C. 3110 and Chapter 310, Federal Personnel Manual.

d. Employment of Minors. Heads of DoD Components may authorize the employment of minors, ages 14 and 15. In foreign areas, such employment shall be under summer and student programs and paid under a special summer and student wage schedule. The employment of persons under 18 years of age shall be in accordance with the following:

(1) The Fair Labor Standards Act in that such persons may not be employed in or assigned to positions that are hazardous or detrimental to their health.

(2) Published state and local labor standards and requirements.

e. Employment of Retired U.S. Military Personnel. Retired members of the Uniformed Services shall be accorded the same rights and considerations as all other applicants for civilian employment in NAFIs. However, their employment shall be subject to the restrictions imposed by DoD Directive 1402.1.

f. Utilization of U.S. Off-Duty Military Personnel

(1) Subject to the provisions of DoD Directive 5500.7, enlisted personnel may be employed in a NAFI position after duty hours on other than a full-time basis; that is, regular part-time, temporary part-time, intermittent, or variable. No NAF monies may be disbursed for payment of personal services to any military personnel, except as authorized above. Specifically precluded under the provisions of these instructions is the payment of NAF scheduled pay, bonuses, overtime pay, incentive pay, or any other remuneration for work performed by military personnel, while either on or off-duty, who are not employed in a NAFI position. Time worked in the military assignment shall not be used to determine the pay of enlisted personnel for duties performed in NAFI positions.

(a) Heads of Components shall issue, for control purposes, specific instructions to preclude conflict of interest and preferential hiring of enlisted personnel who are assigned to a morale, welfare, recreation, billeting, or other activity supported by a NAFI as prime military duty.

(b) Compensation for off-duty hours worked shall be identical to that authorized in salary and wage schedules for civilian employees who perform similar duties and responsibilities.

(c) The total number of hours that off-duty enlisted personnel may work in one or more NAFIs shall not exceed 34 hours in any one administrative workweek.

(2) Active duty commissioned and warrant officers are prohibited from receiving compensation in any form from NAFIs except on an intermittent fee basis for services rendered in such capacities as officials at athletic events and participation in miscellaneous recreational and entertainment activities as approved by appropriate authority. Off-duty enlisted personnel may also be compensated for services rendered during these events on an intermittent fee basis, notwithstanding the provisions of subparagraph A.2.f.(1), above.

g. Reinstatement

(1) RFT and RPT employees who have satisfactorily completed the probationary period, as explained in Chapter II, paragraph B.2.f., and who separate voluntarily or who are separated involuntarily, other than for cause, may be reinstated by any DoD NAFI within 6 months of the date of their separation. Except for the benefit entitlements under the provisions of Chapter VI of this Manual, such personnel shall be considered to have been in continuous service during the separation period, in a leave-without-pay status with rights, privileges, and benefits accruing as set forth in this Manual.

(2) An individual suspended or removed for reasons of national security may be restored to duty in a NAFI at the discretion of the Head of the DoD Component concerned.

h. Transfers. A transfer is the movement of a NAFI employee from one NAFI to another. Except as provided in subparagraph A.2.h.(2) below, the transfer occurs without a break in service of over 1 workday.

(1) Transfer of Functions. A transfer of function is the transfer of responsibility for the performance of a continuing function from one NAFI to one or more other NAFIs within or between DoD Components. An employee has no right to transfer with his or her function regardless of his or her personal preference, unless the alternative is separation or downgrading.

(a) To provide equity and employment continuity, each RFT and RPT NAF employee whose position is identified in a functional transfer between NAFIs, and who has the right to transfer, will be afforded the opportunity to transfer with his or her position.

(b) If the functional transfer results in a reduction in force (RIF) in the gaining NAFI, the employee who is qualified and who will accept employment will compete for placement with other employees for selection in the receiving NAFI with full credit for all prior RFT or RPT NAFI service within the Department of Defense.

(2) A RFT or RPT employee who has completed his or her probationary period and who is hired by a different NAFI within 6 months after removal from pay status because of RIF in a losing NAFI will be considered to have transferred to the gaining NAFI only for purposes outlined in subparagraphs A.2.h.(3), (5), and (6) below.

(3) An employee who has transferred from one NAFI to another NAFI within DoD will be given service credit in the gaining NAFI for his or her prior DoD NAFI employment in accordance with the provisions of this Manual.

(4) Upon transfer of a RFT or RPT employee to another NAFI within DoD, the employee will be paid for the accumulated annual leave credited to his or her account. However, if the transferred employee elects, and the losing and gaining NAFIs agree, annual leave credit and the funds to cover its cost may be transferred from the losing to the gaining NAFI.

(5) All accumulated sick leave credit shall be transferred by the losing NAFI to the gaining NAFI provided the individual is placed in a pay status in the gaining NAFI within 6 months. However, no transfer of funds shall be made from losing to gaining NAFI for sick leave credits transferred. The gaining activity will assume the financial obligation.

(6) When a RFT DoD NAFI employee participating in a NAFI retirement plan is transferred due to transfer of function, or is hired by a different NAFI within 90 calendar days of removal from pay status because of RIF in the losing NAFI, and the gaining DoD NAFI offers a different retirement plan, the employee is entitled to transfer of pension rights, so that on retirement the employee will draw a pension under the gaining DoD NAFI retirement plan, computed on total credited NAFI service with both losing and gaining NAFIs. Retirement credit will be in accordance with Chapter VI, paragraph C.3.e. and Appendix B, subsection B.5., "Retention of Accrued Credited Service for Retirement Annuity Purposes." Further, group life and health insurance coverage will be made available by the gaining DoD NAFI as described in Chapter VI, subsection C.6, effective with the date of application if the transferred employee files application for such coverage within 1 month from the date of employment with the NAFI.

i. Movement to NAFI Employment from Other Types of Employment. An employee in a public or private enterprise, whose duties are to be performed in a NAFI, may be employed by that NAFI without competition if the employee:

(1) Meets the citizenship requirement of the geographical area in which employed.

(2) Is qualified for the position.

(3) Has rendered at least 6 months of service in one or more positions in the previous employing activity immediately before being converted to NAFI employment.

(4) Is not precluded from NAFI employment because of dual compensation, nepotism, conflict of interest, or country-to-country agreement provisions.

j. Employee Move Cost-Reduction Program. In order to reduce costs to both the NAFI and to the employee, Heads of DoD Components may establish an employee move cost-reduction program whereby an eligible employee may receive a monetary reward for opting to move his or her own household goods, for opting to sell his or her own house, or for opting not to ship a privately owned vehicle to or from overseas. The monetary rewards should be less than normal NAFI costs resulting from employee moves. Therefore, both the employee and the NAFI would benefit. Since the AAPES cost-reduction program has proven to be a success, Heads of DoD Components are encouraged to use it as a guide in establishing Component programs.

B. RECRUITMENT, SELECTION, AND PLACEMENT

1. General Policy. Proper recruitment, selection and placement procedures are vital factors in the development of a viable and effective NAFI work force. To achieve this objective, Heads of DoD Components, in the administration of their NAFI personnel, shall establish personnel management procedures which include careful job analysis; preparation of accurate job descriptions; establishment of the qualifications for positions; a broad source of applicants; objective selection procedures; and adequate indoctrination and supervision of the individual while on the job.

2. Specific Policies

a. Position Control

(1) At all times NAFI personnel management emphasis shall be to eliminate unnecessary positions at all levels, to increase productivity by improved control, and to ensure maximum utilization of NAFI worker hours. A continuing review of positions shall be conducted to ensure that requirements are commensurate with operating needs.

(2) Heads of DoD Components shall exercise strong supervision, through adjustments in the existing manpower resources of the employing NAFI, to ensure that established NAFI jobs do not exceed actual workload requirements.

b. Qualification Requirements. Establishment of realistic qualification standards and requirements for any NAFI position shall be based on factual job requirements. These qualifications shall be written so that the competition for the job is not restricted to any one individual. The qualifications of each applicant for a NAFI position shall be carefully reviewed and evaluated. The basic applicable principle is finding the best qualified person available for the job.

c. Employment Requirements

(1) To ensure that the most suitable and qualified persons are employed by NAFIs at all levels, DoD Components shall ensure that established recruiting procedures are followed to the fullest extent practicable. These include submission of a complete and accurate application form, reference checks, and any security and other preemployment investigations deemed appropriate to the position, and compliance with P.L. 99-603, "Immigration

Reform and Control Act of 1986," and Immigration and Naturalization Service Rules necessitated by it.

(2) The suitability of applicants will be determined by utilizing as a guide the provisions of Chapter 731 of the Federal Personnel Manual. Candidates for assignment to positions of trust will be scrutinized. Compliance with DoD 5200.2-R, "DoD Personnel Security Program," is required before placing an individual in a position of trust; such positions are to be designated by the Components. An individual who does not meet established suitability requirements may not be employed without prior approval of the local commander.

d. Veteran Employment Preference. Preference in employment, at the time of hire only, will be given to qualified applicants who meet (1) one of the veterans' preference eligibility criteria in 5 U.S.C. 2108 and (2) the minimum service requirements in FPM Supplement 296-33, provided they are equally qualified for the vacant position. (Exception: See Chapter II, paragraph D. -- especially D.9. -- and Chapter VII, paragraph B.1.a.)

e. Veteran Restoration Rights. Veteran restoration rights after military service shall be administered in accordance with provisions contained in 38 U.S.C. 2021, et seq.

f. Probationary Period. A probationary period is required for a person appointed to a RPT or RPT position in a NAFI. Exceptions to this requirement are limited to the appointment of a person who has completed a probationary period and who is appointed either in the same NAFI within 6 months after separation from that NAFI without cause or as the result of a transfer of function from another NAFI.

g. Training and Career Development. Heads of DoD Components may institute career development programs for NAF employees in order to attract and retain a well-qualified work force. These programs shall embody training, counseling, appraisal and other improvement devices that will enable employees to develop and progress.

h. Work Performance Appraisals. The work performance of NAFI employees shall be evaluated fairly and objectively on both a scheduled and continuous basis with the results of such evaluation discussed with each individual employee.

i. Employee Records and Files

(1) Heads of DoD Components shall ensure that NAFIs keep and maintain records in compliance with the Fair Labor Standards Act of 1938, as amended. Additionally, Heads of DoD Components shall ensure that adequate records are maintained on all employees. Records shall include all official personnel documents effected during an employee's service. An employee's right to review his or her records and the protection of his or her privacy shall be in accordance with P.L. 93-579, the Privacy Act of 1974 (5 U.S.C. 552a).

(2) Except as provided in (a) below, NAFI health units operating under the control of a medical officer or a registered nurse under medical supervision shall retain records of medical examinations and other

miscellaneous medical records and keep them confidential. Otherwise, they shall be kept in a separate locked cabinet during the employee's NAFI service and may not be made a part of the official personnel folder.

(a) Medical certificates and any other medical records of examinations used to determine an employee's fitness for the job are permanent records and shall be placed in a sealed envelope. The employee's name (last, first, middle initial), date of birth, and social security number, as illustrated in DoD 5000.12-M, shall appear on the envelope in its upper right hand corner, and the envelope shall be attached on the right side of the official personnel folder. The envelope shall remain attached until the employee's folder is acquired by another NAFI at which time the receiving NAFI, upon receipt of the folder, shall remove the sealed envelope and place its contents either in the health unit or in a locked cabinet for safeguarding medical records.

(b) Miscellaneous medical records, correspondence, dispensary records, and similar papers of temporary value shall be disposed of in accordance with the records disposition schedule of the DoD Component concerned.

(3) Records disposition shall be accomplished in accordance with instructions contained in the official records disposition schedule for DoD Nonappropriated Fund Employee Personnel Records as approved by the General Services Administration, National Archives and Records Service, on June 29, 1983, as may be amended. When the employment of an individual is terminated, the personnel folder shall be marked "Inactive" and filed in an inactive file. These folders shall be retained by the employing NAFI until proper disposition in accordance with the above-mentioned official records disposition schedule. Disposition of temporary records shall be in accordance with the above-mentioned official records disposition schedule. When a terminated employee is employed by another NAFI, the employee's personnel folder, upon request, shall be forwarded by the holder to the new employer.

(4) In an effort to expedite requests for information relative to retirement benefits or personnel data, DoD Components shall advise, in writing, separating employees where they may obtain the desired information or record.

j. Volunteer Service. Heads of DoD Components (a) may prescribe regulations to provide for accepting volunteer services; and (b) prior to accepting volunteer services, tort liabilities and workers' compensation liabilities that may be incurred by their utilization shall be weighed.

k. Supervision of Appropriated Fund Employees. There is no legal prohibition against the supervision of appropriated fund employees within the DoD Components by NAF employees.

l. Details of Employees.

(1) A detail is a temporary assignment of an individual to a position different from his or her regular assignment for a period not to exceed 1 calendar year, with the employee returning to his or her regularly assigned duties at the end of the detail. An employee may not be detailed to a position that has less work hours than his or her regular position unless the employee voluntarily requests such detail.

(2) An employee who is detailed to a position at the same or lower grade level as the one from which detailed shall continue to be paid at his or her regularly scheduled rate of pay.

(3) Except for brief periods, employees should not be detailed to perform work of a higher grade level unless there are compelling reasons for so doing. Normally, an employee shall be promoted temporarily to the higher level in accordance with the merit promotion and staffing program. In any event, if a detail to a higher grade level position will last more than 60 calendar days, the employee shall be promoted temporarily under merit promotion and staffing requirements to the higher grade level effective on the 61st day of the detail. Employees improperly detailed to higher grade positions for extended periods shall be allowed retroactive temporary promotions with backpay.

(4) Employees may not be detailed longer than one year at 120 day increments to perform duties that have not been evaluated as to grade level. Prior to the 120th calendar day of such details, the duties involved shall be evaluated, and personnel action shall be taken consistent with the policies for details to work of higher, lower, or equal grade.

C. AFFIRMATIVE ACTION FOR HIRING, PLACEMENT, AND ADVANCEMENT OF HANDICAPPED INDIVIDUALS

1. Heads of DoD Components shall give full consideration to employment of handicapped individuals in all NAFIs, and shall ensure implementation of all required laws, executive orders, rules, and regulations, including applicable regulations of the Equal Employment Opportunity Commission and the Office of Personnel Management. In meeting these requirements, NAFIs will ensure that qualified handicapped individuals, including current employees who became disabled after appointment, have equitable opportunities to be hired, placed, and advanced in NAFI jobs. In addition, Heads of DoD Components are authorized and encouraged to use any civil service provisions for hiring handicapped individuals that do not cover NAFIs as a guide to further develop policies and programs that will foster the effort to promote and expand employment opportunities for handicapped individuals so that their skills may be utilized.

2. Affirmative action is to be an integral part of ongoing Component personnel management programs, as evidenced by persons with disabilities being employed in a broad range of grade levels and occupational series commensurate with their qualifications and by Component policies that do not unnecessarily exclude or limit persons with disabilities because of job structure or design or because of architectural, transportation, communication, procedural, or attitudinal barriers.

D. EMPLOYMENT OF SPOUSES OF MILITARY PERSONNEL

1. This Chapter implements Section 806 of P.L. 99-145, "DoD Authorization Act," November 8, 1985, and Executive Order 12568, October 2, 1986, and prescribes improved employment opportunities for spouses of military personnel.

2. Heads of DoD Components shall provide employment preference for spouses applying and referred for certain nonappropriated fund positions in all

employment categories at grade levels UA-8 and below and equivalent positions and for positions paid at hourly rates.

3. Spouses eligible for preference shall be included as part of the minimal consideration area in the competitive process. A spouse eligible for preference shall request consideration by submission of a Standard Form 171 or other appropriate application form to the civilian personnel office where consideration is desired. Spouse preference shall be limited to the specific position(s) where application is made. DoD Components shall establish procedures for verifying preference. Spouse preference shall be applied reciprocally across DoD Component lines.

4. Heads of DoD Components may establish guidelines for approving exceptions to selections and/or length of eligibility of spouse preference. Exceptions shall be rare and based only on compelling hardship to the DoD Component mission or the applicant.

5. Heads of DoD Components shall establish measures by which job information is reasonably available for spouses seeking employment. Spouses not eligible for spouse preference under this Chapter shall be considered for employment in the same geographic area as the duty station of the military sponsor to the greatest extent possible.

6. A preference eligible spouse shall be placed on a selection list only if he or she is among the best qualified candidates after a competitive screening process is completed.

7. A preference eligible spouse without reinstatement eligibility shall be given preference over a nonpreference spouse if the preference eligible spouse has notified the applicable gaining civilian personnel office of his/her preference eligibility.

8. The time period of spouse preference eligibility begins 30 days before the military sponsor's reporting date into the new duty location and continues during the entire tour unless placement into, or declination of, any position offer at any grade level that the eligible spouse has registered for employment preference; whichever takes place first. Heads of DoD Components may end or maintain spouse preference eligibility during the last six months of the sponsor's tour. Spouse preference may be exercised once for each permanent relocation of the military sponsor.

9. Eligible spouses shall receive preference for nonappropriated fund jobs over veterans.

10. Definitions

a. Geographical Area of Spouse Preference. Spouse preference eligibles shall be given preference in the same commuting area as that of the new duty station of the military sponsor. Customary commuting area definitions used with other regulatory programs shall be used.

b. Spouse Preference. Spouse preference shall be given an eligible spouse, as defined in Paragraph c. below, relocating with a military sponsor and who applies, based on spouse preference, for a vacant position in the DoD

Components at UA-8 and below or equivalent hourly rate positions. An eligible spouse must be selected ahead of other applicants, without regard to other priorities in this Manual, when the spouse is determined to be best qualified. Spouse preference must be applied when a vacant position is filled through open competition resulting in a list of best qualified candidates. Noncompetitive selections and placements do not require the application of spouse preference (e.g., reassignments, transfers, and rights conferred by court decisions). When more than one spouse is being considered on spouse preference eligibility, selection may be made from among available spouse preference eligibles in any order.

c. Spouse Preference Eligible. Wife or husband of an active duty military member of the Armed Forces, including the Coast Guard, a member of the National Guard or Reserves on active duty. To be eligible for preference, the spouse preference eligible must have entered into marriage with the military sponsor before the military sponsor received official orders authorizing the permanent change of station relocation.

d. Spouse Preference Position. A nonappropriated fund position vacancy in the DoD Components at grade levels UA-8 and below or equivalent hourly paid position, when open competition is approved (i.e., when a candidate search through open recruitment action is approved).

CHAPTER III

POSITION CLASSIFICATION, PAY AND ALLOWANCESA. GENERAL POLICY

1. Hourly Paid Employees. Rates of pay for hourly paid employees shall be determined on the basis of the duties and responsibilities of the jobs and commensurate with prevailing rates in the immediate locality of employment for comparable work in similar enterprises in the private sector. Locality wage surveys, at approximately annual intervals, will serve as the basis for adjustments of pay rates.

a. Within the applicable pay plan, NAFI wage policies specified herein shall be uniformly applied by all DoD Components to ensure that NAFI employees receive similar pay treatment within a wage area for work of substantially similar difficulty and responsibility. P.L. 92-392 established the NAFI Federal Wage System (FWS) for prevailing rate Crafts and Trades (CT) employees of the Federal Government.

b. In accordance with the provisions of P.L. 92-392, the Office of Personnel Management (OPM) has issued FPM Supplement 532-2, which contains detailed procedural instructions for the operation and implementation of the wage system for NAFI CT employees. The DoD Wage Fixing Authority (the pay fixing authority for NAFI employees within the DoD) has administratively extended certain of the principles of P.L. 92-392 and OPM instructions to cover Administrative Support (AS) and Patron Services (PS) positions, hourly paid positions not covered by P.L. 92-392.

c. This Chapter and FPM Supplement 532-2 contain the policy and procedural guidance for the administration and operation of the wage system for NAFI CT, AS and PS employees. (Exception: Employees of the National Security Agency whose Director, in accordance with DoD Directive 5100.23, is authorized to fix rates of pay for certain employees of that agency.)

2. Salaried Employees. The DoD Wage Fixing Authority has also established the Universal Annual (UA) salary system which covers employees in managerial, executive, technical, and professional positions.

3. Fair Labor Standards Act (FLSA)

The provisions of the Fair Labor Standards Act, as implemented by the OPM in the series of FPM 551 letters, are applicable to all DoD NAFI employees, including off-duty military personnel, who are employed by NAFIs in those geographical areas covered by the FLSA, as amended. The minimum rate to be paid these employees may not be less than the current Federal minimum wage or the applicable State or municipal wage, whichever is higher. (Refer to Chapter VII, regarding pay for NAFI employees in foreign areas.)

4. Dual Compensation. The provisions of 5 U.S.C. 5531, 5532, and 5533 (Dual Compensation Act of 1964, P.L. 88-448) pertaining to dual pay and dual employment are applicable to employees of DoD NAFIs.

5. Prohibition on Personal Service Contracts. Personal service contracts may not be used to effect an appointment to a job that requires employing an individual on a continuing basis. Such positions shall be graded and paid under the appropriate schedule of the DoD Wage Fixing Authority.

6. Extra Pay. No salary or other supplementation of wages shall be provided to or accepted by any NAF employee. This provision does not affect in any way the existing special schedules such as tip and similar commission pay plans, or the executive and other pay plans approved by the ASD (FM&P). Neither does it affect the existing methods of distributing service charges provided for in special functions contracts and paid to service employees working the special functions.

7. Travel and Transportation. When it is clearly in the interest of the NAFI, expenses for essential travel and transportation of employees and their dependents shall be allowed in amounts not to exceed those prescribed in Volume 2 of the Joint Travel Regulations (JTR). Travel and transportation shall be paid, when appropriate, under the JTR to employees assigned duties associated with area wage surveys. Heads of DoD Components and the Commander, AAFES, have approval authority for all matters covered by Volume 2, JTR. Heads of DoD Components and the Commander, AAFES, may authorize specific exceptions only when it is in the best interests of the Component.

8. Round-Trip Travel Pursuant to a Permanent Change-of-Station (PCS). When authorizing round-trip travel between the old and new duty station to seek a permanent residence, more than one trip may be authorized the employee or spouse or both provided that the total trips combined do not exceed 10 days and the travel expenses for all trips do not exceed the constructive cost of one round trip.

9. Mileage Rates for PCS. The mileage rate when using a privately owned vehicle (POV) for permanent change of station (PCS) travel shall be the same as that prescribed in Volume 2 of the JTR, for TDY travel, regardless of the number of occupants in the vehicle.

Authorization of this benefit is limited to those employees covered by an unconditional mobility agreement as a condition of employment.

10. Separate Maintenance Allowance (SMA) for PCS Transfers. DoD Components may pay a Separate Maintenance Allowance (SMA) to UA employees who transfer nonlocally and who maintain separate households for minor dependent children so that they can finish the school term at the old duty station. The allowance shall be paid for no more than one semester, except that it may be paid for a full school year when the dependent is a high school senior. Maintaining a separate household means any living arrangement at the old duty station where the employee is paying a monthly amount for room and board for the dependents. The allowance shall be in the same amount as those prescribed by the Department of State for overseas employees receiving SMA for dependents living in the Continental United States (CONUS). Employees stationed in foreign overseas areas may receive SMA for other reasons as prescribed by the Department of State.

11. Relocation Assistance Allowance. Heads of DoD Components and the Commander, Army and Air Force Exchange Service, may authorize relocation allowances to employees and new hires.

B. SPECIFIC POLICIES

1. Organization and Responsibilities

a. DoD Wage Fixing Authority. DoD Directive 5120.39 establishes the DoD Wage Fixing Authority and DoD Directive 5120.42 defines its authorities and responsibilities in determining pay for employees paid from DoD nonappropriated funds. The DoD Wage Fixing Authority is authorized to communicate directly with DoD Components or their subdivisions concerning any matter where a mutual interest or responsibility exists.

b. DoD Components. DoD Components (with the exception of the National Security Agency) shall comply with the requirements of the NAFI Position Classification, Pay and Allowances System, and ensure that the Commander and General Managers (AAFES) discharge the responsibilities assigned to them for administration of the system.

c. Installation Commanders or General Managers of the Army and Air Force Exchange Service (AAFES). Installation Commanders or General Managers of AAFES shall, as delegated by DoD Component headquarters, determine NAF pay category, title, and codes for jobs; apply job grading standards and pay; and administer authorized wage rates for their NAFI employees.

2. Compensation

a. Pay Plans - Coverage. NAFI employees shall be compensated under one of the following pay plans:

(1) Hourly Pay Plan

(a) Compensation for an employee in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semi-skilled, or skilled manual labor occupation and for any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement, shall be fixed and adjusted from time to time, consistent with the public interest in accordance with prevailing rates. These rates are determined by a survey of wages paid by private employers to full-time employees doing comparable work in a representative number of retail, wholesale, service, and recreational establishments in the immediate locality of employment and engaged in activities similar to those of NAFIs for which the survey is made.

(b) Compensation for an employee in an Administrative Service position (clerical, administrative, fiscal, sales) or Patron Service position (retail selling, providing recreation, amusement and personal services, child care) shall be fixed and adjusted from time to time, consistent with the public interest, in accordance with prevailing rates. Rates are determined by a survey of wages paid by private employers to full-time employees doing comparable work in a representative number of retail, wholesale, banking,

insurance service, and recreational establishments in the immediate locality of employment and engaged in activities similar to those of the NAFIs for which the survey is made.

(2) Annual Salary Plan. Compensation for employees in managerial, executive, technical, or professional positions shall be on an annual basis.

(3) Increased Minimum Rates, Special Pay Rates, and Special Schedules.

(a) When prevailing rates for specific types of NAFI jobs are so much above the maximum rates for those jobs on the NAFI wage schedules that recruitment and retention of well-qualified individuals are significantly handicapped, increased minimum rates or special rates, as appropriate, may be approved. Local activities may recommend to the Wage Fixing Authority the increased minimum or special rates to be applied to specific jobs in the local area, using the procedure contained in Appendix E to document the basis for such recommendations. To be considered for approval by the Wage Fixing Authority, recommendations for increased minimum or special rates must be documented further to show coordination with other NAFI employers in the local area. The Wage Fixing Authority shall coordinate with DoD Components at the headquarters level, before acting on recommendations for increased minimum or special rates. DoD Components may require that all recommendations for increased minimum or special rates have prior approval at the command and headquarters level, or permit such recommendations to be submitted directly to the Wage Fixing Authority.

(b) Existing authorized special schedules shall be continued and adjusted under current NAFI practices pending decision by the OPM or the Department of Defense on the most appropriate treatment for these special schedules. Prior approval of the DoD Wage Fixing Authority is required to establish new special schedules.

(c) Pursuant to the provisions of the FLSA, as amended, the cost of furnishing employees with board, lodging, or other facilities may be included in the wages paid to employees if such board, lodging, or other facilities are customarily furnished by the employing NAFI.

(d) Compensation for summer and student employment shall be in accordance with the rates-of-pay schedule issued by the Department of Defense.

(4) Pay for NAFI Employees in the Panama Canal Area

(a) The basic principles governing pay of all NAFI employees in the Panama Canal Area are contained in the Panama Canal Act of 1979, and in regulations promulgated by the Secretary of the Army.

(b) Regardless of nationality, NAFI employees employed in the Panama Canal Area shall be paid at the scheduled salary or wage rate specified for the position.

b. Pay Determination Procedure. Instructions for conducting wage surveys and establishing wage rates and wage schedules for DoD NAFI hourly paid

employees are contained in Chapter III, subsection B.2., of this Manual and FPM Supplement 532-2.

c. Job Grading

(1) Based on the duties and responsibilities assigned NAFI positions by component authority, DoD Components are responsible for placing, or establishing the means for placing, each position in its proper pay category and for assigning to each position a title, code, and grade based on application of directly or closely related job-grading standards consistent with the policies stated in this Manual.

(2) The DoD NAF Personnel Policy Office has final authority for determining the title, series, grade, and pay category for positions in the Universal Annual, Administrative Support, or Patron Service pay categories. Unresolved issues of this nature shall be submitted to the DoD NAF Personnel Policy Office for final determination.

(3) DoD Components shall establish and administer agency NAF job-grading appeals systems.

d. Pay Administration

(1) Hourly Pay Plan

(a) In pay matters, except those dealing with grade and pay retention, the provisions of FPM Supplement 532-2, Subchapter S8, augmented by Appendix D of this Manual, shall apply to all hourly paid nonappropriated fund employees.

(b) For grade and pay retention determinations, FPM Supplement 532-2, Subchapter S9; FPM Supplement 990-2, Book 536; subchapter VI of Chapter 53 of Title 5, U.S.C.; Part 536 of Title 5 C.F.R.; and FPM Letters and Bulletins in the 536 series contain guidelines applicable to FWS employees. There is no grade retention for AS and PS employees. Pay retention entitlement for any nonappropriated fund employee moving to or from AS or PS positions shall be determined in accordance with the following:

1 The employee shall:

a On the effective date of the change to lower grade, hold an appointment as a Regular Employee.

b Not have been changed to lower grade for personal cause, at his or her own request, or because the change to lower grade was a condition of a temporary promotion.

c Have served for 1 continuous year immediately before the change to lower grade in one or more positions under the same pay system for which the grade or rate is higher than the one to which demoted, or in one or more grades or positions for which the representative rate is greater than the representative rate of the grade to which demoted.

d Have a performance rating of satisfactory or better during the 1-year period.

2 When an eligible employee is changed to a lower grade, he or she shall retain the scheduled rate of pay immediately before the change to lower grade or 150 percent of the maximum rate of scheduled pay for the grade of the position after the change to lower grade, whichever is less.

3 An employee granted pay retention under this authority shall receive wage increases during the pay retention period. Such increases shall be granted whenever the wage schedule applicable to the position to which demoted is increased. The amount of increase shall be equal to the amount by which the rate for the maximum step of the new grade increases. If the new rate of pay is identical with or below the top step of the grade, the employee's rate of pay shall be fixed at the step of the grade that equals or exceeds the retained pay and pay retention then ceases.

4 Pay is retained under this policy for a period of 2 years, unless it is terminated earlier by one of the following conditions:

a A break in service of 1 or more work days.

b A later change to lower grade which is effected for personal reasons at the employee's request.

c Entitlement to a scheduled rate of pay that is equal to or higher than the retained rate because of another personnel action or normal operation of the pay system.

5 When an employee receiving a retained rate is further demoted during the 2-year retention period, he or she begins a new 2-year retention period on the date of the last demotion. The retained rate during the new 2-year period continues to be based on the original retained rate, but may not exceed 150 percent of the maximum rate of his or her grade after the later demotion.

6 When an employee receiving a retained rate accepts a temporary promotion to the same or a higher grade than that from which demoted, the temporary promotion does not affect the running of the pay retention period, which shall still end 2 years after the original demotion.

7 When an employee receiving a retained rate is to be permanently promoted to the same or higher grade than that from which demoted, he or she is entitled to be paid the lowest scheduled rate of the grade to which promoted that exceeds the maximum scheduled rate for the grade of the position from which promoted by at least 4 percent or the retained rate of pay, whichever is higher. If the employee's retained rate of pay exceeds the rate range for the grade of the position to which promoted, entitlement to the retained rate of pay continues for the duration of the original 2-year period or until terminated by one of the conditions specified in subparagraph B.2.d.(1)(b)4.

8 Upon termination of the 2-year pay retention period, the employee's rate of pay shall be adjusted to the maximum scheduled rate of the new grade.

(c) The provisions of the FLSA, as amended, and as prescribed by the OPM in a series of FPM 551 Letters, shall apply to all hourly paid NAFI employees in those geographical areas covered by the FLSA, as amended. The following additional guidance is provided on the application of the FLSA to AS and PS employees.

1 The following AS and PS employees are nonexempt in relation to the FLSA executive criteria:

a Nonsupervisory employees.

b Leader employees.

c Supervisory employees classified below the 7 level.

d Supervisory employees at the 7 level who perform work not directly related to their supervisory functions more than 20 percent of the time.

2 The following AS and PS employees are exempt from the coverage of the FLSA:

a Supervisory employees at the 7 level who perform supervisory and related duties 80 percent or more of the time, and who

b Perform the following supervisory functions:

i Assume responsibility for planning and accomplishing a continuing workload which meets the intent of the recognized organizational unit requirements.

ii Regularly exercise discretion and independent judgment in planning, directing, and controlling the work.

iii Are responsible for significant personnel management duties.

(2) Universal Annual (UA) Salary Plan

(a) Basic compensation for employees in managerial, executive, technical, or professional positions (as defined in Appendix A) shall be administratively fixed and adjusted from time to time as nearly as is consistent with the public interest and equal with rates of compensation for appropriated fund employees in positions of comparable difficulty and responsibility, subject to the "General Schedule (GS)" (5 U.S.C. 5332). Heads of DoD Components shall adjust the rates of pay of UA employees when the rates in the GS are changed to ensure that NAFI pay rates are equal with GS rates for comparable work. The effective dates of adjustments shall be determined by the same method used for GS adjustments.

(b) The provisions of the FLSA, as amended, and as prescribed by OPM in a series of FPM 551 Letters shall apply to all NAFI UA employees in those geographical areas covered by the FLSA, as amended.

(c) There is no grade retention for UA employees. Pay retention entitlement for any nonappropriated fund employee moving to, from, or between UA pay system positions shall be determined under the same criteria as is contained in subparagraph B.2.d.(1)(b) for AS and PS employees. Pay determination procedures for permanent promotions between UA positions shall be those specified in Appendix A, section F.

(3) Allowances and Differentials

(a) The allowances or differentials, or both, established by OPM for civilian employees in certain nonforeign areas, whose pay is fixed by statute, and who are otherwise eligible, apply to NAFI employees paid from the UA Schedule. Such allowances or differentials shall be paid in accordance with the provisions of FPM Chapter 591.

(b) The allowances or differentials, or both, prescribed by Standardized Regulations (Government Civilians - Foreign Areas) issued by the Department of State, as amended, and as implemented by DoD 1400.25-M shall be paid to U.S. citizen employees recruited in the United States to work in a foreign area when such employees meet the specified eligibility requirements.

(c) Heads of DoD Components shall determine which, if any, allowances and differentials to prescribe for locally hired employees.

(4) Severance Pay

(a) RFT and RPT NAFI employees who have completed at least 12 continuous months of service with one or more DoD NAFIs and who then are separated involuntarily from employment because of RIF, base or post deactivation or reorganization shall receive severance pay, if not precluded by subparagraph B.2.d.(4)(c), below.

1 The amount of such remuneration shall be 1 week's basic pay for each year of continuous RFT or RPT service with one or more DoD NAFIs up to 4 years of service, for a maximum of 4 weeks of pay. This pay shall be based on the number of hours regularly scheduled to be worked during a week and at the rate received immediately before separation.

2 Time served as a regular employee with a NAFI as well as time served in active duty with the U.S. Armed Forces that interrupted the civilian NAFI service, shall be creditable for computing entitlement to severance pay.

3 Periods of employment before separation that resulted in severance pay shall not be considered in later severance pay entitlement calculations for subsequent separations.

(b) As an exception to subparagraph B.2.d.(4)(a), above, Heads of DoD Components are authorized, at their discretion, to establish programs providing for the grant of additional severance pay to employees for

whom unlimited mobility has been made a condition of employment. Basic eligibility requirements are set forth in subparagraph B.2.d.(4)(a), above, and the amount of remuneration shall not exceed 1 year's pay at the rate received immediately before separation.

(c) Involuntarily separated employees shall not receive severance pay if they:

1 Are immediately employed in another regular NAFI position.

2 Have refused an offer of employment without loss of pay, employment category, and seniority in any NAFI in the same commuting area, or in the case of employees covered in subparagraph B.2.d.(4)(b), above, in any NAFI, regardless of commuting area.

3 Have immediately accepted employment in a continuing appropriated fund position.

4 Are immediately employed by a contractor whose contract replaces the function or services being performed by the employees.

(d) Severance pay shall not be paid to an employee eligible for an unreduced annuity.

3. NAFI Job-Grading System. Each DoD Component shall ensure that all NAFI positions within its jurisdiction are graded in accordance with the appropriate job-grading standards specified in paragraphs B.3.a., b., c., d., e., and f., below.

a. Noncovered Positions. Positions which are not covered by the OPM job-grading standards or by those published in DoD 1401.1-M-1, "Job Grading System Manual for Nonappropriated Fund Instrumentalities," may be classified by application of related standards.

b. Standards. When no standards exist, a copy of the position description and the Classification rationale for the action shall be forwarded promptly through Component Headquarters to the office of DoD NAF Personnel Policy for review and post audit.

c. Crafts and Trades. The OPM has developed and issued a job-grading system for NAFI positions subject to the provisions of P.L. 92-392 (that is, CT Category). Details of this system are contained in subchapter S6 of FPM Supplement 532-2. Job grading appeal procedures are contained in subchapter 7 of FPM Supplement 532-2. Job-grading standards for these jobs are contained in FPM Supplement 512-1. Supplemental guidelines are included in DoD 1401.1-M-1.

d. Administrative Support (AS) and Patron Services (PS). The DoD has developed and issued job-grading systems for NAFI positions not subject to the provisions of P.L. 92-392 (that is, AS and PS). Details of these systems and job-grading standards for these categories of jobs are contained in DoD 1401.1-M-1.

e. Universal Annual (UA). For positions qualifying for inclusion in the UA salary plan, General Schedule Office of Personnel Management Classification Standards apply. Details on the plan, the grading of jobs and supplemental classification standards are included in DoD 1401.1-M-1.

f. Classification of Supervisory and Managerial Positions. While size of the organizational unit and number of subordinates supervised may affect the grade of a supervisor or manager, these factors alone may not be used in determining the grade of such supervisor or manager. In grading these positions, other factors shall be considered, such as kind, difficulty, and complexity of work supervised; degree and scope of responsibility delegated to the supervisor; and kind, degree, and scope of the supervision exercised. A reduction in the number of subordinates or size of the organizational unit supervised may not be used under any circumstances as the sole basis for reducing the grade of a supervisory or managerial position. (A more detailed explanation of this policy is contained in subsection A.5., Chapter 4, of DoD 1401.1-M-1.)

4. NAFI Job-Grading Appeal

a. A NAFI employee may appeal at any time the grade, title, or series code assigned to his or her position, but not the job-grading standards established for the job nor other matters such as the accuracy of his or her job description, his or her rate of pay, or the propriety of a wage schedule rate.

b. Each DoD Component shall establish a position classification review and appeals system under the provisions of subchapter S7 of FPM Supplement 532-2 for CT jobs, and Appendix C of this Manual for AS, PS, and UA categories of jobs.

CHAPTER IV

ATTENDANCE AND LEAVEA. DEFINITIONS

1. Absence Without Leave (AWOL). Absence from duty that has not been authorized or approved by the appropriate authority in accordance with the provisions of this Manual.
2. Accrued Annual Leave. Leave earned which is credited to an employee's account during the current leave year.
3. Accumulated Annual Leave. Unused annual leave remaining to the credit of an employee at the end of any pay period.
4. Accrued Sick Leave. Leave accrued and credited to an employee's account during the current leave year.
5. Accumulated Sick Leave. Unused sick leave remaining to the credit of the employee at the end of any pay period.
6. Break-in-Service. A separation from the rolls for a period of one or more workdays of the employee's basic workweek. A period of absence for military duty, followed by the exercise of reemployment rights, is not regarded as a break-in-service for purposes of this Manual.
7. Continuous Service. The total period of time from the date of appointment until the date of separation, irrespective of pay status during such period.
8. Court Leave. The authorized absence of an employee from work status for jury duty or to appear as a witness in an unofficial capacity for purposes delineated in paragraph B.2.f.(1) of this Chapter.
9. Administrative Leave. The administratively authorized absence from duty without loss of pay and without charge to earned leave.
10. Leave Year. The 52-week period prescribed by the Head of the Component for administration of leave.
11. Military Leave. Absence from duties without loss of pay, time, or performance ratings for those NAFI employees who are members of Reserve Components of the U.S. Armed Forces, including the National Guard, on days in which they are engaged in temporary active duty or inactive duty for training.
12. Leave Without Pay (LWOP). Approved temporary nonpay status and absence from duty.
13. Military Furlough. A leave of absence or separation of a regular full-time or regular part-time employee for induction or recall to active duty in one of the U.S. Military Services.

14. Compensatory Overtime for Religious Purposes. An overtime period an employee elects to work for the purpose of taking an equal amount of time off instead of overtime pay and without charge to leave for religious observance.

B. POLICY

In order to establish uniform and equitable work schedules, hours, and working conditions essential to the health and welfare of NAFI employees and to conform to applicable executive orders and DoD issuances, the policies set forth herein will apply to all DoD Components.

1. Attendance

a. Administrative Workweek. The administrative workweek for NAFI employees will be a period of 7 consecutive calendar days. It need not coincide with the calendar week, but may begin on any day and at any hour of the day.

b. Basic Workweek. Within the administrative workweek the basic workweek for NAFI employees will not exceed 40 hours, exclusive of meal times. Whenever possible, 2 consecutive days off will be provided in each administrative workweek. However, the basic workweek may be scheduled over a period of 6 days provided the total scheduled hours do not exceed 40 per week.

c. Workday. The workday shall be administratively scheduled, shall not exceed 10 hours and may extend over 2 calendar days.

d. Meal Periods. Regular meal or lunch periods normally will be established at no less than 30 minutes nor in excess of 1 hour and will not be considered as time worked except that meal periods will be considered time worked for the purpose of determining entitlement to night shift differential pay. No employee will be required to work more than 6 consecutive hours without a meal period.

e. Legal Holidays. Legal holidays include the 1st of January, the 3rd Monday of January, the 3rd Monday of February, the last Monday of May, the 4th day of July, the 1st Monday of September, the 2nd Monday of October, the 11th day of November, the 4th Thursday of November, the 25th of December, Inauguration Day (only for employees working in the Washington D.C., Metropolitan area as explained in the rules for appropriated fund employees), or any other calendar day designated as a holiday by Federal statute or executive order.

f. Religious Observance. An employee may elect 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.

(1) An employee who elects to work compensatory overtime for this purpose shall 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.

(2) An employee's election to work compensatory overtime or to take compensatory time off to meet his or her religious obligations may be

disapproved if such modifications in work schedules interfere with the efficient accomplishment of the assigned mission.

g. Flexible and Compressed Work Schedules. Heads of DoD Components may authorize flexible and compressed work schedules. Procedures established shall be in accordance with P.L. 99-196, December 23, 1985.

2. Leave

a. Leave Sharing or Donation. Heads of Components may establish a program that permits employees to donate annual and sick leave for the use of other employees for medical or family emergency or other hardship situations. It is suggested that the OPM programs for civil service employees be used as a guideline.

b. Annual

(1) Leave Authorization. The appropriate authority shall authorize and schedule annual leave when the workload permits and, whenever possible, at the convenience of the employee. Such leave shall be earned by incumbents who are designated as RFT and RPT employees (including those off-duty military personnel classified in the latter category). The amount of annual leave earned depends on the employee's total length of creditable service.

(2) Creditable Service. Total creditable service shall be determined as follows:

(a) All prior DoD NA... service, including service with current employer, as a RFT or RPT employee. TFT and TPT employees converted to RFT or RPT employees shall be given credit for present temporary service.

(b) All active uniformed service, except for certain retired members of the uniformed services as outlined below, terminated by honorable discharge under honorable conditions or by transfer to inactive reserves under honorable conditions is creditable for determining the annual leave accrual rate. For an employee who is a retired member of any of the uniformed services, credit is restricted to the actual active service in the Armed Forces during wartime or in any campaign or expedition for which a campaign badge has been authorized. If the retired member meets one or more of the following conditions, all of his or her active service is counted for leave accrual purposes:

1 The retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict.

2 The retirement was based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of Title 38, United States Code).

3 On November 30, 1964, the retired member was employed in a civilian office to which the annual and sick leave law applied, and

continues to be employed in an office of this kind without a break in service of more than 30 days.

(Note: The above provisions, set forth in subparagraphs B.2.b.(2)(b)1,2, and 3, are effective as of February 16, 1983. The leave accrual rate shall be adjusted as of this date. Recomputation of leave for employment periods before February 16, 1983 is not authorized.)

(c) Fractional parts of months shall be included in determining length of service. However, the total length of service shall be stated in terms of complete months.

(d) Credit for Military Training. Civilian employees of NAFIs who are called to active duty for short periods of time (not to exceed 6 weeks) with Reserve components of the U.S. Armed Forces shall continue to accrue annual leave credit during such periods. Nonduty time while in Reserve components is not creditable.

(3) Exemptions. No employee who is currently in a leave category as a result of more liberal provisions of the separate DoD Components before 6 September 1974 shall be penalized by being placed in a lower category for leave accrual or accumulation purposes.

(4) Annual Leave Accrual. Annual leave shall be accrued by RFT and RPT employees while in a pay status, excluding overtime hours worked in excess of 40 hours during the basic workweek. Employees receiving benefits under the Longshoremen's and Harbor Worker's Compensation Act and carried on the rolls of the employing NAFL in a leave-without-pay status do not accrue annual leave.

(a) Employees with less than 3 years of service shall accrue 5 percent of the total hours in the basic workweek.

(b) Employees with 3 years but less than 15 years of service shall accrue 7.5 percent of the total hours in the basic workweek, except for the final biweekly period of the leave year when leave shall accrue at the rate of 12.5 percent of the total hours in the basic workweek.

(c) Employees with more than 15 years of service shall accrue 10 percent of the total hours in the basic workweek.

(5) Time of Crediting. The accrued leave is credited to the employee's individual leave record upon completion of the 90-calendar-day qualifying period; thereafter, at the end of the period in which it is earned.

(6) Changes in Rates of Accrual

(a) Changes in the rates of accrual are effective at the beginning of the first pay period following the completion of the prescribed service.

(b) When a change from a 7.5 percent to a 10 percent leave category occurs at the beginning of the last full biweekly pay period in the

calendar year, the employee's leave credit for that period shall be computed at 12.5 percent of hours in a pay status.

(7) Commission or Incentive-Paid Employees. Commission or incentive-paid employees are covered by the same annual leave policy which applies to RFT and RPT employees. However, the computation of the annual leave pay to such employees shall be on the basis of hourly pay rate equivalents derived from the application of classification standards to the job. The employee's wage rate step of the currently authorized wage schedule for the appropriate job grade shall be used in determining the base rate for computing the earned annual pay.

c. Sick Leave

(1) Eligibility. Sick leave shall be credited to incumbents who are designated as RFT or RPT employees (including those off-duty military personnel classified in this latter category). There is no qualifying period for the crediting of sick leave.

(2) Granting Sick Leave. All RFT and RPT employees who have sick leave to their credit may be granted such leave for legitimate medical reasons.

(3) Sick Leave Credit Accruals

(a) Sick leave credits shall accrue at the rate of 5 percent of the total basic workweek hours in a pay status and shall be credited from the date of appointment to RFT or RPT status.

(b) Sick leave credits including those accrued while on annual or sick leave, are credited to the employee's account at the end of the pay period in which accrued.

(4) Commission or Incentive-Paid Employees. Commission or incentive-paid employees are covered by the same sick leave policy which applies to RFT and RPT employees. However, the computation of the sick leave benefits to such employees shall be on the basis of hourly pay rate equivalents derived from the application of classification standards to the job. The employee's wage rate step of the currently authorized wage schedule for the appropriate job grade shall be used in determining the base rate for computing the sick leave benefits.

(5) Accumulation of Sick Leave. There is no limit on the amount of sick leave that employees may accumulate and carry forward from one year to another. No payment for unused sick leave shall be made to an employee under any circumstances.

(6) Sick Leave Credits. Sick leave credits shall be transferred between NAFIs provided that the employee (a) did not retire from the losing NAFI, (b) is placed in a RFT or RPT pay status in the gaining NAFI within 180 calendar days (or longer if Head of Component deems it appropriate) of removal from pay status in the losing NAFI, and (c) did not receive service credit for unused sick leave in accordance with subsection A.1. of Appendix B.

(7) On-the-Job Injury. An employee covered by workers' compensation insurance (5 U.S.C. 8171) shall be granted sick leave payments from the employee's accumulated sick leave balance in an amount which, when added to workers' compensation benefits, approximates but does not exceed the employee's basic salary.

d. Excused Absence. Heads of DoD Components or their designees may authorize time off with pay to any NAFI employee for blood donations (for which the employee is not paid); for voting in Federal, State, county, and municipal government elections; or for brief periods of absence or tardiness due to circumstances that are beyond the employee's control.

e. Absence for Maternity or Paternity Reasons

(1) Leave for Maternity Reasons. RFT and RPT employees may request sick leave, annual leave, and/or leave without pay when incapacitation related to pregnancy and confinement has been properly established by medical authority. An absence covering pregnancy and confinement shall be treated as any other medically certified temporary incapacitation.

(2) Leave for Paternity Reasons. RFT and RPT male employees may request annual leave and/or leave without pay for purposes of assisting or caring for their children or the mother of the newborn child while she is incapacitated, as established by medical authority, for maternity reasons.

(3) Heads of DoD Components shall 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.

f. Military Leave

(1) RFT civilian employees who are members of Reserve Components of the Armed Forces of the United States, including the National Guard, are entitled to excused absence up to a maximum of 15 days per fiscal year without loss of pay, time, or performance rating when called to active duty or active duty for training. Any part of this excused absence that is not used in any given fiscal year accumulates for use in succeeding fiscal years, not to exceed a 15-day maximum carry-over. Therefore, an eligible employee could have a maximum total of 30 days to his/her credit for use during a fiscal year.

(2) In the case of RPT civilian employees, the rate at which leave accrues shall be a percentage of the rate prescribed under subparagraph B.2.e.(1), above. The percentage shall be determined by dividing the number of hours in the RPT employee's regularly scheduled workweek by the total number of hours that constitutes the normal full-time workweek of the employing NAFI.

(3) RFT and RPT civilian employees who are called to active duty for the purpose of providing military aid to enforce the law may be granted additional military leave not to exceed 22 workdays in a calendar year. These employees shall be granted leave upon presentation of competent orders. Compensation (other than a travel, transportation, or per diem allowance) received by an employee for such military services shall be credited against the pay payable to an employee with respect to his or her NAFI position for such period of military service. Military leave is to be granted only for workdays; the

NAFI civilian pay of the employee shall be reduced only by the amount received for military service performed on a workday. The NAFI civilian pay shall not be reduced by any amount an individual may receive for days that are not workdays.

(4) Leave without pay may be granted employees for the following other types of military service:

- (a) Summer training as members of Reserve Officers Training Corps.
- (b) Temporary Coast Guard Reserve duty.
- (c) Participation in parades by members of the State National Guard. (However, members of the National Guard in the District of Columbia are entitled to military leave with pay for participation in parades.)
- (d) Training with a State Guard or other State military organization.
- (e) Civil Air Patrol duty.

g. Court Leave

(1) Upon advance submission of a court order, subpoena, summons, or any other judicial notification, RFT and RPT employees shall be granted paid court leave for jury duty; to appear in court in an unofficial capacity as a witness on behalf of the U.S. Government or the Government of the District of Columbia; and to appear in court in an unofficial capacity as a witness on behalf of private parties where the United States, the District of Columbia, or a State or local government is a party to the proceedings. The court may be a Federal, District of Columbia, State, or local governmental-unit court. This provision does not apply to an employee appearing as a witness in a judicial proceeding that involves only private parties.

(2) RFT and RPT employees on court leave shall receive their regular pay for such time or shall retain the court fees received from the court, whichever is the greater amount. If the court fees are the lesser amount, such fees, exclusive of transportation when separately identified or otherwise identifiable, shall be turned over to the employing NAFI. However, when a State statute provides for reimbursement of expense or an expense allowance rather than a jury fee, employees shall receive their regular pay and the money paid by the court.

h. Leave Without Pay. Leave without pay may be granted an employee who is receiving benefits under the Longshoremen's and Harbor Worker's Compensation Act (Chapter IV, subparagraphs B.2.a.(4) and B.2.b.(7)) and a regular full-time or regular part-time employee for military service (Chapter IV, paragraph B.2.e.). Upon request, such leave may be granted instead of annual or sick leave. Such leave may not be granted for a period exceeding 1 year except for military service and other circumstances considered appropriate by the Head of the DoD Component or designee.

1. Military Furlough. Military furlough shall be granted to a RPT or RPT employee for induction or recall to active duty in one of the U.S. Military Services. An employee returned to duty from military furlough shall have the same seniority, status, pay, and annual leave accrual entitlements that the employee would have enjoyed had he or she remained at work instead of being placed on furlough.

CHAPTER V

PERSONNEL RELATIONS AND SERVICESA. EMPLOYEE-MANAGEMENT RELATIONS POLICY

In conformance with the provisions of Executive Order 11491, as amended, and DoD Directives 1426.1 and 1400.5, Heads of DoD Components in their management of NAFI personnel shall recognize and strive toward the establishment of orderly and constructive relationships between managerial and nonmanagerial personnel. Continued and unimpeded communications are vital factors to an informed and productive work force. These extend to a thorough understanding of conditions of employment, job requirements, employee rights, privileges, and responsibilities of both management and employees.

1. Standards of Conduct. The nature of many of the activities supported by nonappropriated funds administered by DoD Components is such that the civilian employees and assigned military personnel shall exemplify the highest standards of personal conduct and integrity. The provisions of DoD Directive 5500.7 are applicable to NAFI employees. Heads of DoD Components shall ensure that their NAFI employees are fully acquainted with all aspects of the government's standards for ethical conduct.

2. Loyalty. Heads of DoD Components shall ensure that no person will be employed or continue to be employed at a NAFI who:

- a. Advocates the overthrow of the U.S. Government.
- b. Is a member of an organization that advocates the overthrow of the U.S. Government.
- c. Participates in any strike against the government, including all instrumentalities of the government.

3. Political Activity

a. The principles of 5 U.S.C. 7324 relating to political activity of government employees are hereby administratively extended to NAFI employees to the extent that no employee shall:

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

(2) Take any active part in a partisan political campaign.

b. NAFI employees retain the right to vote as they choose; express their opinions on all political subjects and candidates; and participate in nonpartisan political activity. Also, an employee may hold a State, territorial, and local office if it does not conflict with duties, laws, or executive orders. No inquiries shall be made concerning the political affiliation of an employee or applicant for employment, and any disclosures of political affiliation shall not be considered in the employment process of the employee or applicant for employment.

c. Determinations as to violations of the above policy will be made by the Head of the DoD Component in which such violations are alleged to have occurred.

4. Employee Grievances

a. NAFI employees will have the right to present their complaints and grievances to management officials for prompt and equitable consideration.

b. Where a labor organization has exclusive recognition, any negotiated grievance procedure shall be governed by the provisions of 5 U.S.C. 7101 et seq., as implemented by DoD Directive 1426.1 and DoD 1400.25-M.

5. Adverse Actions and Administrative Appeals

a. Adverse Actions

(1) An adverse action is a personnel action, involving a RFT or RPT employee who completed a probationary period, that reduced the employee's basic pay or grade; placed the employee in a nonpay, nonduty status; or separated the employee from NAFI employment. Adverse actions include both disciplinary and nondisciplinary type action.

(2) Adverse actions do not include:

(a) Actions taken as the result of termination of temporary promotion.

(b) A termination or change to lower grade or pay when voluntarily initiated by the employee.

(c) Application of a revised prevailing rate schedule when there is no change to the position.

(d) A furlough, separation, or change to lower grade, pay, or employment category taken through reduction-in-force procedures.

(e) A temporary or continuing reduction in the number of basic workweek hours within the same employment category.

(f) A temporary reduction (no more than 14 consecutive days) in the number of basic workweek hours in one employment category to a number of hours included in another employment category.

(g) Actions taken as a result of an employee abandoning his or her position.

(3) Disciplinary actions which constitute adverse actions include:

(a) Suspension without pay for more than 30 days.

(b) Involuntary termination or removal for cause.

(c) Involuntary demotion/downgrade to another position with a lower representative rate of pay when taken for disciplinary reasons.

(4) Nondisciplinary actions which may be considered adverse actions include:

(a) Furlough, an action (not effected by use of RIF procedures) that places an employee in a leave without pay status for more than 14 calendar days because of a lack of work, insufficient funds, or emergency situations.

(b) Involuntary demotion/downgrade to another position with a lower representative rate of pay that is based on reclassification of a position due to correction of a classification error, application of new classification standards, or a final decision on a tentatively classified position.

b. Procedures for Processing Nondisciplinary Adverse Actions. Heads of DoD Components shall issue regulations and procedures for processing nondisciplinary adverse actions to include:

(1) An advance notice of proposed adverse action of at least 30 days, specifically outlining in writing, the reason(s) upon which the action is being taken. As an exception to the advance proposed action a notice to the employee at least 24 hours in advance of the action is authorized when:

(a) There is a significant reduction in the business of a NAFI and a reduction in the basic workweek of RFT or RPT employees is required for more than two consecutive basic workweeks (14 calendar days) because of a sudden mission change at the base or installation (such as, a sudden deployment of personnel to another location); or

(b) Due to unforeseeable circumstances, such as a sudden breakdown in equipment, or an emergency situation requiring immediate curtailment of activities, it is necessary to furlough employees for more than 2 basic workweeks (14 calendar days).

(c) Due to unforeseeable circumstances, such as an act of war, causing a permanent discontinuance of the work to be performed, it is necessary to separate employees.

(2) A reasonable time for the employee to reply, orally and in writing, to the proposed adverse action notice.

(3) A prompt and equitable decision in writing, after full consideration of the employee's reply.

(4) An opportunity for the employee to request a review and hearing.

(5) An option for management to place an employee in a pay and nonwork status during the notice period without charge to annual leave or sick leave.

(6) An option for an employee to request and be placed on annual leave (or continued in a sick leave status) during the time or a portion of the time, the employee shall be in a furlough status.

c. Procedures for Processing Disciplinary Adverse Actions. Heads of DoD Components shall establish procedures for processing disciplinary adverse actions.

d. Adverse Action Administrative Appeals. Heads of DoD Components shall issue regulations and procedures for handling employee appeals to disciplinary and nondisciplinary adverse actions.

6. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operation of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

7. Reduction in Force. Heads of DoD Components shall develop and implement procedures for their respective organizations which shall provide for the orderly reduction of the work force of NAFIs with a minimum of disruption to operations.

8. Occupational Safety and Health. The administrators of NAFI personnel shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees. Where safety technicians are not available within the installation, outside consultants shall be used.

9. Drug and Alcohol Abuse. Heads of Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by having certain key administrative NAFI personnel quartered on the installation.

The occupation of Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS DISCLOSING INFORMATION

DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

1. A violation of any law, rule, or regulation; or
2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety.

DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures.

Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures. DoDD 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures.

CHAPTER VI

RETIREMENT AND INSURANCE**A. GENERAL POLICY**

1. Heads of DoD Components shall ensure that their eligible NAFI employees are afforded the opportunity to participate in retirement and insurance programs meeting requirements established in this Chapter and in applicable laws, executive orders, rules, and regulations regardless of whether or not they are referenced in this Manual. These retirement and insurance requirements are designed to serve as minimum acceptable program levels. (See paragraph B., below, for exception to minimum levels when providing benefits to other than RFT employees.)

2. No new retirement or insurance plans or changes to existing plans shall exceed the benefits authorized by the Congress for civil service employees who are covered by U.S. Office of Personnel Management (OPM) rules and regulations concerning employee benefits. Retirement or insurance plans that were in effect on January 1, 1976, and that exceeded the benefits authorized by the Congress for such employees may continue with those benefits. Any and all restrictions on benefits applicable to civil service employees who are covered by U.S. Office of Personnel Management (OPM) rules and regulations concerning employee benefits will apply automatically to NAFI retirement and insurance plans initiated after the effective date of this Chapter (April 16, 1975), notwithstanding any other provisions of this Chapter.

B. APPLICATION

Unless otherwise required by Federal statutes or specific provision in this Chapter, RFT employees of NAFIs who are U.S. citizens, U.S. nationals, or permanent resident aliens of the United States employed in the United States shall be offered, as a minimum, the programs described herein. Heads of Components may offer the same or different benefit programs to other than RFT employees. In all cases, benefits offered to Federal civil service employees will serve as the ceiling or cap on NAFI provided benefit levels as described in A.2. above.

C. SPECIFIC POLICIES

A supplement to the specific policies cited herein is contained in Appendix B. This supplement amplifies the policies and outlines procedures.

1. Funding Principles and Fund Reviews

a. Funding. A high degree of fiscal responsibility is essential. Accordingly, Heads of DoD Components shall ensure that all retirement and insurance programs are funded in accordance with sound actuarial, insurance, and accounting principles that will ensure adequate protection of the interests of participants and beneficiaries.

(1) No appropriated funds will be requested or expended in connection with unemployment insurance, life insurance, medical, retirement, or

survivor benefits established or authorized by this Manual. Appropriated funds replenishment or subsidy of nonappropriated funds applied to these purposes is similarly prohibited.

(2) Any contracts, formal agreements, and similar documents used in transactions with insurance carriers, financial or other organizations, unions or other employee organizations will contain a clear disclaimer relieving appropriated funds of the U.S. Government from any and all expressed or implied financial liability in connection with the retirement and insurance programs.

b. Fund Reviews. The Head of each DoD Component shall ensure that each fund maintained in support of a retirement program is regularly reviewed by one or more qualified actuaries. P.L. 95-595 establishes uniform annual reporting requirements for Federal Government pension plans, including DoD NAFI retirement plans. Heads of DoD Components shall ensure that administrators of NAFI retirement plans comply with the form, manner, and time of filing as required by the OMB, GAO, and the Department of the Treasury. Basically, compliance requires that various financial and actuarial statements be provided annually to OMB not later than 150 days after the last day of the plan year, and Congress not later than 210 days after the last day of the plan year. Information copies of the reports will be forwarded and questions directed to the DoD NAF Personnel Policy Office.

c. Investment of NAF Retirement Program Funds and Trust Requirement.

(1) All investment use of any retirement funds shall comply with The Basic Fiduciary Rules and all restrictions pertaining to investment of retirement funds as stated in the Joint Explanatory Statement of the Committee of Conference on the Employee Retirement Income Security Act of 1974 (ERISA). (Note: The prohibited transactions restrictions on acquisition of employer securities should not be construed to restrict investment of Federal government securities). In general, a fiduciary is any person who exercises discretionary authority or control over the management of a plan, or any authority or control over the management or disposition of plan assets; renders investment advice to a plan for a fee or other direct or indirect compensation, or has the authority or responsibility to do so; or has any discretionary authority or responsibility regarding plan administration, whether or not it is used. In the broadest sense, everyone in the chain of responsibility for NAFI retirement plans and their funds has a fiduciary responsibility for them. However, to identify individuals who can be held personally responsible (pecuniarily liable) for losses suffered by a plan or its beneficiaries, the concept of fiduciary responsibility takes on a much narrower application; and each component's regulations shall identify the positions that fall into the category.

(2) Investments of retirement funds may be made but not limited to the following:

(a) Deposits or securities authorized by paragraph J.2.b. (DoDI 7000.12) that provide the necessary liquidity for the retirement plan.

(b) Instruments of the private sector such as common and preferred stocks, corporate and municipal bonds (generally minimum investment grade), options, and real estate.

(3) Fiduciaries shall diversify plan assets to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. It is not intended that a more stringent standard of prudence be established with the use of the term "clearly prudent." Instead, by using this term it is intended that in an action for plan losses based on breach of the diversification requirement, the plaintiff's initial burden shall be to demonstrate that there has been a failure to diversify. The defendant then is to have the burden of demonstrating that this failure to diversify was prudent. ERISA places these relative burdens on the parties in this matter, because the basic policy is to require diversification, and if diversification on its face does not exist, then the burden of justifying failure to follow general policy should be on the fiduciary who engages in this conduct. Ordinarily the fiduciary should not invest the whole or an unduly large portion of the property in one type of security or in various types of securities dependent upon the success of one enterprise or upon conditions in one locality, since the effect is to increase the risk of large losses. The degree of investment concentration that would violate this requirement to diversify cannot be stated as a fixed percentage, because a prudent fiduciary must consider the facts and circumstances of each case. The factors to be considered include:

- (a) The purpose of the plan.
- (b) The amount of the plan's real assets.
- (c) Financial and industrial conditions.
- (d) The type of investment, whether mortgages, bonds, or shares of stock or otherwise.
- (e) Distribution as a geographic location.
- (f) Distribution among industries.
- (g) The dates of maturity.

(4) Retirement plan assets including asset earnings must be held in trust and legally separated from all other NAFI assets for the exclusive benefit of the plan participants and their beneficiaries.

d. Investment Rate of Return Calculation Requirement. (Note: Refer to DoDI 7000.12, "Financial Management of MWR Activities" for more information.)

(1) The retirement funds will compute a time-weighted rate of return each quarter using a plan year (which will usually be calendar year). A calendar year-to-date time-weighted rate of return, e.g., 1 January - 30 June) will be included if possible. However, an annual time weighted rate of return is required. Retirement funds are not required to submit data based on a fiscal year beginning 1 October. DoD Components will indicate the particular commercial firm used to compute internally the formula used.

(2) In addition to the requirements stated in paragraph K.4 of DoDI 7000.12, retirement funds will include the following actuarial assumptions in their quarterly summary of data: estimated rate of return, estimated salary increases, estimate of inflation, percent of payroll contributed by both employer and employee (include Social Security contributions if used to compute benefits). If a change in any of these assumptions has occurred since the previous quarter, the changes should be noted and explained. The annual actuarial valuation (which is based on a plan year) will also include the present value of assets, benefits (both with and without salary increases), and the net value of the assets. If the net value of the assets is a negative number (i.e., an unfunded liability), then the estimated date when this negative net asset is eliminated will be included (e.g., 31 December 2000) as well as the percent of employer's payroll needed to eliminate this unfunded liability.

(3) All rates for return should be completed not later than 60 days after the end of a particular quarter. The rates of return calculations will start with the first quarter beginning after this instruction has been officially approved. The initial year-to-date data will begin with the same beginning quarter. The initial year-to-date figures will be superseded when a normal year has begun. Each DoD Component will maintain the rates of return calculations for presentation at the annual DoD NAF Review of Investment Management as required by DoDI 7000.12.

2. Social Security. In accordance with 42 U.S.C. 410, NAFI employees (including off-duty military enlisted employees) are provided Social Security coverage.

3. Retirement

a. Retirement Coverage. Heads of DoD Components shall provide retirement coverage which will be considered together with the benefits provided by the Federal Old Age Survivors and Disability Insurance Benefits, 42 U.S.C. 410 et seq.

b. Credited Service. Credited NAFI employee service for retirement will include all NAFI service for which employee contributions, deposits, or redeposits were made.

(1) Where the Head of a DoD Component elects to recognize all or part of other previous periods of NAFI service within that Component, credit will be given on a retroactive basis as retroactive credits.

(2) Service in any position paid from appropriated funds, except for honorable active U.S. military service described in paragraph A.2. of Appendix B, is not creditable for NAFI retirement purposes. The basis on which total credited NAFI employee service will be determined is contained in Appendix B.

c. Retirement Eligibility

(1) An employee's normal retirement date is the 1st day of the month that falls on or follows the employee's 62nd birthday. However, the

employee must have at least 5 years of credited service to qualify for an annuity including the employer's contribution.

(2) Heads of DoD Components may allow employees to retire earlier on a reduced annuity basis after attaining age 52, and completing 5 years or more of credited service.

d. Contributions. Heads of DoD Components will determine the rate of employee contribution to the retirement program.

e. Retention of Accrued Credited Service for Retirement Annuity Purposes. When an eligible employee who is participating in a retirement plan terminates employment and is employed by another NAFI within 90 days, and the gaining NAFI offers a different retirement plan, the employee may carry forward his or her credited service accrued for retirement annuity purposes with the prior NAFI. The feasibility of continuing this "portability" provision shall be reviewed periodically by the DoD NAF Retirement and Insurance Committee. When the DoD Component NAFI's retirement plan includes a provision for disability annuity, the employee shall fulfill the gaining NAFI's own credited service vesting requirements for disability annuity prior to becoming eligible for that annuity. Complete policy and procedures are stated in Appendix B.

4. Workers' Compensation Benefits

a. Longshoremen's and Harbor Workers' Compensation Act. Civilian employees of NAFIs shall be provided compensation benefits in accordance with the provisions of 5 U.S.C. 8171. (Off-duty enlisted personnel employed by NAFIs are not civilian employees for the purposes of this Act.)

b. Coordination with other Benefits. Retirement or disability annuities shall be offset by the amount of workmen's compensation indemnity benefits payable. Any workers' compensation income received by a survivor annuitant derived from "on-the-job" incurred disease or injury to the employee shall also be used as an offset against the survivor annuity payable under the retirement plan.

5. Unemployment Benefits

a. Basis for payment. Under authority of the Unemployment Compensation for Federal Civilian Employees (UCFE) law (5 U.S.C. Chapter 85 and 20 CFR 609), the Secretary of Labor, on behalf of the United States, has entered into agreements with all the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. These agreements provide that benefits will be paid by a State to any unemployed Federal civilian employee whose wages have been assigned to that State in which the employee had his or her last official duty station, in the same amount and subject to the same conditions as if the Federal civilian service and wages had been included as employment and wages under the employment insurance law of the State involved.

b. Charge to employing NAFI. Heads of DoD Components should be aware that they have to absorb the cost of paying unemployment benefits to Federal civilian NAFI employees. Thus, it is very important that each NAFI become conscious of its responsibility to safeguard, through good management

practices, NAFI funds by implementing procedures to reduce improper unemployment benefit payments. NAFI ability to provide State agencies with timely, accurate, and complete wage and separation information precludes adverse eligibility decisions from being made and avoids improper payment of benefits and charges to NAFI. Heads of DoD Components may further curtail unwarranted payment of benefits by appealing State decisions to pay unemployment benefits to former employees whom the NAFI believes are not entitled to such payments. This is especially true in situations when former employees were removed for misconduct, resigned voluntarily, or refused a suitable job offer. Thus, Heads of DoD Components should be aware that if an ineligible individual, including a retiree, receives improper payments, the former employer is charged for these costs, in addition to the costs charged to it for warranted payments. When additional or corrective information is provided to the States by NAFIs, redeterminations are made only when permitted under the appropriate State law.

6. Group Insurance

a. Coverage. Group insurance is designated to provide the broadest coverage against unforeseen events to NAFI employees and their dependents. Hence, Heads of DoD Components shall assure that all their eligible NAFI employees have the opportunity to participate in group insurance plans meeting the requirements established in this Chapter.

b. Voluntary Participation. Employee participation in group insurance shall be voluntary. NAFI employees who are eligible shall be permitted to elect not to be covered.

c. Group Insurance Benefits

(1) The following group insurance benefits will be made available to all eligible employees:

- (a) Life Insurance
- (b) Accidental Death and Dismemberment
- (c) Comprehensive Medical Expense
- (d) Life and Medical benefits for eligible retired employees.

(2) The basic provisions for each of these benefits are set forth in Appendix B.

d. Retention of Group Insurance Rights. When RFT DoD NAFI employees participating in a NAFI Group Insurance Plan are transferred by reason of a functional transfer, and the gaining NAFI offers a different group insurance plan, such employees are entitled to transfer of certain group insurance participating rights, subject to the provisions and limitations of the gaining NAFI plan. These rights are limited to:

(1) Participation in those portions of the gaining NAFI plan that are counterparts of the losing NAFI plan in which the employees and his or her dependents were participating on the date immediately prior to the date of

transfer. To exercise this right, however, the employee must file for similar coverage within 1 month of the date of transfer. In this event, coverage will become effective as of the date of transfer or, if later, as of the date the application for it is signed. To enroll in any counterpart portions of the gaining NAFI plan which the transferred employee or his or her dependents were not enrolled in the losing NAFI plan, insurability rules applicable to other employees of the gaining NAFI will apply.

(2) Credit for those periods of time the employee was a participant in those counterpart portions of the losing NAFI group insurance plan that establishes eligibility for retired employee life or medical, or both, coverage in the gaining NAFI plan.

e. Funding. Costs for group insurance benefits will be shared between the employer and the employee. See Appendix B. for policy concerning cost to eligible retired employees.

7. Health Maintenance Organizations. In compliance with P.L. 97-35, which amended the Health Maintenance Organization (HMO) Act to include NAFIs within the definition of the term "employer," Heads of DoD Components shall provide eligible NAF employees the option of membership in qualified HMOs. In compliance with 42 U.S.C. 300e-9, DoD Components must comply with regulations prescribed by the Secretary of the Department of Health and Human Services concerning employer obligations under the HMO Act.

8. Coordination

a. To effect coordination among the retirement and insurance programs of the various DoD Components and to achieve a degree of uniformity, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD(CPP)) shall appoint a working committee composed of specialists in the NAFI insurance and retirement areas from the DoD Components. The working committee shall review and study all changes to the retirement and insurance provisions of this Manual that are under consideration and make its recommendations. This committee shall meet at the call of the DASD (CPP) to:

- (1) Share information;
- (2) Suggest target dates for implementation of certain aspects of the provisions of this Chapter;
- (3) Review NAFI retirement and insurance programs of DoD Components;
- (4) Recommend to the ASD (FM&P) any changes in DoD policy on NAFI employee retirement and insurance programs; and
- (5) Recommend procedures for the transfer of NAFI retirement credits.

b. The working committee chair will coordinate recommendations developed by this committee with the DoD NAF Personnel Policy Committee prior to forwarding such recommendations to the DASD (CPP).

CHAPTER VII

EMPLOYMENT OF NAFI PERSONNEL IN OVERSEAS AND FOREIGN AREASA. GENERAL POLICY AND PURPOSE

1. The DoD policies and laws governing employment practices for NAFI personnel in the Continental United States (CONUS) basically apply overseas to U.S. citizens and U.S. nationals and are consistent with existing treaties or agreements with host countries. The employment conditions for locally hired non-U.S. citizen employees shall be based on customs and practices in the areas and the provisions of the country-to-country agreements. The NAFI personnel policies developed in any one area shall apply uniformly to all NAF elements of the U.S. Forces in the same area.

2. DoD Directive 1400.6, DoD Instruction 1400.10, and DoD 1400.25-M which prescribe the policies currently governing civilian personnel employed by DoD Components in CONUS and overseas, are hereby administratively extended to NAFI employees. This Chapter summarizes the essential elements contained in these issuances and makes interpretations for NAFI employees as needed.

3. No Head of a DoD Component or organization of his or her command shall cause any actual or potential liability to appropriated funds by reason of employment of NAFI personnel or use by such employees of non-U.S. Government facilities in foreign areas except as authorized by DoD Directive 1015.6, or as otherwise specifically authorized by regulations and procedures approved by the Secretary of Defense or designee.

4. Appropriated fund logistical or administrative support of NAFI employees in foreign areas shall be on a reimbursable basis except where exempted by the provisions of DoD Directive 1015.6 or otherwise specifically exempted.

B. SPECIFIC POLICIES1. U.S. Citizens or U.S. Nationals Recruited Locally

a. U.S. citizens and U.S. nationals residing in the host country may be recruited locally by overseas NAFIs in accordance with established country-to-country agreements. Except in those instances where placement must be made under the provisions of Chapter II.D., "Employment of Spouses of Military Personnel," first priority must be given to the employment of dependents of military and civilian personnel assigned in the host country, without regard to other priorities in this Manual and to off-duty military personnel, when such actions are not at variance with the Status of Forces agreements, country-to-country agreements, treaties, or as prescribed by DoD Instruction 1400.23 when the host nation's political or economic conditions require maintenance of the existing local national or U.S. citizen employment balance. A DoD Component may require approval at an appropriate level when the position is at the UA-12 level and above, or is a supervisory position.

b. Compensation of such employees shall be in accordance with FPM Supplement 532-2, and Appendices A and D of this Manual.

2. U.S. Citizens Recruited in the United States

a. When it has been determined that local nationals, U.S. citizens, or U.S. nationals residing in the host country do not possess the necessary training or experience for a particular NAFI position, civilian personnel may be recruited from the United States to fill these positions. In general, such personnel shall be limited to key management or supervisory positions and those positions regarded as essential for security reasons.

b. Rates of pay for U.S. citizen NAFI employees who are compensated under the Annual Salary Plan and who are recruited in the United States and its territories and possessions for overseas assignments shall be fixed in conformity with rates paid for work of a comparable level, difficulty, and responsibility to that of NAFI employees in the United States.

3. Employment of Non-U.S. Citizens. The employment of non-U.S. citizens by Armed Forces overseas is covered by DoD Instruction 1400.10. The Instruction supplements DoD Directive 1400.6, which is the basic DoD policy governing civilian personnel of the Department of Defense in overseas areas.

a. Local Nationals. Local laws and customs shall be followed in the employment and administration of local nationals to the extent that such laws and customs are compatible with the basic management needs of the U.S. Forces.

b. Third (Other) Country Nationals. The importation of workers from another country by a NAFI shall only be made when personnel requirements cannot be met by local hire. When it becomes necessary to do so, arrangements should be made with the host government to permit importation of workers who are acceptable to the host country.

c. Resident Aliens. Resident aliens shall be employed in accordance with agreements made with the host country.

4. Allowances and Differentials

a. Pursuant to Executive Order 11137, Heads of DoD Components shall prescribe regulations, subject to the approval of the Secretary of Defense, governing payments of allowances and differentials to civilian employees of NAFIs of the United States under the jurisdiction of the Armed Forces.

b. Heads of DoD Components shall ensure that the allowances and differentials prescribed for NAFI employees in accordance with Executive Order 11137 comply with the following provisions:

(1) Allowances and differentials will be prescribed for those employees recruited in the United States who meet the eligibility requirements contained in section 030 of the Department of State Standardized Regulations (Government Civilians, Foreign Areas) and whose rates of basic compensation are fixed in conformity with rates paid for work of a comparable level of difficulty and responsibility to that of employees stationed in the United States, exclusive of Alaska and Hawaii.

(2) The rates of payment authorized for the allowances and differentials which are prescribed for eligible employees shall be the same as

those prescribed by the Department of State Standardized Regulations (Government Civilians, Foreign Areas) for appropriated fund U.S. citizen employees in the same locality.

(3) The types of allowances and differentials that are prescribed shall be the same as those provided for appropriated fund, U.S. citizen DoD employees in the locality, except that education may be provided for eligible dependents, as defined in DoD Directive 1342.13, or an education allowance may be paid, as authorized in section 270 of the Department of State Standardized Regulations (Government Civilians, Foreign Areas).

(4) Heads of Components shall determine which, if any, allowances and differentials to prescribe for those eligible employees who are recruited outside the United States, i.e., locally hired employees. However, the types of allowances and differentials granted to local hires, and the rates of payment for those allowances and differentials shall not exceed the types of, and pay rates for, allowances and differentials prescribed by the Department of State Standardized Regulations for appropriated fund employees.

5. Travel and Transportation

a. Heads of DoD Components may authorize payment by NAFIs of expenses for essential travel and transportation of NAFI employees and their dependents in amounts not to exceed those prescribed in Volume 2 of the JTRs, when such travel and transportation is clearly in the interests of a NAFI.

b. Transportation of household goods and personal effects, including privately owned vehicles, at the expense of NAFIs may be authorized in connection with the employee's assignment, permanent change of station, or separation which is initiated by the NAFI and is clearly in the interests of the NAFI. In this regard, Heads of DoD Components may establish cost-reduction programs as described in Chapter II, paragraph A.2.j.

c. When a NAFI employee transfers from one DoD NAFI to another, the gaining NAFI is authorized to grant the above travel and transportation allowances to the employee.

d. Household goods of employees returning for separation from an overseas location may be transported at NAFI expense, if otherwise entitled, from the overseas permanent duty station, place of nontemporary storage, or both, to the place of actual residence, as determined in accordance with JTR, Vol. 2, C4004-2. Shipment may be made to a different place designated by the employee provided that any cost to the NAFI in excess of the cost for shipment of household goods in one lot by the most economical route from the overseas permanent duty station to place of actual residence is borne by the employee.

e. The provisions outlined in Volume 2 of the JTR, Chapter 14, are also applicable to those employees who are moved from a permanent duty station in CONUS to an overseas permanent duty station and are covered by an unconditional mobility agreement as a condition of employment. These provisions are not applicable to the sale and purchase of a residence in foreign and overseas areas.

(1) When employees are transferred to overseas areas and own the residence they occupied at the former duty station in CONUS, the time limit prescribed in Volume 2 of the JTR for selling that residence shall begin on the date they return to CONUS on PCS reassignment, rather than the date they arrive at the overseas duty station.

(2) The above provisions shall not apply to an employee who returns to CONUS on a PCS reassignment to a duty station in the same city or area, as defined by paragraph C4108, Volume 2, JTR, provided the employee did not sell the former residence.

6. Return Rights. NAFI personnel recruited from a NAFI in the United States for assignment in foreign areas may be afforded (by the same DoD Component) return rights to a suitable position in the United States. The recruiting NAFI will make every effort to provide for return placement at no loss in pay; however, such action shall not be construed as constituting mandatory reemployment.

7. Entitlement to Government Quarters and Facilities

a. NAFI employees in positions for which it is necessary to recruit from the United States shall be accorded full membership in the joint overseas military and civilian team to which they make a significant support contribution. Each overseas military commander shall provide facilities under his or her jurisdiction, including Government quarters and family housing, to NAFI personnel, in accordance with the policies set forth in DoD Directive 1400.6 and other pertinent regulations. The principle of equal treatment of NAFI personnel with appropriated fund personnel at equivalent grade levels shall be followed.

b. U.S. citizen/U.S. national NAFI personnel traveling on official business may occupy temporary Government quarters, including guest houses, under the same terms and with the same eligibility as appropriated fund personnel.

8. Medical and Health Services. U.S. citizen/U.S. national NAFI employees will have access to the same medical and health service provided appropriated fund personnel, in accordance with the provisions of 5 U.S.C 7901 and FPM Letter 792-15.

9. Privileges. U.S. citizen/U.S. national NAFI personnel shall be afforded the same privileges provided their counterparts who are appropriated fund civilian personnel in the same overseas area, to the extent permitted by country-to-country agreements. These will include commissary, exchange, laundry, transportation, postal services (APO and FPO), recreation, and religious facilities. The basis for extending the privileges of clubs and messes will be according to grade and position responsibility, as determined by overseas commanders.

10. Home Leave. Home leave is granted on the basis that it is earned by service abroad for use in the United States, Commonwealth of Puerto Rico, or possessions of the United States. The provisions of subchapter S6, FPM Supplement 990-2, are hereby administratively extended and govern home leave

for eligible NAFI employees recruited in the United States and employed in overseas areas, as defined in the FPM.

11. Renewal Agreement Travel. Employees who have completed the agreed period of continuous creditable service outside the United States, and outside the employee's place of residence if such residence is in the Commonwealth of Puerto Rico, or in any of the possessions of the United States; and who agree in writing to serve an additional tour of duty at the same or another overseas Nonappropriated Fund Instrumentality, may be authorized renewal agreement travel at the expense of the employing NAFI.

a. Renewal agreement travel is allowed from an employee's overseas post of duty to his or her place of actual residence at the time of appointment or transfer and for the employee's return to the same or another overseas post of duty.

b. Time is not chargeable to leave while in a travel status as long as the travel is by the most direct route.

c. Upon reaching place of actual residence, the employee shall be charged annual leave, home leave, or leave without pay as appropriate.

12. Emergency Leave and Travel. Emergency leave may be granted to U.S. citizen/U.S. national NAFI 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, shall be charged to annual leave. If the employee has no accrued annual leave, he or she may be placed in a leave-without-pay status. Such employees may be provided government transportation on a space-available basis. Red Cross confirmation of the emergency should be secured prior to the approval of the leave and transportation.

13. Local Holidays in Foreign Countries. Local national NAFI employees may be authorized time off to observe certain local national holidays. Such authorization is subject to country-to-country agreements. When all or part of an installation is closed in observance of such a local holiday and, as a result, U.S. citizens/U.S. nationals and third country nationals are thereby prevented from working, they shall be assigned to other work if possible. Otherwise, such employees may be excused without charge to leave or loss of pay.

14. Employee Benefits. Insurance, retirement, medical, and other employee benefits for local national NAFI employees are established by agreements with the host country. Regardless of the place of their recruitment, U.S. citizens shall earn annual leave and accrue sick leave credits in accordance with the policy governing employees in CONUS, as outlined in Chapter IV.

15. Care and Disposition of Remains of Deceased Employees. All benefits authorized for the care, preparation, and disposition of the remains of deceased U.S. citizen employees of the Department of Defense paid from appropriated funds shall be accorded equally to RFT and RPT U.S. citizen NAFI employees who are employed outside of the CONUS and who are not dependents of U.S. military personnel who would otherwise be entitled to such care and

disposition of remains from appropriated funds. All items and expenses authorized to be furnished by the government on a reimbursable basis shall be billed to and funded by the employing NAFI.

16. Evacuation of NAF Employees and Family Members

a. Heads of DoD Components shall prescribe regulations, subject to the approval of the Secretary of Defense, governing NAF employee entitlements in emergency situations; procedures for financial assistance to NAF family member evacuees; and employment status of NAF-paid personnel during and after an evacuation or crisis situation.

b. Entitlement to emergency evacuation for NAF employees, as well as the payment of allowances and benefits, is authorized for eligible employees as prescribed by the Department of State Standardized Regulations.

APPENDIX A

UNIVERSAL ANNUAL PAY ADMINISTRATION SUPPLEMENTA. GENERAL

Chapter III, "Position Classification, Pay and Allowances," requires that the rates of compensation of the UA salary system be commensurate with the rates of compensation of the GS. This Appendix provides additional policy and procedural guidance for pay administration of UA employees compensated under the UA salary system.

B. APPLICABILITY

This Appendix applies to all NAFI employees, worldwide, who are U.S. citizens, U.S. nationals, or permanent resident aliens in the United States who are employed within the United States and officially assigned to UA positions. (NOTE: NAFI employees in the Panama Canal Area are not assigned to UA positions.)

C. UNIVERSAL ANNUAL PAY SCHEDULES

1. The UA Pay Schedule shall have a grade structure that begins with UA-5 and continues through UA-18. The grades and steps of the annual salary structure shall be identical to grades GS-5 through GS-18 of the General Schedule. All limitations on maximum pay rates prescribed by the Office of Personnel Management (OPM) for the General Schedule shall apply to the UA pay rates as well. The pay period for an employee in a UA position shall normally cover two administrative workweeks. For pay computation purposes, it is necessary to convert annually scheduled rates of pay to basic hourly, daily, weekly, or bi-weekly rates, in accordance with the following rules:

a. To derive an hourly rate, divide the annual rate by 2087, the actual average number of working hours per year over the four years in the leap year cycle (i.e., 40 hours per week over 52.14 weeks during the normal years of the cycle plus proration over four years of the additional day of the leap year).

b. To derive a daily rate, multiply the hourly rate by the daily hours of service actually required.

c. To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be, if these hours coincide with the weekly or biweekly scheduled working hours of the employee. Employees whose weekly or biweekly scheduled working hours are less than 40 or 80 shall have their weekly or bi-weekly pay computed to reflect actual scheduled hours of work.

2. All rates--hourly, daily, weekly, or biweekly--are computed to the nearest cent, counting one-half and over as a whole cent.

For example: Grade UA-9, Step 2 - \$22,531 per annum.
\$22,531 divided by 2087 equals \$10.7958, rounded to \$10.80.

Position A - 40 hours per week

Biweekly hours = 80

80 x \$10.80 = \$864.00

Position B - 32 hours per week.

Biweekly hours = 64

64 x \$10.80 = \$691.20

D. ADJUSTMENTS TO UA SCHEDULE

When the UA salary schedule is changed as a result of a change to the GS, employees' salaries shall be adjusted on a grade-by-grade, step-by-step basis. Salary adjustments shall be effective as of the first day of the first applicable pay period beginning on or after the effective date of the GS adjustment. Employees in an indefinite retained pay or a 2-year saved pay status shall receive increases in accordance with sections H. and I. of this Appendix.

E. INITIAL HIRE

Generally, initial hires shall be made at step 1 of the grade to which the employee has been hired.

1. Special Circumstances. The Head of the DoD Component may authorize hire of a person to a UA position at a higher step within the appropriate grade in recognition of a candidate's existing pay, unusually higher or unique qualifications, or a special need of the NAFI for his or her services.

2. Conversion. When an individual is being employed as the result of conversion of the position held by the incumbent from appropriated to nonappropriated funds, the entrance salary shall be fixed at the rate for the appropriate grade, which is equal to the rate paid in the previous position.

F. PROMOTION

1. Pay on Promotion. A UA employee who is promoted shall be paid at the lowest scheduled rate of the new grade that exceeds his or her existing scheduled rate of pay by no less than two step increments of the grade from which promoted. If there is no rate in the higher grade that is at least two step increments above his or her existing scheduled rate of pay, he or she shall receive (a) the maximum scheduled rate of the higher grade; or (b) his or her existing scheduled rate of pay if the existing scheduled rate of pay is higher. An employee who is promoted from an hourly paid position to a UA position shall be paid at the lowest step of the UA grade that equals or exceeds the employee's previous hourly rate, augmented by the difference between steps 4 and 5 of the employee's grade on the hourly rate schedule.

2. Exceptions. The following exception to the above pay setting practice is authorized for an hourly paid employee who is promoted to a supervisory or leader position that qualifies for inclusion in the UA category:

a. Leader Positions. When the base level of work led is AS-7 or PS-7, a leader position qualifies for inclusion in the UA salary plan. The step rate selected in the appropriate new UA grade level shall be determined in the following manner: The scheduled rate of pay shall be to the lowest step in the

new UA grade that results in an increase equal to but not less than the difference in the payline rate (step 2) between grades 6 and 7 of the local area prevailing rate pay schedule applying to the AS/PS base level of work led. If application of this procedure results in a base salary higher than that for the highest step of the new grade, the scheduled rate shall be to the highest step of the new grade.

b. Supervisor Positions. When the base level of work supervised is AS-6/7 or PS-6/7, a supervisory position qualifies for inclusion in the UA salary plan. The step rate selected in the appropriate new UA grade shall be determined in the following manner: The scheduled rate of pay shall be to the lowest step in the UA grade that results in an increase equal to but not less than twice the pay difference in the pay line rate (step 2) between grades 6 and 7 of the local area prevailing rate pay schedule applying to the AS/PS base level of work supervised. If application of this procedure results in a base salary higher than that for the highest step of the new grade, the scheduled rate shall be to the highest step of the new grade.

3. Pay on Promotion in Retained Pay Situations. When an employee to be promoted is on retained pay, the pay he or she is entitled to on promotion shall be at least a two-step increment above the maximum rate of the salary range for the grade of the position from which promoted. When this calculation results in a rate less than the employee's retained rate of pay, the employee is entitled to his or her retained rate of pay if such rate of pay is within the salary range for the grade of the position to which the employee is promoted. If the employee's retained rate of pay exceeds the salary range for the grade of the position to which promoted, entitlement to retained pay continues for the duration of the original 2 year period or until terminated by one of the specified conditions described in the pay retention policies of this Manual.

G. GENERAL PAY-FIXING GUIDES

1. Effective Date. The normal effective date of changes in pay rates shall be the beginning of the 1st day of the first full pay period on or after the date of the change.

2. Simultaneous Pay Changes. When an employee becomes eligible for two pay changes at the same time, the changes shall be processed in the order that shall benefit the employee the most.

H. PAY RETENTION RESULTING FROM CONVERSION ACTIONS

A NAFI employee whose rate of pay was fixed above the maximum scheduled rate of his or her grade as a result of the initial conversion of his or her position to the DoD UA salary system, shall have his or her rate of pay retained indefinitely and adjusted in accordance with subchapter S.10-7 of FPM Supplement 532-2.

I. TWO-YEAR SAVED PAY UNDER THE ONGOING PROGRAM

There is no grade retention for UA employees. Pay for a NAF employee moved to a lower grade UA position shall be determined and adjusted in accordance

with the provisions cited in Chapter III, subparagraphs B.2.d.(1)(b) and B.2.d.(2)(c), of this Manual.

J. PAY ADJUSTMENTS FOR UA SUPERVISORS BASED ON SUPERVISION OF FWS, AS, OR PS EMPLOYEES

1. A NAFI may adjust the hourly pay of a UA supervisor to any rate for his or her grade that exceeds that of the highest hourly paid employee being supervised. Before an adjustment can be made, the NAFI shall determine that:

a. The supervisor's regular responsibilities include supervision over the technical aspects of the work of one or more hourly paid employees.

b. The hourly rate of the supervisor's scheduled rate of pay is less than the scheduled rate of the highest paid subordinate.

2. A supervisor regularly has responsibility for supervision when this responsibility is a continuing assignment reflected in his or her official position description.

3. A supervisor has regular responsibility for supervision (including supervision over the technical aspects of the work concerned) when he or she has frequent contact with the hourly paid employees in connection with assigned work, and when he or she personally or through an intermediate supervisor paid under one of the NAFI hourly pay plans, does the following:

a. Determines assignments or duties for individual hourly paid employees.

b. Evaluates the work of individual hourly paid employees when the reviews require a substantial subject matter or technical knowledge.

c. Plans and organizes work of individual hourly paid employees with primary emphasis on distribution of assignments, workloads, work item priorities, and schedules for timely completion of work items, projects, or cases.

d. Provides advice, assistance, counsel, or instructions to individual hourly paid employees.

e. Evaluates the performance of individual hourly paid employees.

f. Serves as the point of contact for discussion of problems arising from, or associated with, specific work products of the unit.

4. In comparing the scheduled rate for a supervisor with the rate of pay for an hourly paid employee supervised by him or her, the NAFI shall exclude from the hourly paid employee's rate any irregular prevailing rate, such as a retained rate or night shift differential.

5. The Head of the DoD Component concerned shall establish a detailed procedure for administering special adjustments to supervisor pay.

K. WITHIN-GRADE INCREASES

1. Step Increases. An employee whose performance has been determined acceptable, and who has completed creditable service since his or her last equivalent increase in accordance with the following table, shall receive a within-grade increase.

	Steps 1/2/3	Steps 4/5/6	Steps 7/8/9
Calendar	52 weeks in	104 weeks	156 weeks
Weeks	each step	in each step	in each step

2. Creditable Service

a. Continuous full-time, part-time, temporary, and regularly scheduled intermittent NAFI employment is creditable service in the computation of a waiting period. Service credit is given for this employment during periods of annual, sick, and other leave with pay; advanced annual and sick leave; and service under a temporary appointment. Time in a nonpay status is creditable when it does not exceed, in the aggregate:

- (1) Two workweeks in the waiting period for steps 2, 3, and 4.
- (2) Four workweeks in the waiting period for steps 5, 6, and 7.
- (3) Six workweeks in the waiting period for steps 8, 9, and 10.

b. Leave of absence is creditable when it is granted an employee because of an injury for which compensation is payable, as is service with the Armed Forces during a period of war or national emergency.

3. Equivalent Increase. A new waiting period must be started if the employee receives an "equivalent increase." This equivalent increase is defined as an increase (or increases) in basic pay equal to or greater than the amount of the within-grade increment of the grade in which the employee is serving.

a. When an employee has served in more than one grade during the waiting period under consideration and it is necessary to determine whether he or she received an equivalent increase in a prior grade, an equivalent increase is an increase (or increases) in his or her scheduled rate of pay equal to or greater than the amount of the smallest within-grade increase for advancement between steps of the prior grade.

b. When an employee receives more than one increase in his or her scheduled rate of basic pay during the waiting period under consideration, none of which are equivalent increases, the first and subsequent increases are added until they amount to an equivalent increase, at which time he or she is considered to have received an equivalent increase.

c. The waiting period "under consideration" is that immediately preceding an employee's current entry into the rate of the grade in which he or she is now serving.

d. Increases not counted as equivalent increases are salary increases for UA employees resulting from a statutory increase for GS employees; wage increases granted under a wage system; increases resulting from the establishment of higher minimum pay rates by the OPM; quality step increases; territorial and foreign post differentials and cost of living allowances; and premium pay for overtime, night, or holiday duty.

(1) The waiting period for earning a within-grade increase during temporary promotion begins on the date of the temporary promotion and not on the date of the last equivalent increase in the regular grade.

(2) Upon being returned to the regular grade, an employee who was temporarily promoted is placed in the rate and given the waiting period credit that the employee would be entitled to if the employee had remained in the lower grade.

L. QUALITY STEP INCREASES

Heads of DoD Components may authorize quality step increases to recognize and reward those regular UA employees who display continuing high quality performance.

M. IDENTIFICATION OF EXEMPT AND NONEXEMPT UA POSITIONS

In accordance with Chapter III, subparagraph B.2.d.(2)(b), in those geographical areas covered by the FLSA, as amended, UA position descriptions containing executive, administrative, and professional duties shall be annotated as "Exempt." Those position descriptions which do not meet the tests for exemptions pursuant to section 13(a)(1), FLSA, as amended, and as prescribed in FPM Letters, 551 series shall be annotated "Nonexempt."

N. OVERTIME AND OTHER PREMIUM PAY

1. Overtime

a. UA employees employed in geographical areas covered by the FLSA shall have their pay set in accordance with the following rules:

(1) Exempt Employees. No UA employee identified as exempt may be paid overtime pay or given compensatory time off for work in excess of 40 hours in an administrative workweek, unless the overtime pay or compensatory time off is specifically authorized in advance by the employee's supervisor. The doctrine of compensation for hours "permitted or suffered" to be worked in excess of 40 hours in an administrative workweek will not apply. Overtime rates and compensatory time off shall be determined by application of the GS rules.

(2) Nonexempt Employees. UA employees identified as nonexempt shall be paid overtime in consonance with the overtime provisions established for nonexempt appropriated fund employees paid on the GS.

b. UA employees who are exempt from coverage under the FLSA by virtue of geographical location of their positions shall not be paid overtime or given compensatory time off unless they have been specifically directed to work in excess of 40 hours in an administrative workweek. Overtime rates and compensatory time off shall be determined by application of the GS rules.

2 . Other Premium Pay

a. Night pay differential shall be paid to UA employees under the same pay administration rules as those applicable to GS employees.

b. Holiday premium pay shall be paid to UA employees under the same pay rules as those applicable to GS employees.

c. Sunday premium pay shall be paid to UA employees under the same rules as those applicable to GS employees.

O. DETAILS

Details of a UA employee to perform the duties of another position, as distinguished from actually being appointed or assigned to the position, shall be governed by paragraph B.2.1., Chapter II, of this Manual. Employees who are improperly detailed to higher grade positions shall be allowed retroactive temporary promotions with backpay. A UA employee temporarily assigned to work of a higher grade may be temporarily promoted to the higher grade under the merit promotion and staffing program and given the pay of that position.

APPENDIX B

RETIREMENT AND INSURANCE SUPPLEMENTA. CREDITED NAFI EMPLOYEE SERVICE

After attaining eligibility for an annuity, the following, if applicable, shall be added to arrive at total credited NAFI employee service for computing the amount of the annuity.

1. Unused Sick Leave. Unused sick leave that has been accumulated by an employee at the time of his or her retirement shall be added to the employee's period of credited service in order to determine the total period of credited service.

2. Military Leave of Absence. During the time an employee is carried on leave without pay because of interruption of his or her credited NAFI service by honorable active U.S. military service, he or she remains in a continuous service status, not to exceed 5 years, provided the employee returns to civilian NAFI employment within the period of time prescribed by 38 U.S.C. Chapter 43. Duplicate NAFI service credits will not be granted for the same period of time.

B. AMOUNT OF ANNUITY AT NORMAL (AGE 62) OR DEFERRED RETIREMENT

The amount of yearly retirement annuity payable to an employee, commencing at his or her normal or deferred retirement date shall be the amount of the annuity formula reduced by the social security offset. When the amount of the yearly annuity is computed on a basis of other than the annuity formula reduced by the social security offset, multipliers shown in subsection B.2., below, may be adjusted so that the annuity, when added to social security, shall be at least equal to the results of the application of the annuity formula reduced by the social security offset.

1. "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 program.

2. Annuity Formula. The sum of the annuity formula (explained in paragraph B.2.a. and b. below) shall not exceed 80% of the high-3 average (paragraph B.2.c).

a. For each of the first 10 years of credited service, 1-1/2 percent of "high-3" average compensation or, if greater, 1 percent of "high-3" average compensation plus \$25.

b. For each year of credited service after the 10th year, 2 percent of "high-3" average compensation or, if greater, 1 percent of "high-3" average compensation plus \$25.

c. Eighty percent of "high-3" average compensation.

3. Minimum Annuity. A minimum annuity shall be provided only to the degree necessary to prevent low-paid vested plan participants from retiring without some NAFI-provided annuity.

4. Social Security Integration - Social Security Offset. Heads of Components may integrate NAF pension plan benefits with Social Security benefits. Integration may be accomplished by the Social Security offset method whereby a person's pension is reduced by an appropriate percentage of the person's Social Security benefit.

It should be noted that a reduction or elimination of the Social Security offset to a NAF plan, without making other changes to the plan, would increase the amount of the plan's pensions (see Chapter VI.A.2.).

Heads of Components should periodically review their NAF plan(s) pension integration and basic annuity computation formulas and make changes as appropriate.

5. Retention of Accrued Credited Service for Retirement Annuity Purposes

a. When an RFT DoD Component NAFI employee, who is participating in the Component's NAFI retirement plan, terminates employment (for reasons other than retirement) and is employed by another DoD Component NAFI within 90 calendar days, and the gaining NAFI offers a different retirement plan, the employee may carry forward his or her credited service accrued for retirement annuity purposes. The reemployed employee shall carry forward all prior credited service as accrued up to the date of termination or subsequent termination. (Exception: If the gaining NAFI retirement plan does not cover part-time employees, then crediting part-time service from a different NAFI is not required.)

b. Upon retirement from the gaining DoD Component NAFI, the employee's retirement annuity shall be the same as if the entire period of combined creditable RFT NAFI service had been creditable under the gaining DoD Component NAFI retirement plan. The retirement annuity so determined under the gaining NAFI retirement plan shall then be reduced by the amount or amounts that would be payable under the losing NAFI retirement plan or plans. When an employee terminates employment with the losing NAFI before becoming vested, the employee will not be entitled to any benefits from the losing NAFI, except for a withdrawal of his or her own contributions. However, credited service rendered for the losing NAFI shall be carried forward and counted when determining the employee's accrued benefits and shall further be counted in determining the employee's position on the vesting schedule of the gaining NAFI retirement plan. However, the position on the vesting schedule is not applicable for determining any eligibility for a disability annuity, as the requirements for such vesting are those of the gaining NAFI's retirement plan only. When such terminated employee withdraws his or her contributions before becoming vested, the retirement benefits due from the gaining NAFI plan shall be reduced and offset by the amount as specified in subparagraph B.5.b.(4), below.

(1) The retirement annuity for such an RFT NAFI employee shall be computed using the gaining NAFI's retirement plan computation. It shall be based on all accrued credited service as rendered under the prior DoD Component NAFI employee retirement plan or plans, plus all service creditable under the

gaining DoD Component's NAFI retirement plan or plans. The losing DoD Component NAFI shall transfer such data as required to the gaining NAFI in accordance with paragraph B.5.b., above. The gaining DoD Component NAFI shall disregard any service rendered in a part-time capacity, if such service is not otherwise credited for its own part-time employees.

(2) The resultant annuity, based on all credited service (including service rendered before the employee became vested) shall be offset by the amount or amounts which would be payable under the losing DoD Component NAFI retirement plan or plans, at age 62, without regard to whether the employee has or has not withdrawn his or her prior contributions and after application of the social security offset. If the employee is 62 at the time of termination from the losing DoD Component NAFI, the amount of the offset shall be that amount which would be payable if the employee had retired and commenced immediate receipt of the annuity at the time of that termination.

(3) For purposes of determining the offset mentioned in subparagraph B.5.b.(2), above, the annuity amount accrued during the prior periods of employment shall be as reported in accordance with subparagraphs B.5.c.(3) or c.(4), below. The actual calculation shall be based upon the annuity formula in effect at the time of termination of employment from the prior DoD Component NAFI. In calculating this annuity, the social security offset shall be applied as of the date of termination. To the extent that an employee was not vested at his or her prior termination date from a losing NAFI, the annuity amount for which the losing NAFI shall be liable, assuming such employee withdrew his or her contributions, shall be equal to zero. However, as stated in paragraph B.5.a., above, credited service shall be carried forward and counted when determining the employee's accrued benefits with the gaining NAFI, subject to the offset provided in subparagraph B.5.b.(4), below.

(4) When an employee was not vested at his or her prior termination from a losing NAFI and when such terminated employee withdraws his or her prior contributions, the gaining NAFI shall reduce benefits otherwise due by an offset. The offset shall be equal to the annuity amount which the employee's own contributions would have been sufficient to fund for him or her, assuming such contributions had continued on deposit since initially contributed.

c. In the case of each affected, or potentially affected, employee, it is the responsibility of the gaining DoD Component NAFI retirement plan administrator to request from the counterpart losing DoD Component retirement plan administrator or administrators, a statement setting out:

(1) The employee's name (last, first, M.I.), social security number, date of birth, beginning and ending periods of NAFI RFT employment, RPT employment, and number of years (including partial years) of accrued credited service for annuity accrual purposes under the losing DoD Component's NAFI retirement plan.

(2) The salary or wage history of the employee, including an explanation of the years used in calculating average compensation upon which the annuity calculation is based.

(3) The actual calculation of the resultant accrued annuity amount, assuming commencement of such benefit at age 62. If a terminating employee previously withdrew his or her employee contribution, two separate calculations shall be provided as follows:

(a) The annuity such participant would have received had he or she left all employee contributions in the plan (this amount shall represent the amount of the actual offset to such gaining NAFI retirement plan).

(b) The annuity amount actually due the employee, if any, and the date benefits are scheduled to commence.

(4) If a terminated employee was not vested at his or her termination date, the losing NAFI shall specify the annuity amount that the employee's own contributions would have been sufficient to fund for him or her, assuming such contributions had continued on deposit since initially contributed. In addition to specifying this amount, the losing NAFI shall further specify to the gaining NAFI whether or not a benefit is actually due for contributions not previously withdrawn.

d. It is the responsibility of the losing DoD Component NAFI retirement plan administrator to provide promptly the above data upon request. If prior knowledge indicates that the data is needed, the losing NAFI shall furnish any data necessary to provide full and fair disclosure to the gaining NAFI. In the event a terminated employee was not vested at the time of termination, the losing NAFI shall provide the information required in subparagraphs B.5.c.(1) and (4), above.

e. The gaining DoD Component NAFI retirement plan administrator shall record the applicable employee statistics as supplied in subparagraphs B.5.c.(1) through (4), above, in the affected employee's retirement plan records and apply the offset when retirement annuity payments commence. If retirement benefits are to commence before age 62, the gaining NAFI shall actuarially reduce the amount of the offset (to be applied from the losing NAFI or NAFIs) so as to reflect the early payments of benefits.

f. The gaining NAFI shall notify the losing NAFI or NAFIs of the employee's actual retirement date and the date annuity benefits are to commence. Under standard practice, an employee shall be eligible to withdraw his or her own contributions from the losing NAF retirement plan but the employee shall not be eligible to receive his or her retirement benefits from the losing NAFI retirement plan or plans until actual retirement from the gaining NAFI.

g. The above portability shall not apply to a terminating employee who is eligible and has since commenced receiving, or is about to receive, a retirement annuity from the losing NAFI plan. In this event, the employee shall be considered a new employee with the gaining DoD Component NAFI.

h. The losing NAFI shall not transfer and the gaining NAFI shall not require the transfer of any pension assets to accomplish the intent as outlined here.

C. SURVIVOR BENEFITS

Survivor benefits may be provided in one or more of the following forms:

1. Survivor's Annuity on Death of Employee

a. Eligibility. If an employee dies while employed, and after completion of at least 60 months of credited NAFI service, an annuity shall be payable to the surviving spouse. The spouse must have been married to the employee for at least 1 year immediately preceding the employee's death or be the parent of a child born of the marriage.

b. Amount of Survivor Annuity on Death in Service. The amount of the survivor annuity payable to an eligible surviving spouse shall be 55 percent of the greater of the amounts determined under subparagraphs C.1.b.(1) or (2), below, minus (3), below:

(1) The annuity formula - without reduction for age of employee at time of death.

(2) The lesser of the amounts determined under subparagraphs C.1.b.(2)(a) or (b) below:

(a) Forty percent of the employee's "high-3" average compensation.

(b) The annuity formula after increasing credited service by the period from the employee's date of death to age 60.

(3) One hundred percent of any surviving spouse's benefit currently payable under the Social Security Act.

c. Adjustment of Amount of Survivor Annuity. The amount of survivor annuity shall be adjusted upon commencement, cessation, or recommencement of a surviving spouse's benefit under the Social Security Act. The amount of the survivor's Social Security income award shall be applied automatically as an offset when the surviving spouse becomes 60 years old or, if later, upon the death of the employee without regard to whether the surviving spouse actually elects to commence receipt of it. The amount may not be adjusted because of changes in the social security benefits created by an amendment to the Social Security Act or by automatic increases in social security benefits reflecting increases in the Consumer Price Index.

d. Duration of Payment of Survivor Annuity Following Death in Service. The surviving spouse's annuity payments are payable as of the 1st day of each month following the employee's death. Payments shall continue until the last monthly payment before the earlier of the following dates:

(1) The death of the surviving spouse.

(2) The date of remarriage of the surviving spouse if such marriage occurs before age 60.

e. Conditions for Termination and Recommencement of Survivor Annuity (Death in Service). A survivor annuity that is terminated because of remarriage before age 60 may again become payable if the remarriage is terminated by death, annulment, or divorce and if the surviving spouse repays any lump-sum benefit that was paid upon termination of the annuity. Such repayment may be made by withholding the annuity payable until the lump-sum benefit paid is satisfied.

2. Survivor's Annuity on Death of Annuitant After Retirement

a. Eligibility

(1) If an employee is married when he or she retires, unless the employee elects not to provide for a surviving spouse annuity, his or her annuity is automatically reduced actuarially and a survivor annuity shall be payable to the surviving spouse. A plan may provide for a uniform 10 percent reduction instead of an actuarial reduction.

(2) If an employee is not married when he or she retires, the employee may elect an annuity with a survivor benefit provided proper medical authority recommends to the Head of the DoD Component that the employee is in good health for his or her age. In such event, the employee's annuity shall be reduced actuarially and an annuity shall be payable to the child (or children) or another person having an insurable interest designated by name.

b. Amount of Survivor Annuity (Death After Retirement). The amount of the survivor annuity shall be 55 percent of all or any of the portion of the employee's annuity which he or she elects or accepts as a basis for the survivor benefit, calculated as follows:

(1) If the employee retires at or after age 62, the amount payable to the surviving spouse shall be 55 percent of the portion of the employee's annuity elected as the basis for surviving spouse annuity. This 55 percent factor shall be calculated against the applicable portion of the employee's annuity before the 10 percent or actuarial reduction is made so as to provide for survivor annuity as prescribed in paragraph C.2.a., above.

(2) Upon retirement before age 62, the employee may designate all or any portion of his or her temporary and lifetime annuity as the basis for surviving spouse annuity. (Temporary annuity is the amount that shall be paid only until the employee attains age 62, at which time the social security offset becomes applicable. Lifetime annuity is the amount that shall continue to be paid after the employee attains age 62.)

(a) If the employee should die before attaining age 62, the surviving spouse annuity shall be reduced (as of the 1st day of the month coincident with or immediately following the date on which the employee would have attained age 62) by 55 percent of the amount of social security offset that would have been applied to the employee's annuity had the employee lived to age 62.

(b) If the employee dies after age 62, at which time his or her own annuity shall have been reduced by discontinuance of the temporary

portion, the surviving spouse annuity shall be 55 percent of the employee's lifetime annuity.

(3) When the employee does not have a spouse and elects an annuity with a survivor benefit to a child (or children) or other named person having an insurable interest, the annuity for the designated survivor (or the annuity to be divided among two or more designated children) shall be 55 percent of all or any portion of the employee's lifetime annuity that he or she elects as a base for the benefit remaining after the reduction for the survivor annuity.

(a) In the event of early retirement (that is, before age 62) and when the retirement plan provides for social security offset, the survivor annuity shall be calculated at 55 percent of the applicable portion of the employee's lifetime annuity (that is, the amount of the employee's annuity that would be payable after application of the social security offset at age 62, regardless of whether the employee dies before or after age 62).

(b) If two or more children have been designated by name, the total amount of survivor annuity payable shall be proportionately reduced upon the death of one or more of those designated who were living on the date the employee's retirement annuity became payable, whether such death occurs before or after the death of the employee.

(4) If the death of a disability annuitant occurs, the surviving spouse benefit shall equal 55 percent of the elected portion of the employee's annuity before social security offset, less 100 percent of any surviving spouse's benefit payable under Social Security. (A disability annuitant may designate only a spouse for survivor annuity.)

(5) When the employee's annuity is computed on a basis other than the annuity formula reduced by the social security offset (see subsection B.4., above), in the case of a provision for the surviving spouse annuity, the computation of the 55 percent shall be applied to the annuity before the 10 percent or actuarial reduction, and in the case of a provision for a child (or children) or other named person, after application of that reduction.

3. Lump-Sum Death Benefit. This benefit applies only when the employee's contributions with interest exceed the annuity paid or payable.

a. Amount. The amount of any lump-sum death benefit when an annuity is not payable, shall be equal to subparagraph C.3.a.(1) minus (2), below:

(1) The employee's contributions to the plan, with interest, to the earliest of the 1st day of the month in which the employee's death occurs, or the date annuity payments become payable to the employee.

(2) The sum of all annuity payments made to the employee or a survivor, whether the survivor is a surviving spouse or children designated by name or another person having an insurable interest.

b. Events Warranting Lump-Sum Payment. A lump-sum death benefit, if any, becomes payable on a date determined as follows:

(1) When no survivor annuity is payable, the date of death of the employee.

(2) When a survivor annuity is payable, the date of death of the last survivor to whom an annuity is payable or, if earlier, the date on which a survivor annuity ceases because of remarriage before age 60.

(3) When a surviving spouse would qualify for a survivor annuity upon or after the death of an employee, but no survivor annuity would be payable because the social security benefit provides the full amount or more, a lump-sum death benefit shall be payable to the spouse. In such circumstances, if a survivor annuity becomes payable at a later date because of cessation of social security benefits, the survivor shall be required to refund the amount of any paid lump-sum death benefit. Repayment may be made by withholding the annuity payable until the paid lump-sum benefit is satisfied.

D. DISABILITY BENEFITS

1. Amounts. The amount of the disability benefit shall be equal to the greater of the amounts determined under paragraphs D.1.a. or b. minus c., below:

a. The annuity formula - without reduction, regardless of the employee's age.

b. The lesser of the amounts determined under subparagraphs D.1.b.(1) or (2), below:

(1) Forty percent of the employee's "high-3" average compensation.

(2) The annuity formula after increasing credited service by the period from the employee's date of separation for disability to age 60.

c. One hundred percent of any benefit that the employee is entitled to under the Social Security Act, provided that on or after the date the employee attains age 62, this amount shall be no less than 12 times the monthly primary insurance amount for the employee as of the date the employee attains age 62.

2. Recomputation. The amount of the disability annuity shall be recomputed whenever social security benefits payable to the employee commence, cease, or recommence. The amount shall not be recomputed or adjusted on account of changes in the Social Security Act or by automatic increases in social security benefits reflecting increases in the Consumer Price Index.

3. Duration. Disability annuity payment shall continue, provided the employee remains totally and permanently disabled, until normal retirement annuity payments begin. When the employee reaches normal retirement age, he or she may elect to continue on disability annuity or receive a regular retirement annuity instead.

E. TERMINATION OF EMPLOYMENT OR CHANGE IN EMPLOYMENT STATUS

The following options are available to an employee when, for any reason other than death, his or her service is terminated before a normal or earlier

retirement, or the employment status is changed so that the employee is ineligible to continue to participate in the retirement plan.

1. Option A. An employee may have all his or her contributions returned; and in addition, if the employee has been employed for 3 full years, for which he or she has made contributions, such employee shall receive interest on these contributions. No interest is payable for an employee who terminates before completing 3 full years of credited service.

2. Option B.

a. An employee who has completed more than 5 years of credited service but is still under age 30, may leave his or her own contributions in the plan and later receive an annuity commencing on his or her normal retirement date, if the employee is then living, in the amount that the employee's contributions have been sufficient to purchase for him or her.

b. An employee who has completed 5 or more years of credited service and has attained the age of 30 shall receive an annuity at normal retirement age based on his or her and the employer's contributions.

c. If the amount of annuity payable would be \$600 per year, or less, a one-time lump-sum payment of equivalent actuarial value may be made instead.

d. An employee who has elected Option B may elect to have his or her annuity begin on the 1st day on any month during the 10-year period immediately preceding his or her normal retirement date. In this case, however, the employee's annuity shall be reduced at the rate of one-third of 1 percent for each month (4 percent each full year) by which the elected annuity commencement date precedes age 62.

F. GROUP LIFE INSURANCE

Life insurance shall be provided in an amount equal to an employee's annual pay rounded to the next higher thousand plus \$2,000.

G. ACCIDENTAL DEATH AND DISMEMBERMENT

This coverage shall be furnished in an amount equal to the life insurance coverage subject to the customary schedules for dismemberment and the usual exclusions, including physical or mental infirmity or disease, ptomaine or bacterial infection, medical or surgical treatment (unless made necessary by a covered injury), suicide, or intentionally self-inflicted injury, or war or any act of war.

H. COMPREHENSIVE MEDICAL EXPENSE

1. Comprehensive Medical Expense Benefits. Comprehensive medical expense benefits cover medical expenses that result from serious or prolonged disabilities as well as from ordinary injuries or diseases, regardless of the number of injuries or diseases suffered. Benefits shall not only be payable for expenses arising in the hospital, but also for medical charges that are not a part of the hospital bill.

2. Amount of benefits. The amounts of benefits shall be:

a. One hundred percent of the first \$1,000 of allowable hospital expense incurred in any calendar year, plus 80 percent of the amount in excess of a deductible \$100 (see subsection H.3., below).

b. Eighty percent of reasonable and customary surgical expenses incurred in any calendar year, in excess of a deductible \$100 (see subsection H.3., below).

c. Eighty percent of other medical expenses in excess of a deductible of \$100 in any calendar year. However, for excess expenses which are for treatment of a mental or nervous disorder while not confined in a hospital as an inpatient, the benefit shall be 50 percent.

3. Deductible. A deductible of \$100 in each calendar year shall be applied to each insured employee and dependent before "other medical expenses" qualify. The maximum family deductible shall be \$300 per calendar year.

4. Lifetime benefit. For any plan offered, including low-option type plans, the lifetime benefit for all incurred covered medical expenses combined shall be unlimited. This unlimited lifetime amount applies separately to each insured family member.

5. Second Surgical Opinions. Each plan, including low-option type plans, shall reimburse 100 percent of the expense incurred for a second surgical opinion, and a third one, if the first two opinions do not agree.

6. Catastrophic Coverage. Each plan, including low-option type plans shall provide a maximum-out-of-pocket limit so that when any insured family member's costs exceed a predetermined fixed amount, the plan will pay 100 percent of that person's costs for the rest of the calendar year. There shall be a maximum-out-of-pocket limit for the family so that when a family's total costs exceed a predetermined fixed amount, the plan will pay 100 percent of the family's costs for the rest of the calendar year.

7. Coordination With Other Benefits. The medical expense benefits program is designed to help meet the cost of disease or injury. Since it is not intended that greater benefits be received than the actual medical expenses incurred, the amount of benefits payable under the program shall take into account any coverage a family member has under other group plans; that is, the benefits under this program shall be coordinated with the benefits of the other group plans.

8. Effect of Medicare. Heads of DoD Components shall ensure that the coordination of Medicare with NAFI employee benefit provisions shall be in compliance with currently applicable laws, rules, and regulations.

9. Dependents. The following categories of dependents shall be eligible for coverage under the comprehensive medical benefits programs:

a. The employee's spouse.

b. Unmarried children under age 19.

c. Unmarried children under age 23 who are full-time students and also receive over 50 percent of their support from the employee.

d. A child of any age who is physically or mentally handicapped and who depends on the employee for support, if the handicap existed before the child's 22nd birthday, or 23rd birthday if the child met the conditions of the previous paragraph (c) at the time he/she became handicapped.

e. The term "children" shall include the employee's natural children, adopted children, stepchildren, foster children, and other children who are dependent upon the employee for support and live with the employee in a regular parent-child relationship.

10. Extension of coverage. At the option of the Component, if a covered employee loses eligibility for comprehensive medical expense coverage for any reason except voluntary cancellation, he/she may continue to be insured for comprehensive medical expense coverage for the 90-day period immediately following the date he/she ceases to be eligible, if he/she:

- a. Makes application for such extended coverage before such date;
- b. Biweekly pays employee's and employer's share of the premium; and
- c. Has been continuously insured under the policy during the three months immediately preceding the date eligibility ceases.

The premium payable shall be at the then applicable rate of the policy. No evidence of insurability or medical examination shall be required to continue such coverage.

I. CONVERSION PRIVILEGES

When by reason of termination or other change in his or her employment status, an employee is ineligible to continue to participate in the group life insurance or group medical plan, conversion privileges to individual life policies or individual medical expense policies shall be made available, in accordance with the conditions of the insurance policy in force. Life insurance and medical expense policies, if converted to individual policies within 31 calendar days of termination of the group life or group medical plan coverage, shall be issued without medical examination and at the insuring company's or companies' regular rates for individual life insurance or medical expense benefits plans. The whole cost of such insurance shall be borne by the insured.

J. WAIVER OF BENEFITS

Eligible employees who decline to enroll or participate in the retirement plan, the comprehensive medical expense plan, the life insurance plan, the accidental death and dismemberment plan, or the disability plan, shall be required to sign a waiver. The waiver shall explain the benefits declined (or shall refer the employee to documents that explain the benefits declined) and the impact the decision to decline has on the employee's subsequent ability to enroll in such benefit plans, including waiting period and evidence of insurability requirements. The signed waiver, or a memorandum for the record

signifying the employee's refusal to sign a waiver, shall be placed in the employee's Official Personnel Folder.

K. BENEFITS FOR RETIREES

The following insurance benefits shall be provided to eligible retired employees. Heads of Components may decide not to charge retirees for these benefits.

1. Life Insurance

a. Eligibility. When an employee retires at normal retirement date (age 62), or thereafter, with at least 5 years of credited service, and with 15 or more years of accumulated participation in the group life insurance program for active employees, he or she shall be eligible for the group life insurance program for retired employees on the date retired, provided the employee was insured under such program on the day before retirement.

b. Amount. Upon retirement on or after age 62, an amount of group life insurance shall be continued, based on the amount of life insurance in force on the day before retirement, until attaining age 65. Upon attaining age 66, the amount of life insurance shall be reduced by 25 percent of the amount in force just before attaining age 65. It shall be reduced thereafter by a further 25 percent on each of the 67th and 68th birthdays and it then shall remain at 25 percent of the amount of insurance in force just before attaining age 65.

2. Comprehensive Medical Expenses

a. Employees who retire and have been participating in the health plan for a reasonable length of time, and their dependents, shall be provided continued medical coverage. Dependents (other than those children whose coverage would be canceled at age 19 or 23) shall be eligible for continuous coverage until receiving Medicare coverage at age 65, regardless of the retiree's age.

b. When the retiree or dependent receives Medicare coverage at age 65, Heads of Components are encouraged to at least structure their plans so that Medicare becomes the primary carrier, and the NAFI plan becomes the secondary payer of benefits using the "government exclusion" method of integration, subtracting Medicare payments before applying deductible and copayment provision.

APPENDIX C

POSITION CLASSIFICATION REVIEW AND APPEAL PROCEDURES
FOR ADMINISTRATIVE SUPPORT, PATRON SERVICES,
AND UNIVERSAL ANNUAL POSITIONS

A. COVERAGE

These procedures apply to NAF employees in the Administrative Support (AS), Patron Services (PS), and Universal Annual (UA) categories who are subject to the provisions of DoD Instruction 1401.1.

B. POSITION REVIEW SYSTEM PROCEDURES

1. The Right to Appeal. Under the position classification review and appeals system, an employee may request a review of the grade, title, or series assigned to his or her position. The job standards, position description accuracy, pay rate, or wage schedule rate are not subject to a review or appeal procedure.

2. Position Description (PD) Accuracy

a. Dissatisfaction with a Position Description (PD) should be resolved locally through review and grievance procedures. In such cases, any objections the employee may have to the PD shall be taken into consideration provided the appeal file includes documentation that the employee's dissatisfaction has been considered and a decision rendered under the provisions of Chapter V, Subsection A.4. A decision based on these considerations shall be made within the 60-day time limit established in paragraph B.3.b, below.

b. If the accuracy of the PD cannot be resolved, the appropriate DoD Component Headquarters or Commander, AAFES, shall decide the request for classification review on the basis of the actual duties required to be performed on a continuing basis.

3. DoD Component Review System. Each DoD Component shall establish a system that facilitates a timely review of employees' applications for position classification reviews. The provisions of this system shall be published and made available to NAF AS, PS, and UA employees, their representatives, and recognized labor organizations. The DoD Component review procedures must provide for:

a. One review level only within the DoD Component before the final decision is issued. This level shall be above the position classification authority level that took the action for the review requested.

b. When a decision is not issued by the DoD Component authority within 60 days from the date the employee filed the application for review, the employee may request that a higher Component-level assume jurisdiction. When no higher Component-level exists, the employee may submit the application for review to the DoD NAF Personnel Policy Office.

c. The DoD Component shall base the decision on the record, in writing. When the request is not sustained, the employee shall be advised of his or her further right of appeal to the DoD NAF Personnel Policy Office. In addition, the decision shall include an analysis of the employee's job compared with appropriate DoD NAF Job-Grading Standards for AS and PS positions, or with DoD and OPM Position Classification Standards for UA positions. If the decision sustains the employee's application and corrective action is necessary, the effective date of change in the grade of the job shall not be later than the first day of the first pay period, beginning after the 60th day from the date the application was filed.

d. When a classification action results in a change to a lower grade or loss in pay, the DoD Component shall notify the affected employee promptly, in writing, of its decision and the effective date. The normal effective date of a change in pay because of a grading or regrading of a position is the date the action is approved in the agency, or a later date specifically stated. However, the effective date may not be later than the beginning of the first pay period that begins after the 60th day from the date of the classification action that results in a change to a lower grade or loss in pay. The notice shall advise the employee about his or her right to review by the Component authority and right to appeal to the DoD NAF Personnel Policy Office. Additionally, the notice shall specify that to be entitled to retroactive corrective action, the employee must request review within 15 calendar days of the effective date of the change to a lower grade or loss of pay.

e. An employee filing an application for review under the DoD Component or DoD appeals system has the right to be represented and advised by a representative of his or her own choosing, and to take a reasonable amount of official time to present the application. An employee who submits an application for review and the employee's representative shall be free from restraint, interference, coercion, discrimination, or reprisal because of his or her participation in the review system.

C. APPLICATION FOR REVIEW

1. Content of Application. An employee's application shall be in writing and shall clearly state the reasons the employee believes his or her job is erroneously classified. The application shall include:

- a. Full name and mailing address.
- b. Location and organizational designation of employment.
- c. Present title, series, and grade.
- d. Requested title, series, and grade.

e. A statement of facts that the employee believes may affect the classification of the position.

2. Employee Responsibilities. The employee shall furnish any additional facts promptly that may be requested by the DoD Component review authority or the DoD NAF Personnel Policy Office.

3. Time Limit for Filing Application. An employee may file an application for review at any time. However, when the application involves a reduction in grade or loss of pay, it must be filed in a timely manner as in paragraph B.3.d. of this Appendix to establish and maintain entitlement to retroactive corrective action. This time limit may be extended if the employee can show that he or she was not notified of the time limit, was not aware of it, or was prevented by circumstances beyond his or her control from filing an application within the prescribed time limit.

4. Cancellation of Application. An employee's application for review or appeal under the DoD Component or DoD appeals system shall be canceled immediately when:

a. The employee requests the termination of his or her application. This request must be in writing.

b. It is learned that the employee is no longer in the job that was the subject of the application, except when the employee is entitled to retroactive benefits, including benefits allowable after the death of the employee.

c. An employee fails to prosecute or furnish required information promptly.

D. POSITION CLASSIFICATION APPEALS REVIEW FILE

Each DoD Component is responsible for maintaining a position classification review file that shall constitute the review record. This record may not contain any information that is not made available to the employee. This review file shall include:

1. An individual PD in which the duties are certified as being accurate. (If this cannot be accomplished, documentation of disputed duties and responsibilities shall be attached to the official PD.)

2. Pertinent organizational charts reflecting the location of the position.

3. An analysis and evaluation of the duties and responsibilities of the employee, as compared with appropriate standards, and a copy of the review decision.

4. Component recommendations or any supplementary information bearing on the employee's duties and responsibilities.

E. APPLICATION FOR APPEAL

1. The employee or his or her designated representative may file an appeal with the DoD NAF Personnel Policy Office after completing the DoD Component review level, except as outlined in paragraph B.3.b of this Appendix. The employee may file the appeal at any time. However, to retroactively correct an adverse action, the appeal must be filed within 15 calendar days of the date of receipt of the Component's decision. The appeal shall specify which part of

the decision the employee disagrees with. The time limit may be extended as outlined in subsection C.3. of this Appendix.

2. All decisions shall be based on the record established by the DoD Component's review of the employee's application, and by any pertinent information provided by the employee. However, the DoD NAF Personnel Policy Office may audit the job and take the results of the audit into account in reaching its decision. An employee has no right to have a representative present at a desk audit conducted by the DoD NAF Personnel Policy Office.

3. The DoD NAF Personnel Policy Office shall notify the employee and DoD Component, in writing, of its decision. If this office sustains the employee's application, the effective date of the change in classification of a position shall not be earlier than the date of the decision and not later than the beginning of the first pay period which begins after the 60th day from the date the application was filed, except when a later date is specifically provided in the decision. An appeal decision that corrects a downgrading or loss of pay retroactively shall require correction of records and supplemented salary payments. If the decision of this office sustains any other change in classification, such corrective action shall be implemented and effective no later than 60 days after receipt of the written final decision by the DoD Component. An appeal decision that results in a downgrading or loss of pay shall require corrective action consistent with the provisions of NAF personnel regulations.

F. APPEAL DECISION

The decision of the DoD NAF Personnel Policy Office is binding on all administrative certifying, payroll, disbursing, or accounting officers within DoD NAF activities. The decision is final and the employee has no further right to an administrative appeal.

HOW TO CONTACT THE DOD NAF PERSONNEL POLICY OFFICE:

IN WRITING: DoD NAF Personnel Policy Office
801 N. Randolph Street
Room 1205
Arlington, Virginia 22203-1989

TELEPHONE: Autovon 226-4539/4969
Commercial 202-696-4539/4969

APPENDIX D

NAF PAY ADMINISTRATION¹
(Hourly Paid Employees)

A. GENERAL

1. Purpose. This Appendix supplements and complements governing pay policies and procedures prescribed by the Office of Personnel Management (OPM) in FPM Supplement 532-2, subchapter S8, NAF Pay Administration. While subchapter S8 applies only to Nonappropriated, Nonappropriated Leader, and Nonappropriated Supervisor (NA-NL-NS) positions and employees (that is, "prevailing rate," Crafts and Trades (CT)) in accordance with the provisions of this Manual, instructions contained in subchapter S8 have been made generally applicable to Administrative Support (AS) and Patron Services (PS) positions and employees. "Generally applicable" means that the legal requirements and policies enunciated by OPM and which also incorporate appropriate Comptroller General decisions for NAF "prevailing rate" positions shall also apply to AS and PS categories. Appendix A of this Manual provides guidance concerning pay policies and procedures for Universal Annual (UA) positions and employees.

2. Responsibility. DoD Components shall integrate the instructional and explanatory material in this Appendix into their internal NAF pay administration directives.

3. Format. The clarification and examples are numbered and lettered, with pertinent headings also provided for easy reference to the corresponding sections of FPM Supplement 532-2, subchapter S8, and they should be reviewed when the provisions of that document are being applied.

4. Future Amendments. As additional clarification of FPM Supplement 532-2, subchapter S8 and related instructions become warranted, the Appendix will be amended.

B. SECTIONS OF SUBCHAPTER S8 CLARIFIED1. GENERAL (S8-1)

a. Introduction (S8-1.a). For purposes of subchapter S8 and this Appendix, the term "lead agency" means the DoD Wage Fixing Authority.

b. Agency Responsibility (S8-1.b). "Agency" as used in this Appendix includes DoD Components, as defined in this Manual. Unless authority is delegated to subordinate levels, Component headquarters are responsible for (1) defining the period of seven consecutive calendar days that make up each employee's administrative workweek, and (2) determining each employee's basic workweek. (See definitions of these terms under section S8-2.)

¹ TO BE USED ONLY IN CONJUNCTION WITH FPM SUPPLEMENT 532-2, S8. Section and paragraph titles within this Appendix are followed by parenthetical references to the part of FPM Supplement 532-2, S8 being discussed.

2. DEFINITIONS (S8-2)

a. Scheduled Rate of Pay (S8-2.a.(2)). This is any rate corresponding to the appropriate grade and step on the NA, NL, NS, AS, or PS wage schedules issued by the DoD Wage Fixing Authority, including a retained rate of pay and rate on temporary promotion when applicable.

b. Employee (S8-2.a.(3))

(1) NAF Prevailing Rate Employee. This term is used interchangeably with the term "NAF Crafts and Trades" employee. An employee of a DoD NAFI who is employed in a recognized craft or trade or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having craft, trade, or laboring experience and knowledge as the paramount requirement.

(2) In Chapter III of this Manual the definition of "employee," as used in subchapter S8, has been extended administratively to include:

(a) Administrative Support (AS) Employee. This category includes those employees who perform clerical, secretarial, and administrative work that is of an office or nonmanual nature, and who are paid on an hourly pay schedule.

(b) Patron Services (PS) Employee. This category includes those employees who perform work requiring skill and knowledge in selling food and retail merchandise and in providing personal, recreational, and amusement services, as well as a variety of other morale support activities. They are paid on an hourly pay schedule.

(3) The term "nonwage," where used, means Universal Annual.

c. Highest Previous Rate (S8-2.a.(6)). For the purpose of setting rates for employees in NAF positions, the term "highest previous rate" will include those pay rates previously paid to employees in AS, PS, or UA positions, in addition to NA, NL, and NS positions.

d. Representative Rate (S8-2.a.(7)). The term "General Schedule," as used in this definition, also means the UA schedule.

e. Promotion (S8-2.a.(8)). The term "General Schedule," as used in this definition, also means the UA schedule.

f. Change to Lower Grade (S8-2.a.(9)). The term "General Schedule," as used in this definition, also means the UA schedule.

g. Premium Pay (S8-2.a.(14)). This term means additional compensation for overtime work, Sunday work, and standby duty, as well as callback overtime work and holiday work.

h. Basic Workweek (S8-2.a.(17)). An employee's basic workweek, as defined, shall always be scheduled in advance of the 1st day of the administrative workweek in which it occurs.

i. Overtime Work (S8.2.a.(19)). In addition to the regular definition of overtime work contained in subchapter S8, under the Fair Labor Standards Act (applicable only to "nonexempt employees"), overtime work separately means any hours worked, whether scheduled, ordered, or "suffered or permitted," that exceed a total of 40 hours of actual work performed in a week. (See paragraph B.4.b. of this Appendix for further discussion.)

j. Night Shift (S8-2.a.(23)). Regularly scheduled nonovertime work when a majority of the whole hours of such work occurs between 3 p.m. and midnight (second shift), or between 11 p.m. and 8 a.m. (third shift).

3. APPLICATION OF PAY RATES TO NAF WAGE EMPLOYEES (S8-3)

NOTE: Whenever reference is made to GS rates under section S8-3, that reference also means UA rates.

a. Rates payable (S8-3.a). Reference to "each employee occupying a wage job" applies equally to employees occupying AS and PS positions. (However, for grade and pay retention determinations, refer to (1) subchapter S9 of FPM Supplement 532-2; subchapter VI of Chapter 53 of Title 5, United States Code; Part 536 of Title 5, Code of Federal Regulations; Book 536 of FPM Supplement 990-2; and FPM Letters and Bulletins in the 536 series for instructions applicable to federal wage (CT) employees, and (2) Chapter III, subparagraphs B.2.d.(1)(b) and B.2.d.(2)(c) of this Manual for instructions applicable to AS, PS, and UA employees.)

b. New appointments (S8-3.b.)

(1) Appointments above minimum rates in recognition of special qualifications (S8-3.b.(1)). DoD NAFIs may exercise the authority contained in this paragraph.

(2) Appointments above minimum rates for jobs in specific hard-to-fill occupations (S8-3.b.(2)). The term "Federal wage schedule," as used in this subparagraph, includes NA, NL, NS, AS, and PS wage schedules. A particular finding that a local NAF activity cannot recruit at the minimum rate may be based on a study by the Department of Defense, a DoD Component, or any local installation that has NAF employees.

(3) S8-3.b.(3). The term "lead agency," as used in this subparagraph, means DoD Wage Fixing Authority.

c. Position or appointment change (S8-3.c.). DoD NAFIs may exercise the authority provided under this paragraph to set an employee's step rate based on his or her "highest previous rate," but only in connection with those personnel actions identified within the paragraph. (See paragraph 3.d., below, for an illustration of the computation and application of the highest previous rate rule.)

d. Computation of highest previous rate (S8-3.e.)

(1) S8-3.e.(5). The following is intended to illustrate subparagraph S8-3.e.(5). (Note: Although the example below uses NA grades, the same principle also applies to NL, NS, AS, and PS grades.)

EXAMPLE

An employee in New York, NA-8 Step 1, was reemployed in Washington, D.C., at the NA-7 grade level. Pertinent wage schedule rates are as follows:

		<u>STEP RATES</u>				
		1	2	3	4	5
NEW YORK	NA-8	<u>\$7.78*</u>	\$8.13	\$8.45	\$8.78	\$9.09
WASHINGTON, D.C.	NA-8	<u>\$7.55</u>	\$7.87	\$8.18	\$8.49	\$8.81**
WASHINGTON, D.C.	NA-7	\$7.06	\$7.36	\$7.65	<u>\$7.94</u>	\$8.23**

* Previously earned rate

** Current rates in the wage area where the employee is being employed

Steps to be followed:

Compare the NA-8, step 1 rate (\$7.55) in Washington, D.C., with the employee's previous earned rate (\$7.78). In this instance, the previous earned rate is the higher; therefore, this rate is the employee's highest previous rate. Thus, the employing DoD NAFI may pay this employee at any rate of the grade NA-7 (the grade at which reemployed) that does not exceed the fourth step rate. (Since the employee's highest previous rate (\$7.78) falls between two steps of the grade NA-7 (steps 3 and 4), the employee shall be paid at a rate that does not exceed step 4.) In no case shall an employee be paid more than the top step of the grade in which reemployed, irrespective of the employee's highest previous rate.

(Note: A NAF employee has no vested right on reemployment to receive his or her highest previous rate of pay. It is within the administrative discretion of the designated official with delegated authority to fix the employee's rate at the minimum step rate of the grade, or at any step rate in between. However, a DoD Component may adopt a policy of always using the highest previous rate, or requiring that an employee on reemployment shall be placed at the first step rate of the grade.)

(2) S8-3.e.(6). For purpose of this subparagraph (S8-3.e.(6)), the term "General Schedule" also means Universal Annual schedule.

e. Effective date (S8-3.f.(1)). The effective date referred to in the subparagraph shall normally be the 1st day of the 1st pay period after the action is approved. The term "agency" as used in the subparagraph means DoD Component or any subordinate entity to which authority has been delegated.

f. Administrative error (S8-3.k.). The term "agency administrative policy," as used in this paragraph, refers to the published policy or clearly established, consistent practice of a given DoD Component, or any subordinate entity to which authority has been delegated.

4. NIGHT SHIFT DIFFERENTIAL AND PREMIUM PAY (S8-4).

a. General (S8-4.a.). The term "premium pay," as used in this subsection, refers to additional compensation for overtime, holiday, and Sunday work, as well as for standby or on call duty and callback overtime work.

NOTE: For purposes of all premium pay computations under S8-4, where there is a reference to payline rate or representative rate, the employee's actual grade and step are to be used. (For example, see discussion under 4.b.(3) below, which explains S8-4.b.(8).

b. Overtime pay (S8-4.b.). Entitlement to overtime pay is authorized in accordance with the provisions of Title 5, U.S.C. as described in FPM Supplement 532-2, section S8-4, and amplified in this Appendix. However, consideration also must be given to the overtime provisions of the Fair Labor Standards Act (FLSA), as prescribed in FPM Letters, 551 series. (Employees covered by FLSA are referred to as "nonexempt." Such employees are entitled to overtime pay under whichever legal authority provides the greater benefit.)

NOTE: Subchapter S8 only speaks to the overtime provisions of Title 5. Therefore, the examples regarding overtime, which follow, illustrate overtime pay entitlements strictly under those provisions. The examples do not apply to any FLSA overtime entitlements. Since nonexempt employees are entitled to whichever is the greater overtime pay benefit, as provided by either law, it is necessary to carry out dual calculations in order to make that determination. Examples of such dual calculations are contained in FPM Letters, series 551.

(1) Work exceeding 8 hours in a day (S8-4.b.(3)). The following examples are intended to illustrate the pay entitlements authorized by this subparagraph;

EXAMPLE I

Four 10-hours day. Employee works from 7 a.m. to 6 p.m. Tuesday through Friday. (Note: Under those circumstances wherein a Component has authorized the use of flextime or compressed time, the provisions of P.L. 96-196 will apply.)

Computation

	Compensable hours						
	S	M	T	W	T	F	S
Scheduled hours			10	10	10	10	
Basic rate (scheduled rate plus environmental/night shift differentials, if applicable).			8	8	8	8	
Overtime rate (one and one-half times the basic rate).			2	2	2	2	
							Total
							40
							32
							8

EXAMPLE II

Four 9-hour days and one 4-hour day. Employee works from 7 a.m. to 5 p.m. Tuesday through Friday and 7 a.m. to 11 a.m. on Saturday. Employee has a 1-hour meal period Tuesday through Friday, none on Saturday. Overtime pay is computed as follows:

Compensable hours							
	S	M	T	W	T	F	S
Scheduled hours			9	9	9	9	4
Basic rate (scheduled rate plus environmental/night shift differentials, if applicable).			8	8	8	8	4
Overtime rate (one and one half times the basic rate).			1	1	1	1	4
Total							40

(2) Computing overtime pay for night work (S8-4.b.(7)).

(a) The following examples are intended to illustrate the pay entitlements authorized by subparagraph S8-4.b.(7)(a).

EXAMPLE I

The following illustrates the computation of overtime pay for employees who are regularly working a night shift for which the shift differential is payable, when the overtime period falls within the day shift:

An employee's regular schedule requires that work be performed between the hours of 11 p.m. and 7:30 a.m., Monday through Friday. On Tuesday the employee performs overtime work from 7:30 a.m. until 11:30 a.m. Overtime pay is computed as follows:

Computation

Compensable hours							
	S	M	T	W	T	F	S
Basic rate (scheduled rate plus 10% shift differential)		8	8	8	8	8	
Overtime rate - one and one-half times the basic rate (scheduled rate plus 10% shift differential)			4				
Total							40

EXAMPLE II

The following illustrates the computation of overtime pay when an employee performs overtime work on a day not regularly scheduled as a workday for the employee or for the organization.

The organization operates a 24 hours a day, Monday through Friday operation. The employee's regular schedule is Monday through Friday 3 p.m. to 11:30 p.m. Overtime work was performed on Saturday, 8 a.m. to 12 noon. Overtime pay is computed as follows:

Computation

Organization Workdays	Compensable hours						Total
	M	T	W	T	F	S*	
Basic rate (scheduled rate plus 7 1/2% shift differential)	8	8	8	8	8		40
Overtime rate - one and one-half times the basic rate (scheduled rate plus 7 1/2% shift differential)						4*	4

*Not a scheduled workday for the organization or the employee.

EXAMPLE III

The following also illustrates the computation of overtime pay when an employee performs overtime work on a day not regularly scheduled as a workday for the employee or for the organization.

The organization operates a 24 hours a day, Monday through Friday operation. The employee's regular schedule is 3:30 p.m. to 12 midnight, Monday through Thursday, and 7:30 a.m. to 4 p.m. on Friday. Overtime work was performed on Saturday, 9 a.m. to 1 p.m. Overtime pay is computed as follows:

Computation

Organization Workdays	Compensable hours						Total
	M	T	W	T	F	S*	
Basic rate (schedule rate plus 7 1/2% shift differential for Monday through Thursday only)	8	8	8	8	8		40
Overtime rate - one and one-half times the basic rate (scheduled rate only)**						4*	4

*Not a scheduled workday for the organization or the employee.

**No shift differential added, because the scheduled shift prior to the overtime was a day shift. This would be true even if the overtime hours were, for example, 4 p.m. to 8 p.m.

EXAMPLE IV

The following illustrates the computation of overtime pay for an employee performing overtime work on a day other than a regularly scheduled workday for the employee, but one which is a regular workday for the organization.

The organization operates a 24 hours a day, 7 days a week operation. An employee's regular schedule is Tuesday through Saturday, 8 a.m. to 4:30 p.m. The employee performs 4 hours of overtime work on Monday between the hours of 8 p.m. and 12 midnight. Overtime pay is computed as follows:

Computation

	Compensable hours							
	S	M	T	W	T	F	S	Total
Basic rate (scheduled rate only)			8	8	8	8	8	40
Overtime rate - one and one-half times the basic rate (scheduled rate plus 7-1/2% shift differential)		4						4

(b) The next two examples deal with overtime pay for employees with regularly rotating tours as authorized under subparagraph S8-4.b.(7)(b).

EXAMPLE I

The following illustrates the computation of overtime pay for a NAF employee who has a regularly rotating tour of duty which includes two or more shifts, and who performs overtime work on a regularly scheduled workday.

An employee's regular schedule rotates on a weekly basis between the hours of 7 a.m. and 3:30 p.m.; 3 p.m. and 11:30 p.m.; and 11 p.m. and 7:30 a.m., Monday through Friday. Overtime work is performed on Tuesday during the week that the employee is working the first shift (7 a.m. to 3:30 p.m.). Overtime pay is computed as follows:

Computation

The scheduled rate (shift differential does not apply) is multiplied by 1.50 to determine the overtime rate. The overtime rate is then multiplied by the number of overtime hours. (Note: If overtime work is performed on a day during the following week, when the employee is working the second shift (3 p.m. to 11:30 p.m.), the computed overtime rate would be one and one-half times the scheduled rate plus the 7-1/2% shift differential.)

EXAMPLE II

When an employee who works two different shifts on a scheduled rotating basis during each week performs overtime work on a day other than a regularly scheduled workday, overtime pay is computed as follows:

	<u>MTW</u>	<u>TF</u>
Employee's regular schedule	3 p.m. - 11:30 p.m.	11 p.m. - 7:30 a.m.

Overtime hours worked on Saturday, 8 a.m. to 12 noon.

Computation

(Note: Overtime pay is computed on the basis of the average rate of basic pay for the regularly scheduled shifts worked by the employee.)

Monday, Tuesday, Wednesday. - 24 hours - Basic rate (scheduled rate plus
7-1/2% shift differential)
Thursday, Friday----- 16 hours - Basic rate (scheduled rate plus
10% shift differential)

SUM divided by 40 hours equals AVERAGE BASIC RATE

x

1.50 equals the OVERTIME RATE

x

overtime hours worked

(3) Computing overtime pay for NAF employees paid on other than a time rate basis (S8.4.b.(8)). For those who are paid from a NAF regular wage schedule or agency multistep special schedule, computation of overtime payments is based on the employee's grade and step if he or she is on a multistep rate schedule before any reduction in consideration of tips. The amount of the tip offset (no more than 40% of the current FLSA minimum hourly rate, or State or local rate, whichever is higher) may then be deducted from the overtime rate, but only where the offset has been authorized for use by the appropriate component level and is not precluded when State or local laws are considered as required by Section 18 (a) of the FLSA (29 U.S.C. 218 (a)).

EXAMPLE

The waiter who receives tips, and has an authorized tip offset of \$.90 per hour, performs 2 hours of overtime work. Employee is regularly scheduled to work from 3 p.m. to 12 midnight, Tuesday through Saturday. On Saturday, the employee works overtime from 12 midnight to 2 a.m. Overtime is computed as follows:

Compensable hours

Organization Workdays	S	M	T	W	T	F	S	Total
Scheduled hours			8	8	8	8	8	40
Basic rate (scheduled rate plus 7-1/2% shift differential)			8	8	8	8	8	40
Overtime rate - one and one-half times the basic rate (scheduled rate plus 7-1/2% shift differential) (minus the tip offset)							2*	2*

*As the employee has a tip offset of \$.90 per hour and earned sufficient tips to cover the amount, this amount is subtracted from the overtime rate before multiplying by the number of hours worked.

(4) Computation of overtime worked (S8-4.b.(9))

Leave with pay. The following illustrates the computation of overtime hours when an employee is in a "leave with pay status." (Note: Applies only to "regular full-time" and "regular part-time" employees as defined in this Manual.)

EXAMPLE

An employee has a regularly scheduled workweek of 40 hours, Monday through Friday, 8 a.m. to 4:30 p.m. The employee takes annual leave from 8 a.m. to 4:30 p.m. on Tuesday. Four hours of work are performed outside the employee's basic workweek on Saturday. Overtime hours are computed as follows:

Computation

	Compensable hours							
	S	M	T	W	T	F	S	Total
Hours of work		8		8	8	8		32
Approved annual leave			8					8
Overtime hours worked							4	4

Total: 32 hours of work performed
 -8 hours of approved annual leave
 40 scheduled hours (basic workweek)
 4 overtime hours

(Note: The previous illustration describes only the provisions of title 5, U.S. Code. In accordance with the provisions of the FLSA, overtime pay is only provided for those hours actually worked, over 40 in a week. Excused absences with pay, that is, holiday time off, sick or annual leave, and the like are not considered hours of work. Therefore, in the example provided above, a nonexempt employee would have no overtime entitlement under FLSA. See FPM Letters, series 551, for further information.)

c. Night shift differential (S8-4.c). Majority of hours, as used in subsection S8-4.c. means majority of whole hours. (Hours are considered to be periods of 60 minutes.) This means there must be a minimum of 5 whole hours of a scheduled 8-hour shift that fall during the period covered by a night shift differential in order to qualify for such payment for the entire shift.

(1) Part-time and intermittent employees (S8-4.c.(5)). These categories of employees are entitled to night shift differentials when the majority of their whole hours are worked during a period in which a night shift differential is payable.

EXAMPLE I

An employee is regularly scheduled to work a period commencing at 2 p.m. and ending at 8 p.m. Since the majority of whole hours were worked during a period for which the night shift differential of 7-1/2% is payable, the employee is entitled to that differential for his or her entire shift.

EXAMPLE II

An employee is regularly scheduled to work a period commencing at 1 p.m. and ending at 5:30 p.m. Since the employee performed 2 hours of work before the night shift period, and only 2-1/2 hours within the night shift period, the employee would not be entitled to the shift differential. (In order for this employee to qualify for the differential, he or she must perform 3 whole hours of work during the applicable night shift period.)

(2) Split shifts (S8-4.c.(6)). The following examples illustrate night shift differential entitlements under the "majority of whole hours" concept when an employee's tour of duty (a) overlaps more than one established shift, or (b) includes a break of more than 1 hour within a scheduled basic workday.

EXAMPLE I

An employee works an 8-hour shift from 8 p.m. to 4 a.m. with a 20-minute paid meal period. The employee works 3 hours in the second shift (7-1/2% differential) and 5 hours in the third shift (10% differential) and will be paid a 10% differential for all 8 hours since a majority of whole hours falls within a period for which the 10% night shift differential is payable.

EXAMPLE II

An employee who works 4 hours during the second shift (7-1/2% differential) and 4 hours in the third shift (10% differential) will be paid a 7-1/2% differential for the entire shift since a majority of hours is not worked during the third shift. The 7-1/2 percent differential is paid because a majority of hours is worked during a period in which a night shift differential is payable.

EXAMPLE III

An employee who is authorized to work 3 hours during the third shift, 3 hours during the first shift and 2 hours during the second shift (that is, 5 a.m. to 11 a.m. and 3 p.m. to 5 p.m.) is entitled to a 7-1/2% night shift differential for all 8 hours since a majority of his or her regularly scheduled hours of work fall within a period during which a night shift differential is payable. The 10% differential is not paid since a majority of his or her regularly scheduled 8-hour shift does not specifically fall within the period of 11 p.m. to 8 a.m.

EXAMPLE IV

An employee performs work from 10 a.m. to 12 noon, and during the same day performs work between 4 p.m. and 8 p.m. Hours worked each day total 6 hours with the employee performing 4 hours of work during the established night shift period. This employee is entitled to the 7-1/2% night differential for all hours of work performed (that is, 6 hours).

(3) Meal breaks (S8-4.c.(7)). The following examples illustrate how meal breaks of 1 hour or less are included in the computation of "majority of whole hours."

EXAMPLE I

An employee works an 8-hour shift from 11:30 a.m. to 8 p.m. The meal break is set from 3:30 p.m. to 4 p.m., and is included in the 5-hour period from 3 p.m. to 8 p.m. The resulting majority of whole hours entitles the employee to a 7-1/2% shift differential.

EXAMPLE II

If the employee's shift is from 11 a.m. to 7:30 p.m., with a meal break from 3 p.m. to 3:30 p.m., no shift differential is paid, since there is no majority of whole hours between 3 p.m. and midnight; that is, he or she is credited with only 4-1/2 hours during the second shift.

EXAMPLE III

An employee who works from 7 p.m. to 3:30 a.m. with a meal break from 11 p.m. to 11:30 p.m. is paid a 7-1/2% differential for all 8 hours since a majority of his or her hours are worked during a period in which a night shift differential is payable. The 10% differential is not paid because even when the meal period is counted, a majority of the employee's regularly scheduled 8-hour shift does not specifically fall within the period of 11 p.m. to 8 a.m.

d. Pay for Holidays (S8-4.d.).

(1) Pay for work performed on a holiday (S8-4.d.(2)). The following examples are intended to illustrate the pay entitlements authorized by subparagraph S8-4.d.(2).

EXAMPLE I

An employee's regularly scheduled workweek is 8 a.m. to 4:30 p.m., Monday through Friday. Monday is a holiday, and the employee is required to work 8 hours on that day. Holiday premium pay is computed as follows:

Compensable hours						

Regularly scheduled workweek	M*	T	W	T	F	Total
Basic rate (scheduled rate only)	8	8	8	8	8	40
Premium pay - equal to the employee's basic rate	8					8

*Holiday

- Notes: (1) The employee is paid for all regularly scheduled work hours at his or her basic rate. Premium pay at a rate equal to his or her basic rate is paid for the number of nonovertime hours worked on the holiday.
- (2) If the employee does not work on the holiday, but instead is excused from work, the employee is simply paid his or her basic rate for the number of regularly scheduled hours normally worked.

- (3) If the employee is excused on the holiday, and if a shift differential would otherwise have been earned because of the employee's regular schedule of work, the shift differential is retained in the basic rate for that day.

EXAMPLE II

A regular, full-time employee's workweek is 11 p.m. to 7:30 a.m., Tuesday through Saturday. Monday is a designated holiday in a given calendar week, and the employee is required to work that day. For the purposes of this example, Tuesday is the employee's "in lieu" holiday. The employee also works 8 hours on Tuesday. Premium pay is computed as follows:

Total hours worked	48
Holiday hours worked	8
Overtime hours worked	8

	Compensable hours						
Regularly scheduled workweek	M	T	W	T	F	S	Total
Basic rate (scheduled rate plus 10% differential)		8	8	8	8	8	40
Holiday premium pay (scheduled rate plus 10% shift differential)	8						8
Overtime - one and one-half times the basic rate (scheduled rate plus 10% night differential)	8*						

*Since the employee's regularly scheduled workweek consists of 40 hours, Tuesday through Saturday, Monday becomes the overtime period because it is outside the employee's basic workweek.

EXAMPLE III

An employee's regularly scheduled workweek is 9 a.m. to 5:30 p.m., Monday through Friday. Monday is a holiday, but the employee is required to perform 10 hours of work. Premium pay is computed as follows:

	Compensable hours						
Regularly scheduled workweek	M*	T	W	T	F	S	Total
Basic rate (scheduled rate only)	8	8	8	8	8		40
Holiday premium pay (equal to basic rate)	8						8
Overtime - one and one-half times basic rate	2						2

*Holiday

EXAMPLE IV

A part-time employee, who is entitled to observe a holiday, has a regularly scheduled workweek which is 9 a.m. to 4 p.m. (no meal period during which employee is entirely free from work requirements), Monday, Wednesday, and Friday. Monday is a holiday, and the employee is required to perform 3 hours of work on that day. Holiday premium pay is computed as follows:

Compensable hours							
Organization Workdays	S	M*	T	W	T	F	S
Scheduled hours		7		7		7	
Basic rate (scheduled rate only)		7		7		7	
Holiday premium pay (equal to basic rate)		3**					
							3

*Holiday

**If the employee had performed 10 hours of work on the holiday, 2 of those hours would be treated as overtime. (See EXAMPLE III above.)

e. Pay for Sunday work (S8-4.e.).

(1) Authorization of pay for Sunday work (S8-4.e.(1)). The following illustrates the computation of Sunday premium pay:

EXAMPLE

An employee who is on a basic workweek of 40 hours per week and whose work schedule for the week includes a workday which begins at 6 p.m. on Saturday and ends at 2:30 a.m. Sunday is entitled to Sunday premium pay for that workday, computed as follows:

8 hours - basic rate (scheduled rate plus 7-1/2% night shift differential)

8 hours - Sunday premium pay at a rate equal to 25% of the basic rate

(2) Entitlement S8-4.e.(3)). Only a "full-time" employee with a basic workweek of 40 hours is entitled to Sunday premium pay. Under the provisions of this Manual, "regular full-time employees" and "temporary full-time employees" have regularly scheduled workweeks of 35 or more hours. Therefore, not all NAF "full-time" employees will be entitled to Sunday premium pay, even if they have an 8 hour workday scheduled on Sunday.

(3) Two separate tours of duty (S8-4.e.(4)). The following example illustrates the computation of Sunday premium pay when two Sunday tours of duty fall in part on the same Sunday:

EXAMPLE

An employee on a 40-hour basic workweek works a regularly scheduled night shift from 5 p.m. to 1:30 a.m. (with 1/2 hour meal break); one shift begins at 5 p.m. on Saturday and ends 1:30 a.m. on Sunday and the next begins 5 p.m. on Sunday

and ends 1:30 on Monday. The employee is entitled to Sunday premium pay for both tours (total 16 hours), computed as follows:

- 16 hours - basic rate (scheduled rate plus 7-1/2% night shift differential)
- 16 hours - Sunday premium pay at a rate equal to 25% of the basic rate

5. WITHIN GRADE INCREASES - WAITING PERIOD (S8-5.b)

Waiting period for full-time, part-time, and intermittent employees with prearranged regularly scheduled tours of duty (NA, NL, NS, AS, PS):

Employee advances to step rate no.	at the end of a waiting period of creditable service in the previous step, of.....*	provided the number of workweeks in a nonpay status during the waiting period does not exceed....*
2	26 calendar weeks	1 workweek
3	78 " "	3 "
4	104 " "	4 "
5	104 " "	4 "

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

Waiting Period for intermittent employees without prearranged regularly scheduled tours of duty (IOC) (NA, NL, NS, AS, PS):

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

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

APPENDIX E

PROCEDURES FOR REQUESTING INCREASED MINIMUM RATES
(Hourly Paid Employees)

A. Requests shall be submitted to the DoD Wage Fixing Authority. Such requests shall be coordinated by the DoD Wage Fixing Authority with DoD Components at the Headquarters level. (Note: Components may require that recommendations for revised minimum or special rates have prior approval at the command and Headquarters level before being submitted to the DoD Wage Fixing Authority.)

B. Requests shall contain the following information:

1. Identification of the occupation by title, series, and grade.
2. The recommended rates showing both the proposed minimum and the proposed range of rates.
3. The areas of locations for which the rates are recommended.
4. The number of positions that will be affected.
5. The number of current vacancies that would be filled immediately if an adequate supply of eligibles were available. Specify the length of time the activity has been trying to fill each of these vacancies.
6. The approximate number of additional vacancies anticipated in the next 12 months.
7. The voluntary quit rate (excluding retirements).
8. The number of acceptances received in proportion to job offers.
9. The estimated additional annual salary cost to the activity that would result from approval of the proposed rates.
10. Any additional information demonstrating the need for increase minimum rates.

DEPARTMENT OF DEFENSE
PUBLICATION SYSTEM

CHANGE TRANSMITTAL

OFFICE OF THE SECRETARY OF DEFENSE
(Force Management and Personnel)

NAVSO P-6073
CHANGE 1
DoD 1401.1-M
July 27, 1990

Personnel Policy Manual for
Nonappropriated Fund Instrumentalities

The Acting Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Office of the Assistant Secretary of Defense (Force Management and Personnel), has authorized the following page changes to DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988:

PAGE CHANGES

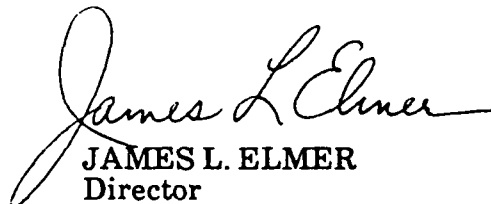
Remove: Pages ii through xvi, I-1 through I-5, II-1 through II-11, III-9&III-10, IV-1 through IV 8, V-1 through V-5, VI-5&VI-6, and B-9 through B-12

Insert: Attached replacement pages

Changes appear on pages ii, iv, xi, xii, xiii, I-2, II-1, II-4, II-6, II-8, II-9, IV-1, V-1, V-4, VI-6, and B-10, and are indicated by marginal asterisks.

EFFECTIVE DATE

The above changes are effective immediately. Forward two copies of the revised implementing documents to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Office of the Assistant Secretary of Defense (Force Management and Personnel), within 120 days.


JAMES L. ELMER
Director
Correspondence and Directives

Attachments: 50 pages

93-17669


WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

SD FORM 106-2, MAR 81

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REFERENCES

The REFERENCES list may not be complete. Heads of DoD Components shall ensure compliance with all applicable laws, Executive Orders, rules, regulations, etc., including those not in the REFERENCES section of this Manual.

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- 1015.3 "Armed Services Military Club and Package Stores," May 14, 1982
- 1015.6 "Funding of Morale, Welfare and Recreation Programs,"
August 3, 1984
- 1015.8 "DoD Civilian Employee Morale, Welfare, and Recreation (MWR)
Activities and Supporting Nonappropriated Fund Instrumentalities
(NAFIs)," October 22, 1985
- 1342.13 "Eligibility Requirements for Education of Minor Dependents in
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- 1400.5 "DoD Policy for Civilian Personnel," March 21, 1983
- 1400.6 "DoD Civilian Employees in Overseas Areas," February 15, 1980
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- 1402.1 "Employment of Retired Members of the Armed Forces,"
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- 5100.23 "Administrative Arrangements for the National Security Agency,"
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- 1330.20 "Reporting of Morale, Welfare and Recreational (MWR) Activities Personnel Information," September 4, 1980
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- * 6055.1 "DoD Occupational Safety and Health Program," October 26, 1984 *
- 7000.12 "Financial Management of Morale, Welfare, and Recreational Activities," September 4, 1980
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- 1400.25-M "Civilian Personnel Manual," July 1978
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- 5200.2-R "DoD Personnel Security Program," January 1987
- 5000.12-M "DoD Manual for Standard Data Elements," October 1987

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- 11137 "Relating to Certain Allowances and Benefits for Civilian Employees of Nonappropriated Fund Instrumentalities of the Armed Forces," January 7, 1964

- 11222 "Prescribing Standards of Ethical Conduct for Government Officers and Employees," May 8, 1965
- 11478 "Equal Employment Opportunity in the Federal Government," August 8, 1969
- 11582 "Observances of Holidays by Government Agencies," February 11, 1971
- 12568 "Employment Opportunities for Military Spouses at Nonappropriated Fund Activities," October 2, 1986

UNITED STATES CODE

Title 5, United States Code - Government Organization and Employees Section,
as amended:

- 2105 (status of nonappropriated fund employees)
- 2108 (veterans preference eligibility)
- 3110 (restrictions in the employment of relatives)
- 5332 (general schedule pay rates)
- 5342 (definitions)
- 5361 - 5366 (grade and pay retention instructions applicable to federal wage system employees)
- 5532-5533 (dual pay and dual employment)
- 5542 (overtime rates - compensation)
- 5544 (wage-board overtime and Sunday rates computation)
- 5911 (entitlement of quarters and facilities by civilian employees in the United States)
- * 6305 (home leave) *
- 7101-7103 (Labor management relations)
- 7324 (influencing elections; taking part in political campaigns; prohibitions with exceptions)
- 7901 (health services programs for civilian employees)
- 7902 (legal status of civilian NAF employees with regard to safety programs)
- 8171 (extends the provisions of the Longshoremen's and Harbor Workers' Compensation Act to nonappropriated fund employees)
- * 8501 - 8509 (unemployment compensation) *

Title 10, United States Code - Armed Forces

1587 (employees of nonappropriated fund
instrumentalities)

Chapter 81 (protection for NAFI Employees and applicants
disclosing information)

Title 31, United States Code - Money and Finance

1349 (requires at least one month suspension for certain
motor vehicle and aircraft use violations)

Title 38, United States Code - Veterans Benefits

101 (definitions)
301 (definitions)

Title 42, United States Code - The Public Health and Welfare

300e-9, Health Maintenance Organizations
410, Social Security (nonappropriated fund employees)

CODE OF FEDERAL REGULATIONS

Title 5, Administrative Personnel

Part 536, Grade and Pay Retention

Part 551, Pay Administration Under the Fair Labor Standards Act

Title 20, Code of Federal Regulations, Employee's Benefits

Part 609, Unemployment Compensation for Federal Civilian Employees

PUBLIC LAWS

98-448, "Dual Compensation Act of 1964," August 19, 1964

90-40, "Military Selective Service Act of 1967," as amended (the draft and
the rights of the military man), June 30, 1967

92-261, "Equal Employment Opportunity Act of 1972," March 24, 1972

92-392, August 19, 1972, amends subchapter IV of chapter 53 of Title 5, United
States Code (fixing and adjusting of rates of pay for prevailing-rate employees)

92-576, "Longshoremen's and Harbor Workers' Compensation Act," October 27, 1972
(rates of compensation for a nonappropriated fund instrumentality employee)
(5 U.S.C. 8171)

93-259, "Fair Labor Standards Amendments of 1974," April 8, 1974 (amending the
Fair Labor Standards Act of 1938, as amended, to cover nonsupervisory Federal

employees under its provisions for minimum wage and overtime and nondiscrimination because of age)

93-579, "The Privacy Act of 1974," December 31, 1974, amends Title 5, United States Code by adding Section 552a

95-256, "Age Discrimination in Employment Act Amendments of 1978"

95-595, November 4, 1978, amends the Budget and Accounting Procedures Act of 1950 to require that pension plans provide for annual financial audits with respect to pension plans for employees of the Federal Government, its agencies, and instrumentalities

96-70, "Panama Canal Act of 1979," provides for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977

97-35, "OMNIBUS Budget Reconciliation Act of 1981," August 13, 1981. Title IX, Section 946(b) included NAFIs within the definition of "employer" for purposes of the Health Maintenance Organization Act

98-94, "Department of Defense Authorization Act, 1984," Section 1253, "Employment Protection for Certain Nonappropriated Fund Instrumentality Employees," amends Chapter 81 of Title 10, United States Code, by adding Section 1587

98-397, "The Retirement Equity Act of 1984," improves the delivery of retirement benefits and provides greater equity under pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside of the home, and for other purposes

99-196, December 23, 1985, governs the implementation of flexible and compressed work schedules.

99-603, "Immigration Reform and Control Act of 1986," makes it unlawful to hire, recruit, or refer for a fee for employment, unauthorized aliens in the United States. This law necessitated a rule promulgated by the Immigration and Naturalization Service, U.S. Department of Justice. The rule provides for an employment eligibility verification system designed to prevent the employment of unauthorized aliens.

REGULATIONS

Joint Travel Regulations, Volume 2 (payment for official travel and transportation of U.S. Government employees)

Department of State Standardized Regulations (Government Civilians - Foreign Areas), April 2, 1961, as amended:

Section 030 (eligibility for allowances and differentials)

Section 270 (education allowances for dependents of civilian personnel employed overseas)

OPM FEDERAL PERSONNEL MANUAL

Chapter 310, Employment of Relatives

Chapter 591, Allowances and Differentials Payable in Nonforeign Areas

Chapter 713, Equal Employment Opportunity

Chapter 731, Suitability

Chapter 850, Unemployment Benefits

FPM Supplement 296-33, The Guide to Processing Personnel Actions, Subchapter 7,
Adjudication of Veterans Preference Claims

FPM Supplement 512-1 Craft and Trades Job-Grading Standards

FPM Supplement 532-2 Federal Wage System - Nonappropriated Fund Employees

FPM Supplement 990-2 Hours of Duty, Pay and Leave

FPM 551 Letters and Bulletins, Fair Labor Standards Act

FPM Letter 792-15, Federal Employees' Health and Counseling Programs

OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULARS

A-76 "Performance of Commercial Activities," (current edition)

CHAPTER I

INTRODUCTION

A. PURPOSE

1. This Manual sets forth the personnel policies of the Department of Defense with respect to Nonappropriated Fund Instrumentality (NAFI) civilian employment consistent and in conformance with the principles and authorities contained in DoD Directives 1400.5, 1400.6, and 5120.42.

2. The purposes to be served by these policies are

a. Ensure that employees of the NAFIs are treated equitably and fairly in accordance with applicable laws, executive orders, and other pertinent regulations.

b. Provide the basis for achieving a desired degree of uniformity among NAFIs in the management of their personnel.

c. Recognize and provide a basis for dealing with labor organizations.

d. Promote those practices and processes that will facilitate obtaining, developing, and retaining a NAFI work-force of well qualified individuals.

e. Achieve optimum utilization of available manpower resources.

f. Recognize fully the contributions of the NAFIs to the overall morale, welfare, and recreation programs for military personnel, their dependents, and civilian employees of the Department of Defense by seeking to develop and maintain personnel programs that serve to preserve NAFI operational and financial integrity.

B. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) is responsible for all personnel policy matters related to nonappropriated fund employees of the Department of Defense. Pursuant to DoD Directive 5120.42, the ASD (FM&P) shall establish the necessary formal and/or informal committees to develop, formulate and implement personnel policies for nonappropriated fund employees. Coordination within DoD, i.e., the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies (hereafter referred to collectively as "DoD Components"), are handled through normal staff channels.

2. The ASD (FM&P) has designated the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD(CPP)) the administrator for this Manual. In this capacity the DASD (CPP) shall:

a. Maintain the Manual in coordination with appropriate authorities and publish necessary revisions and changes in accordance with DoD Directives System Procedures.

b. Maintain surveillance over the policies and programs set forth in the Manual, ensuring consistent implementation and continuous application throughout the Department of Defense.

* 3. The Heads of DoD Components are delegated authority and responsibility to
* recruit, select, place, reassign, promote, terminate, and accomplish other related
* personnel transactions involving NAFI employees. Additionally, they are
* authorized to establish NAFI positions and, based on the duties and
* responsibilities assigned, to place each position in its appropriate pay category
* and to assign a title, code, and grade based on application of directly or closely
* related job-grading standards. All actions taken under these authorities,
* including the assignment of pay and the administration of basic, differential, and
* premium pays, shall conform to the policies and procedures contained in this
* Manual, applicable laws, and DoD Directives and Instructions, and shall be
* consistent with fair employment practices and equal opportunity for both
* applicants and employees. *

C. DEFINITIONS

The following definitions apply except where they may conflict with public law:

1. Appropriated Fund Employee. A person paid from funds appropriated by the Congress of the United States.

2. Nonappropriated Fund Instrumentality (NAFI) Employee. A person employed by a Nonappropriated Fund Instrumentality and compensated from nonappropriated funds.

3. Concessionaire. An entrepreneur placed under contract to an authorized Nonappropriated Fund Instrumentality for the purpose of providing goods and/or services.

4. Private Organization. A generally self-sustaining, non-Federal instrumentality, incorporated or not, and constituted or established and operated on a DoD installation with the written consent of the installation commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Government.

5. DoD Components. The Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and the Army and Air Force Exchange Service. (See DoD Instruction 1401.1 for special interpretation of DoD Components as it applies to this Manual.)

6. Local National NAFI Employee. A national or citizen of a host country who is employed in that country by or for a NAFI.

7. Third (Other) Country National NAFI Employee. A citizen or national of a country other than the United States or the host country who is employed by a NAFI.

8. Foreign Areas. Areas (including the Republic of Palau (Belau), Federated States of Micronesia, and the Republic of the Marshall Islands, all formerly the

Trust Territory of the Pacific Islands) situated outside the United States, the Commonwealth of Puerto Rico, the Panama Area and the possessions of the United States (including the Commonwealth of the Northern Mariana Islands, a United States Territory).

9. Host Country. A foreign country where U.S. Forces are stationed.
10. Host Government. The political authority of the foreign country where U.S. Forces are stationed under provisions of a treaty and/or agreement.
11. Resident Aliens. People who are foreign born residing in the host country and who have not become naturalized citizens.
12. Non-U.S. Citizens. A person who is not a citizen of the United States.
13. U.S. National. A person born:
 - a. In an outlying possession of the United States on or after the date of formal acquisition of that possession;
 - b. Of parents who are U.S. nationals, in an outlying possession of the United States; or
 - c. Of unknown parents in an outlying possession of the United States.
14. Indirect Hire System. A system that provides that the host country assumes the responsibility of ensuring that the needs of the U.S. Forces for local national personnel are met and that the host country is in fact the official employer of such personnel.
15. Local Prevailing Rates. Rates, determined by wage surveys, paid to local national personnel employed in retail, wholesale, service, and recreation establishments for comparable jobs.
16. Nonappropriated Fund Instrumentality (NAFI). An integral DoD organizational entity through which (a) an essential Government function is performed, and (b) other DoD organizations are provided or assisted in providing morale, welfare, and recreational programs. The NAFI is established and maintained individually or jointly by the Heads of the DoD Components.
 - a. As a fiscal entity, the NAFI maintains custody of and control over its nonappropriated funds, and is also responsible for the prudent administration, safeguarding, preservation, and maintenance of those appropriated fund resources made available to carry out its function.
 - b. The NAFI contributes to the morale, welfare, and recreational programs of other organizational entities when so authorized, 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.
17. Nonappropriated Funds (NAFs). Consist of cash and other assets received by NAF instrumentalities from sources other than monies appropriated by the Congress of the United States. NAFs are Government funds and are used for the collective benefit of military personnel, their dependents, and authorized civilians who

generated them. These funds are separate and apart from funds that are recorded in the books of the Treasurer of the United States.

D. LEGAL STATUS OF CIVILIAN EMPLOYEES OF NAFIs

1. NAFI employees are Federal employees within the Department of Defense.
2. Section 2105(c)¹ of Title 5, U.S.C., provides that:

"An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the Armed Forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Armed Forces is deemed not an employee for the purpose of

(1) Laws (other than subchapter IV of chapter 53² and sections 5550³ and 7204⁴ of this title) administered by the Office of Personnel Management; or

(2) subchapter I of chapter 81⁵ and section 7902⁶ of this title.

This subsection does not affect the status of these non-appropriated fund activities as Federal instrumentalities."

3. Subchapter IV of chapter 53 of Title 5, United States Code, (as amended by P.L. 92-392) provides for a pay system under which the rates of pay of prevailing-rate employees are fixed, and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates.

4. The acts quoted above removed NAFI employees from the provisions of laws or regulations administered by the U.S. Office of Personnel Management (OPM), except Equal Employment Opportunity (EEO) and wage fixing for prevailing-rate employees covered under the provisions of P.L. 92-392 and except for application of the Fair Labor Standards Act (as amended by P.L. 93-259).

¹ Definition of employee.

² Prevailing rate pay systems.

³ NAF employee pay for Sunday and overtime work.

⁴ Certain areas of equal employment opportunity.

⁵ Compensation for work injuries.

⁶ Safety programs.

5. NAFI personnel policy is governed or guided by DoD Directives, Instructions, Manuals, executive orders, public laws, OPM issuances, DoD circulars, and other regulations. Documents pertaining to this Manual are listed (the list may not be complete) on pages xi through xvi.

E. NEW OR REVISED PROGRAMS

1. The provisions of this Manual shall not be construed as limiting NAFIs in the continuance, development, implementation, and administration of personnel policies deemed appropriate to the establishment and maintenance of sound, progressive career development and management programs. However, such programs must meet the basic objectives of DoD policy set forth in this Chapter.

2. New programs or revisions to existing programs that increase the levels of NAFI employee compensatory benefits and allowances so that they exceed those authorized in this Manual will be subject to approval, prior to implementation, by the ASD (FM&P) upon recommendation of the appropriate Head of the requesting DoD Component.

3. DoD Components are encouraged to carry out research and demonstration projects that test new approaches to personnel management. Such projects require prior approval of the DoD NAF Personnel Policy Office and consultation with employees or consultation and negotiation with unions when negotiated agreements exist. The DoD NAF Personnel Policy Office may waive personnel policies in the conduct of projects, provided such waivers do not violate laws, rules, or regulations relating to political activities or equal employment opportunity; leave, insurance, or annuity provisions; merit system principles; or prohibited personnel practices.

F. IMPLEMENTATION

The Heads of DoD Components or designee shall forward a copy of all implementing documents to the DASD (CPP) within 120 days of the effective date of this Manual or subsequent changes. All Component regulations and documents (including group insurance and retirement plan summaries and employee booklets) that serve to satisfy the requirements of DoD 1401.1-M and applicable laws, etc., shall be provided. The DASD (CPP) is responsible for reviewing such regulations and documents in accordance with DoD 1401.1-M, Chapter I, B.2.b.

CHAPTER II

EMPLOYMENT AND PLACEMENT

A. EMPLOYMENT

1. General Policy. Each DoD Component shall ensure that the recruitment, selection, placement, promotion, termination and other related personnel actions involving NAFI employees are in consonance with the fair employment practices and equal opportunity and treatment for both applicants and employees.

2. Specific Policies

a. Categories of Employees. Each DoD Component shall categorize its NAFI employees for purposes of establishing for each employee the status of his or her employment within one of the following definitional categories:

(1) Regular Employees

(a) Regular full-time (RFT) employees are those hired for continuing positions and who have a regularly scheduled workweek of 35 hours or more.

(b) Regular part-time (RPT) employees are those hired for continuing positions for a minimum of 20 hours per week but fewer than 35 hours per week on a regularly scheduled basis.

(2) Temporary Employees

(a) Temporary full-time employees are those who are employed for 35 hours or more per week for not more than 12 months in a continuing pay status in the same NAFI. When their employment goes beyond this period, the category of employment will be changed to that of RFT employees.

(b) Temporary part-time employees are those who are employed for a minimum of 20 hours per week but fewer than 35 hours per week for not more than 12 months in a continuing pay status in the same NAFI. If employed in a continuing pay status beyond this period, the category of employment will be changed to that of RPT employees.

* (3) Intermittent or Variable Schedule Employees. Employees who *
* work less than 35 hours a week and whose hours of work are irregular. Their *
* employment may be on a recurring basis, but only when needed. *

(4) Temporary Emergency Employees. Those who are employed for not more than 30 days in the event of an emergency, without regard to normal hiring priorities. One 30-day extension may be authorized by Heads of DoD Components.

b. Equal Employment Opportunity

(1) The Heads of DoD Components shall establish, maintain, and carry out a continuing affirmative action program designed to promote equal opportunity in every aspect of personnel policy and practice in the employment, development, advancement, and treatment of their NAFI employees. This includes aliens employed in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. This policy implements Executive Order 11478, P.L. 92-261, 42 U.S.C. 2000e-1, and DoD Directive 1440.1.

(2) The Head of each DoD Component shall:

(a) Provide sufficient resources to administer its equal employment opportunity program among the NAFIs in a positive and effective manner.

(b) Conduct a continuing campaign to eradicate every form of prejudice or arbitrary discrimination based on race, color, religion, sex, age, national origin, or handicapped condition, from personnel policies, practices, and working conditions to include appropriate action against employees who display prejudice or arbitrarily discriminate in action or interaction with other employees.

(c) Communicate this policy and program and employment needs to appropriate sources of job candidates and solicit their recruitment assistance on a continuing basis.

(d) Utilize to the fullest extent the present skills of employees by all means, including the redesigning of jobs where feasible.

(e) Consistent with the organization of the individual NAFI activity and the scope of available advancement opportunities, establish an Upward Mobility Program for NAFI employees that will provide the maximum feasible opportunity for employees to enhance their highest attainable levels of skills, knowledge, and abilities through on-the-job training, job re-engineering, and other development measures so that they may perform at their highest potential and advance in accordance with their capabilities.

(f) Provide orientation, training, and guidance to managers and supervisors to ensure their understanding and implementation of the equal employment policy program.

(g) Provide for participation at the local community level with other employers, schools, universities, and public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(h) Provide for counseling employees and applicants who believe they have been discriminated against and for informally resolving matters raised by them.

(i) Provide for the prompt, fair, and impartial consideration and disposition of complaints involving issues of discrimination.

(j) Establish a system for periodically evaluating the effectiveness of the overall equal employment opportunity effort.

c. Employment of Relatives. The employment, appointment, or promotion of relatives of commissioned officers, noncommissioned officers, and civilian officials who hold administrative positions in which they exercise jurisdiction or control over the employing NAFI is prohibited. Further, such officials may not advocate a relative's appointment, employment, promotion or advancement anywhere within the Department of Defense. This policy is consistent with provisions of 5 U.S.C. 3110. The policy does not prohibit the exercise of reemployment rights after military service as provided by the Military Selective Service Act of 1967, as amended. Component implementing directives should contain adequate instructions to ensure compliance with the provisions of 5 U.S.C. 3110 and Chapter 310, Federal Personnel Manual.

d. Employment of Minors. The Heads of DoD Components may authorize the employment of minors, ages 14 and 15. In foreign areas, such employment shall be under summer and student programs and paid under a special summer and student wage schedule. The employment of persons under 18 years of age shall be in accordance with the following:

(1) The Fair Labor Standards Act in that such persons may not be employed in or assigned to positions that are hazardous or detrimental to their health.

(2) Published state and local labor standards and requirements.

e. Employment of Retired U.S. Military Personnel. Retired members of the Uniformed Services shall be accorded the same rights and considerations as all other applicants for civilian employment in NAFIs. However, their employment shall be subject to the restrictions imposed by DoD Directive 1402.1.

f. Utilization of U.S. Off-Duty Military Personnel

(1) Subject to the provisions of DoD Directive 5500.7, enlisted personnel may be employed in a NAFI position after duty hours on other than a full-time basis; that is, regular part-time, temporary part-time, intermittent, or variable. No NAF monies may be disbursed for payment of personal services to any military personnel, except as authorized above. Specifically precluded under the provisions of these instructions is the payment of NAF scheduled pay, bonuses, overtime pay, incentive pay, or any other remuneration for work performed by military personnel, while either on or off-duty, who are not employed in a NAFI position. Time worked in the military assignment shall not be used to determine the pay of enlisted personnel for duties performed in NAFI positions.

(a) The Heads of Components shall issue, for control purposes, specific instructions to preclude conflict of interest and preferential hiring of enlisted personnel who are assigned to a morale, welfare, recreation, billeting, or other activity supported by a NAFI as prime military duty.

(b) Compensation for off-duty hours worked shall be identical to that authorized in salary and wage schedules for civilian employees who perform similar duties and responsibilities.

(c) The total number of hours that off-duty enlisted personnel may work in one or more NAFIs shall not exceed 34 hours in any one administrative workweek.

(2) Active duty commissioned and warrant officers are prohibited from receiving compensation in any form from NAFIs except on an intermittent fee basis for services rendered in such capacities as officials at athletic events and participation in miscellaneous recreational and entertainment activities as approved by appropriate authority. Off-duty enlisted personnel may also be compensated for services rendered during these events on an intermittent fee basis, notwithstanding the provisions of subparagraph A.2.f.(1), above.

g. Reinstatement

(1) RFT and RPT employees who have satisfactorily completed the probationary period, as explained in Chapter II, paragraph B.2.f., and who separate voluntarily or who are separated involuntarily, other than for cause, may be reinstated by any DoD NAFI at any time after the date of their separation. Except for the benefit entitlements under the provisions of Chapter VI of this Manual, such personnel shall be considered to have been in a leave-without-pay status with rights, privileges, and benefits accruing as set forth in this Manual.

(2) An individual suspended or removed for reasons of national security may be restored to duty in a NAFI at the discretion of the Head of the DoD Component concerned.

h. Transfers. A transfer is the movement of a NAFI employee from one NAFI to another. Except as provided in subparagraph A.2.h.(2) below, the transfer occurs without a break in service of over 1 workday.

(1) Transfer of Functions. A transfer of function is the transfer of responsibility for the performance of a continuing function from one NAFI to one or more other NAFIs within or between DoD Components. An employee has no right to transfer with his or her function regardless of his or her personal preference, unless the alternative is separation or downgrading.

(a) To provide equity and employment continuity, each RFT and RPT NAF employee whose position is identified in a functional transfer between NAFIs, and who has the right to transfer, will be afforded the opportunity to transfer with his or her position.

(b) If the functional transfer results in a reduction in force (RIF) in the gaining NAFI, the employee who is qualified and who will accept employment will compete for placement with other employees for selection in the receiving NAFI with full credit for all prior RFT or RPT NAFI service within the Department of Defense.

(2) A RFT or RPT employee who has completed his or her probationary period and who is hired by a different NAFI within 6 months after removal from pay status because of RIF in a losing NAFI will be considered to have transferred to the gaining NAFI only for purposes outlined in subparagraphs A.2.h.(3), (5), and (6) below.

(3) An employee who has transferred from one NAFI to another NAFI within DoD will be given service credit in the gaining NAFI for his or her prior DoD NAFI employment in accordance with the provisions of this Manual.

(4) Upon transfer of a RFT or RPT employee to another NAFI within DoD, the employee will be paid for the accumulated annual leave credited to his or her account. However, if the transferred employee elects, and the losing and gaining NAFIs agree, annual leave credit and the funds to cover its cost may be transferred from the losing to the gaining NAFI.

(5) All accumulated sick leave credit shall be transferred by the losing NAFI to the gaining NAFI provided the individual is placed in a pay status in the gaining NAFI within 6 months. However, no transfer of funds shall be made from losing to gaining NAFI for sick leave credits transferred. The gaining activity will assume the financial obligation.

(6) When a RFT DoD NAFI employee participating in a NAFI retirement plan is transferred due to transfer of function, or is hired by a different NAFI within 90 calendar days of removal from pay status because of RIF in the losing NAFI, and the gaining DoD NAFI offers a different retirement plan, the employee is entitled to transfer of pension rights, so that on retirement the employee will draw a pension under the gaining DoD NAFI retirement plan, computed on total credited NAFI service with both losing and gaining NAFIs. Retirement credit will be in accordance with Chapter VI, paragraph C.3.e. and Appendix B, subsection B.5., "Retention of Accrued Credited Service for Retirement Annuity Purposes." Further, group life and health insurance coverage will be made available by the gaining DoD NAFI as described in Chapter VI, subsection C.6, effective with the date of application if the transferred employee files application for such coverage within 1 month from the date of employment with the NAFI.

i. Movement to NAFI Employment from Other Types of Employment. An employee in a public or private enterprise, whose duties are to be performed in a NAFI, may be employed by that NAFI without competition if the employee:

(1) Meets the citizenship requirement of the geographical area in which employed.

(2) Is qualified for the position.

(3) Has rendered at least 6 months of service in one or more positions in the previous employing activity immediately before being converted to NAFI employment.

(4) Is not precluded from NAFI employment because of dual compensation, nepotism, conflict of interest, or country-to-country agreement provisions.

j. Employee Move Cost-Reduction Program. In order to reduce costs to both the NAFI and to the employee, the Heads of DoD Components may establish an employee move cost-reduction program whereby an eligible employee may receive a monetary reward for opting to move his or her own household goods, for opting to sell his or her own house, or for opting not to ship a privately owned vehicle to or from overseas. The monetary rewards should be less than normal NAFI costs resulting from employee moves. Therefore, both the employee and the NAFI would benefit. Since the AAFES cost-reduction program has proven to be a success, Heads of DoD Components are encouraged to use it as a guide in establishing Component programs.

B. RECRUITMENT, SELECTION, AND PLACEMENT

1. General Policy. Proper recruitment, selection and placement procedures are vital factors in the development of a viable and effective NAFI work force. To achieve this objective, the Heads of DoD Components, in the administration of their NAFI personnel, shall establish personnel management procedures which include careful job analysis; preparation of accurate job descriptions; establishment of the qualifications for positions; a broad source of applicants; objective selection procedures; and adequate indoctrination and supervision of the individual while on the job.

2. Specific Policies

a. Position Control

(1) At all times NAFI personnel management emphasis shall be to eliminate unnecessary positions at all levels, to increase productivity by improved control, and to ensure maximum utilization of NAFI worker hours. A continuing review of positions shall be conducted to ensure that requirements are commensurate with operating needs.

* (2) The Heads of DoD Components shall exercise strong supervision, * through adjustments in the existing manpower resources of the employing NAFI, to ensure that established NAFI jobs do not exceed actual workload requirements.

b. Qualification Requirements. Establishment of realistic qualification standards and requirements for any NAFI position shall be based on factual job requirements. These qualifications shall be written so that the competition for the job is not restricted to any one individual. The qualifications of each applicant for a NAFI position shall be carefully reviewed and evaluated. The basic applicable principle is finding the best qualified person available for the job.

c. Employment Requirements

(1) To ensure that the most suitable and qualified persons are employed by NAFIs at all levels, DoD Components shall ensure that established recruiting procedures are followed to the fullest extent practicable. These include submission of a complete and accurate application form, reference checks, and any security and other preemployment investigations deemed appropriate to the position, and compliance with P.L. 99-603, "Immigration

Reform and Control Act of 1986," and Immigration and Naturalization Service Rules necessitated by it.

(2) The suitability of applicants will be determined by utilizing as a guide the provisions of Chapter 731 of the Federal Personnel Manual. Candidates for assignment to positions of trust will be scrutinized. Compliance with DoD 5200.2-R, "DoD Personnel Security Program," is required before placing an individual in a position of trust; such positions are to be designated by the Components. An individual who does not meet established suitability requirements may not be employed without prior approval of the local commander.

d. Veteran Employment Preference. Preference in employment, at the time of hire only, will be given to qualified applicants who meet (1) one of the veterans' preference eligibility criteria in 5 U.S.C. 2108 and (2) the minimum service requirements in FPM Supplement 296-33, provided they are equally qualified for the vacant position. (Exception: See Chapter II, paragraph D. -- especially D.9. -- and Chapter VII, paragraph B.1.a.)

e. Veteran Restoration Rights. Veteran restoration rights after military service shall be administered in accordance with provisions contained in 38 U.S.C. 2021, et seq.

f. Probationary Period. A probationary period is required for a person appointed to a RFT or RPT position in a NAFI. Exceptions to this requirement are limited to the appointment of a person who has completed a probationary period and who is appointed either in the same NAFI within 6 months after separation from that NAFI without cause or as the result of a transfer of function from another NAFI.

g. Training and Career Development. The Heads of DoD Components may institute career development programs for NAF employees in order to attract and retain a well-qualified work force. These programs shall embody training, counseling, appraisal and other improvement devices that will enable employees to develop and progress.

h. Work Performance Appraisals. The work performance of NAFI employees shall be evaluated fairly and objectively on both a scheduled and continuous basis with the results of such evaluation discussed with each individual employee.

i. Employee Records and Files

(1) The Heads of DoD Components shall ensure that NAFIs keep and maintain records in compliance with the Fair Labor Standards Act of 1938, as amended. Additionally, the Heads of DoD Components shall ensure that adequate records are maintained on all employees. Records shall include all official personnel documents effected during an employee's service. An employee's right to review his or her records and the protection of his or her privacy shall be in accordance with P.L. 93-579, the Privacy Act of 1974 (5 U.S.C. 552a).

(2) Except as provided in (a) below, NAFI health units operating under the control of a medical officer or a registered nurse under medical supervision shall retain records of medical examinations and other

miscellaneous medical records and keep them confidential. Otherwise, they shall be kept in a separate locked cabinet during the employee's NAFI service and may not be made a part of the official personnel folder.

(a) Medical certificates and any other medical records of examinations used to determine an employee's fitness for the job are permanent records and shall be placed in a sealed envelope. The employee's name (last, first, middle initial), date of birth, and social security number, as illustrated in DoD 5000.12-M, shall appear on the envelope in its upper right hand corner, and the envelope shall be attached on the right side of the official personnel folder. The envelope shall remain attached until the employee's folder is acquired by another NAFI at which time the receiving NAFI, upon receipt of the folder, shall remove the sealed envelope and place its contents either in the health unit or in a locked cabinet for safeguarding medical records.

(b) Miscellaneous medical records, correspondence, dispensary records, and similar papers of temporary value shall be disposed of in accordance with the records disposition schedule of the DoD Component concerned.

(3) Records disposition shall be accomplished in accordance with instructions contained in the official records disposition schedule for DoD Nonappropriated Fund Employee Personnel Records as approved by the General Services Administration, National Archives and Records Service, on June 29, 1983, as may be amended. When the employment of an individual is terminated, the personnel folder shall be marked "Inactive" and filed in an inactive file. These folders shall be retained by the employing NAFI until proper disposition in accordance with the above-mentioned official records disposition schedule. Disposition of temporary records shall be in accordance with the above-mentioned official records disposition schedule. When a terminated employee is employed by another NAFI, the employee's personnel folder, upon request, shall be forwarded by the holder to the new employer.

(4) In an effort to expedite requests for information relative to retirement benefits or personnel data, DoD Components shall advise, in writing, separating employees where they may obtain the desired information or record.

j. Volunteer Service. The Heads of DoD Components (a) may prescribe regulations to provide for accepting volunteer services; and (b) prior to accepting volunteer services, tort liabilities and workers' compensation liabilities that may be incurred by their utilization shall be weighed.

k. Supervision of Appropriated Fund Employees. There is no legal prohibition against the supervision of appropriated fund employees within the DoD Components by NAF employees.

* 1. Details of Employees. A detail is a temporary assignment of an
* employee for a specified period, with the employee returning to his or her
* regular duties at the end of the detail. A detail to a lower-level position
* shall not adversely affect the employee's salary, classification, or job
* standing. Details of more than 60 days made to a higher grade position, or to
* a position with known promotion potential, shall be done under the merit
* promotion and staffing program. *

C. AFFIRMATIVE ACTION FOR HIRING, PLACEMENT, AND ADVANCEMENT OF HANDICAPPED INDIVIDUALS

1. The Heads of DoD Components shall give full consideration to employment of handicapped individuals in all NAFIs, and shall ensure implementation of all required laws, executive orders, rules, and regulations, including applicable regulations of the Equal Employment Opportunity Commission and the Office of Personnel Management. In meeting these requirements, NAFIs will ensure that qualified handicapped individuals, including current employees who became disabled after appointment, have equitable opportunities to be hired, placed, and advanced in NAFI jobs. In addition, the Heads of DoD Components are authorized and encouraged to use any civil service provisions for hiring handicapped individuals that do not cover NAFIs as a guide to further develop policies and programs that will foster the effort to promote and expand employment opportunities for handicapped individuals so that their skills may be utilized.

2. Affirmative action is to be an integral part of ongoing Component personnel management programs, as evidenced by persons with disabilities being employed in a broad range of grade levels and occupational series commensurate with their qualifications and by Component policies that do not unnecessarily exclude or limit persons with disabilities because of job structure or design or because of architectural, transportation, communication, procedural, or attitudinal barriers.

D. EMPLOYMENT OF SPOUSES OF MILITARY PERSONNEL

The Heads of DoD Components shall provide employment preference for spouses applying and referred for certain nonappropriated fund positions in all employment categories at grade levels UA-8 and below and equivalent positions and for positions paid at hourly rates in accordance with DoD Instruction 1404.12.

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whom unlimited mobility has been made a condition of employment. Basic eligibility requirements are set forth in subparagraph B.2.d.(4)(a), above, and the amount of remuneration shall not exceed 1 year's pay at the rate received immediately before separation.

(c) Involuntarily separated employees shall not receive severance pay if they:

1 Are immediately employed in another regular NAFI position.

2 Have refused an offer of employment without loss of pay, employment category, and seniority in any NAFI in the same commuting area, or in the case of employees covered iph B.2.d.(4)(b), above, in any NAFI, regardless of commuting area.

3 Have immediately accepted employment in a continuing appropriated fund position.

4 Are immediately employed by a contractor whose contract replaces the function or services being performed by the employees.

3. NAFI Job-Grading System. Each DoD Component shall ensure that all NAFI positions within its jurisdiction are graded in accordance with the appropriate job-grading standards specified in paragraphs B.3.a., b., c., d., e., and f., below.

a. Noncovered Positions. Positions which are not covered by the OPM job-grading standards or by those published in DoD 1401.1-M-1, "Job Grading System Manual for Nonappropriated Fund Instrumentalities," may be classified by application of related standards.

b. Standards. When no standards exist, a copy of the position description and the classification rationale for the action shall be forwarded promptly through Component Headquarters to the office of DoD NAF Personnel Policy for review and post audit.

c. Crafts and Trades. The OPM has developed and issued a job-grading system for NAFI positions subject to the provisions of P.L. 92-392 (that is, CT Category). Details of this system are contained in subchapter S6 of FPM Supplement 532-2. Job grading appeal procedures are contained in subchapter 7 of FPM Supplement 532-2. Job-grading standards for these jobs are contained in FPM Supplement 512-1. Supplemental guidelines are included in DoD 1401.1-M-1.

d. Administrative Support (AS) and Patron Services (PS). The DoD has developed and issued job-grading systems for NAFI positions not subject to the provisions of P.L. 92-392 (that is, AS and PS). Details of these systems and job-grading standards for these categories of jobs are contained in DoD 1401.1-M-1.

e. Universal Annual (UA). For positions qualifying for inclusion in the UA salary plan, General Schedule Office of Personnel Management Classification Standards application standards are included in DoD 1401.1-M-1.

f. Classification of Supervisory and Managerial Positions. While size of the organizational unit and number of subordinates supervised may affect the grade of a supervisor or manager, these factors alone may not be used in determining the grade of such supervisor or manager. In grading these positions, other factors shall be considered, such as kind, difficulty, and complexity of work supervised; degree and scope of responsibility delegated to the supervisor; and kind, degree, and scope of the supervision exercised. A reduction in the number of subordinates or size of the organizational unit supervised may not be used under any circumstances as the sole basis for reducing the grade of a supervisory or managerial position. (A more detailed explanation of this policy is contained in subsection A.5., Chapter 4, of DoD 1401.1-M-1.)

4. NAFI Job-Grading Appeal

a. A NAFI employee may appeal at any time the grade, title, or series code assigned to his or her position, but not the job-grading standards established for the job nor other matters such as the accuracy of his or her job description, his or her rate of pay, or the propriety of a wage schedule rate.

b. Each DoD Component shall establish a position classification review and appeals system under the provisions of subchapter S7 of FPM Supplement 532-2 for CT jobs, and Appendix C of this Manual for AS, PS, and UA categories of jobs.

CHAPTER IV

ATTENDANCE AND LEAVE

A. DEFINITIONS

1. Absence Without Leave (AWOL). Absence from duty that has not been authorized or approved by the appropriate authority in accordance with the provisions of this Manual.

2. Accrued Annual Leave. Leave earned which is credited to an employee's account during the current leave year.

3. Accumulated Annual Leave. Unused annual leave remaining to the credit of an employee at the end of any pay period.

4. Accrued Sick Leave. Leave accrued and credited to an employee's account during the current leave year.

5. Accumulated Sick Leave. Unused sick leave remaining to the credit of the employee at the end of any pay period.

6. Break-in-Service. A separation from the rolls for a period of one or more workdays of the employee's basic workweek. A period of absence for military duty, followed by the exercise of reemployment rights, is not regarded as a break-in-service for purposes of this Manual.

7. Continuous Service. The total period of time from the date of appointment until the date of separation, irrespective of pay status during such period.

8. Court Leave. The authorized absence of an employee from work status for jury duty or to appear as a witness in an unofficial capacity for purposes delineated in paragraph B.2.f.(1) of this Chapter.

9. Administrative Leave. The administratively authorized absence from duty without loss of pay and without charge to earned leave.

* 10. Home Leave. Leave authorized by administrative adoption of section *
* 6304(a) title 5, United States Code, and earned by service abroad for use in *
* the United States, in the Commonwealth of Puerto Rico, or in the territories or *
* possessions of the United States (also, see Chapter VII, B.10.). *

11. Military Leave. Absence from duties without loss of pay, time, or performance ratings for those NAFI employees who are members of Reserve Components of the U.S. Armed Forces, including the National Guard, on days in which they are engaged in temporary active duty or inactive duty for training.

12. Leave Year. The 52-week period prescribed by the Head of the Component for administration of leave.

13. Leave Without Pay (LWOP). Approved temporary nonpay status and absence from duty.

14. Military Furlough. A leave of absence or separation of a regular full-time or regular part-time employee for induction or recall to active duty in one of the U.S. Military Services.

15. Compensatory Overtime for Religious Purposes. An overtime period an employee elects to work for the purpose of taking an equal amount of time off instead of overtime pay and without charge to leave for religious observance.

B. POLICY

In order to establish uniform and equitable work schedules, hours, and working conditions essential to the health and welfare of NAFI employees and to conform to applicable executive orders and DoD issuances, the policies set forth herein will apply to all DoD Components.

1. Attendance

a. Administrative Workweek. The administrative workweek for NAFI employees will be a period of 7 consecutive calendar days. It need not coincide with the calendar week, but may begin on any day and at any hour of the day.

b. Basic Workweek. Within the administrative workweek the basic workweek for NAFI employees will not exceed 40 hours, exclusive of meal times. Whenever possible, 2 consecutive days off will be provided in each administrative workweek. However, the basic workweek may be scheduled over a period of 6 days provided the total scheduled hours do not exceed 40 per week.

c. Workday. The workday shall be administratively scheduled, shall not exceed 10 hours and may extend over 2 calendar days.

d. Meal Periods. Regular meal or lunch periods normally will be established at no less than 30 minutes nor in excess of 1 hour and will not be considered as time worked except that meal periods will be considered time worked for the purpose of determining entitlement to night shift differential pay. No employee will be required to work more than 6 consecutive hours without a meal period.

e. Legal Holidays. Legal holidays include the 1st of January, the 3rd Monday of January, the 3rd Monday of February, the last Monday of May, the 4th day of July, the 1st Monday of September, the 2nd Monday of October, the 11th day of November, the 4th Thursday of November, the 25th of December, Inauguration Day (only for employees working in the Washington D.C., Metropolitan area as explained in the rules for appropriated fund employees), or any other calendar day designated as a holiday by Federal statute or executive order.

f. Religious Observance. An employee may elect to work compensatory overtime for the purpose of taking time off without from working during certain periods of the workday or workweek.

(1) An employee who elects to work compensatory overtime for this purpose shall 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.

(2) An employee's election to work compensatory overtime or to take compensatory time off to meet his or her religious obligations may be disapproved if such modifications in work schedules interfere with the efficient accomplishment of the assigned mission.

g. Flexible and Compressed Work Schedules. The Heads of DoD Components may authorize flexible and compressed work schedules. Procedures established shall be in accordance with P.L. 99-196, December 23, 1985.

2. Leave

a. Leave Sharing or Donation. The Heads of Components may establish a program that permits employees to donate annual and sick leave for the use of other employees for medical or family emergency or other hardship situations. It is suggested that the OPM programs for civil service employees be used as a guideline.

b. Annual

(1) Leave Authorization. The appropriate authority shall authorize and schedule annual leave when the workload permits and, whenever possible, at the convenience of the employee. Such leave shall be earned by incumbents who are designated as RFT and RPT employees (including those off-duty military personnel classified in the latter category). The amount of annual leave earned depends on the employee's total length of creditable service.

(2) Creditable Service. Total creditable service shall be determined as follows:

(a) All prior DoD NAFI service, including service with current employer, as a RFT or RPT employee. TFT and TPT employees converted to RFT or RPT employees shall be given credit for present temporary service.

(b) All active uniformed service, except for certain retired members of the uniformed services as outlined below, terminated by honorable discharge under honorable conditions or by transfer to inactive reserves under honorable conditions is creditable for determining the annual leave accrual rate. For an employee who is a retired member of any of the uniformed services, credit is restricted to the actual active service in the Armed Forces during wartime or in any campaign or expedition for which a campaign badge has been authorized. If the retired member meets one or more of the following conditions, all of his or her active service is counted for leave accrual purposes:

1 The retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict.

2 The retirement was based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war

(as defined in sections 101 and 301 of Title 38, United States Code).

3 On November 30, 1964, the retired member was employed in a civilian office to which the annual and sick leave law applied, and continues to be employed in an office of this kind without a break in service of more than 30 days.

(Note: The above provisions, set forth in subparagraphs B.2.b.(2)(b)1,2, and 3, are effective as of February 16, 1983. The leave accrual rate shall be adjusted as of this date. Recomputation of leave for employment periods before February 16, 1983 is not authorized.)

(c) Fractional parts of months shall be included in determining length of service. However, the total length of service shall be stated in terms of complete months.

(d) Credit for Military Training. Civilian employees of NAFIs who are called to active duty for short periods of time (not to exceed 6 weeks) with Reserve components of the U.S. Armed Forces shall continue to accrue annual leave credit during such periods. Nonduty time while in Reserve components is not creditable.

(3) Exemptions. No employee who is currently in a leave category as a result of more liberal provisions of the separate DoD Components before 6 September 1974 shall be penalized by being placed in a lower category for leave accrual or accumulation purposes.

(4) Annual Leave Accrual. Annual leave shall be accrued by RPT and RPT employees while in a pay status, excluding overtime hours worked in excess of 40 hours during the basic workweek. Employees receiving benefits under the Longshoremen's and Harbor Worker's Compensation Act and carried on the rolls of the employing NAFI in a leave-without-pay status do not accrue annual leave.

(a) Employees with less than 3 years of service shall accrue 5 percent of the total hours in the basic workweek.

(b) Employees with 3 years but less than 15 years of service shall accrue 7.5 percent of the total hours in the basic workweek, except for the final biweekly period of the leave year when leave shall accrue at the rate of 12.5 percent of the total hours in the basic workweek.

(c) Employees with more than 15 years of service shall accrue 10 percent of the total hours in the basic workweek.

(5) Time of Crediting. The accrued leave is credited to the employee's individual leave record upon completion of the 90-calendar-day qualifying period; thereafter, at the end of the period in which it is earned.

(6) Changes in Rates of Accrual

(a) Changes in the rates of accrual are effective at the beginning of the first pay period following the completion of the prescribed service.

(b) When a change from a 7.5 percent to a 10 percent leave category occurs at the beginning of the last full biweekly pay period in the calendar year, the employee's leave credit for that period shall be computed at 12.5 percent of hours in a pay status.

(7) Commission or Incentive-Paid Employees. Commission or incentive-paid employees are covered by the same annual leave policy which applies to RFT and RPT employees. However, the computation of the annual leave pay to such employees shall be on the basis of hourly pay rate equivalents derived from the application of classification standards to the job. The employee's wage rate step of the currently authorized wage schedule for the appropriate job grade shall be used in determining the base rate for computing the earned annual pay.

c. Sick Leave

(1) Eligibility. Sick leave shall be credited to incumbents who are designated as RFT or RPT employees (including those off-duty military personnel classified in this latter category). There is no qualifying period for the crediting of sick leave.

(2) Granting Sick Leave. All RFT and RPT employees who have sick leave to their credit may be granted such leave for legitimate medical reasons.

(3) Sick Leave Credit Accruals

(a) Sick leave credits shall accrue at the rate of 5 percent of the total basic workweek hours in a pay status and shall be credited from the date of appointment to RFT or RPT status.

(b) Sick leave credits including those accrued while on annual or sick leave, are credited to the employee's account at the end of the pay period in which accrued.

(4) Commission or Incentive-Paid Employees. Commission or incentive-paid employees are covered by the same sick leave policy which applies to RFT and RPT employees. However, the computation of the sick leave benefits to such employees shall be on the basis of hourly pay rate equivalents derived from the application of classification standards to the job. The employee's wage rate step of the currently authorized wage schedule for the appropriate job grade shall be used in determining the base rate for computing the sick leave benefits.

(5) Accumulation of Sick Leave. There is no limit on the amount of sick leave that employees may accumulate and carry forward from one year to another. No payment for unused sick leave shall be made to an employee under any circumstances.

(6) Sick Leave Credits. Sick leave credits shall be transferred between NAFIs provided that the employee (a) did not retire from the losing NAFI, (b) is placed in a RFT or RPT pay status in the gaining NAFI within 180 calendar days (or longer if Head of Component deems it appropriate) of removal from pay status in the losing NAFI, and (c) did not receive service credit for

unused sick leave in accordance with subsection A.1. of Appendix B.

(7) On-the-Job Injury. An employee covered by workers' compensation insurance (5 U.S.C. 8171) shall be granted sick leave payments from the employee's accumulated sick leave balance in an amount which, when added to workers' compensation benefits, approximates but does not exceed the employee's basic salary.

d. Excused Absence. The Heads of DoD Components or their designees may authorize time off with pay to any NAFI employee for blood donations (for which the employee is not paid); for voting in Federal, State, county, and municipal government elections; or for brief periods of absence or tardiness due to circumstances that are beyond the employee's control.

e. Absence for Maternity or Paternity Reasons

(1) Leave for Maternity Reasons. RFT and RPT employees may request sick leave, annual leave, and/or leave without pay when incapacitation related to pregnancy and confinement has been properly established by medical authority. An absence covering pregnancy and confinement shall be treated as any other medically certified temporary incapacitation.

(2) Leave for Paternity Reasons. RFT and RPT male employees may request annual leave and/or leave without pay for purposes of assisting or caring for their children or the mother of the newborn child while she is incapacitated, as established by medical authority, for maternity reasons.

(3) The Heads of DoD Components shall 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.

f. Military Leave

(1) RFT civilian employees who are members of Reserve Components of the Armed Forces of the United States, including the National Guard, are entitled to excused absence up to a maximum of 15 days per fiscal year without loss of pay, time, or performance rating when called to active duty or active duty for training. Any part of this excused absence that is not used in any given fiscal year accumulates for use in succeeding fiscal years, not to exceed a 15-day maximum carry-over. Therefore, an eligible employee could have a maximum total of 30 days to his/her credit for use during a fiscal year.

(2) In the case of RPT civilian employees, the rate at which leave accrues shall be a percentage of the rate prescribed under subparagraph B.2.e.(1), above. The percentage shall be determined by dividing the number of hours in the RPT employee's regularly scheduled workweek by the total number of hours that constitutes the normal full-time workweek of the employing NAFI.

(3) RFT and RPT civilian employees who are called to active duty for the purpose of providing military aid to enforce the law may be granted additional military leave not to exceed 22 workdays in a calendar year. These employees shall be granted leave upon presentation of competent orders. Compensation (other than a travel, transportation, or per diem allowance) received by an employee for such military services shall be credited against the pay

payable to an employee with respect to his or her NAFI position for such period of military service. Military leave is to be granted only for workdays; the NAFI civilian pay of the employee shall be reduced only by the amount received for military service performed on a workday. The NAFI civilian pay shall not be reduced by any amount an individual may receive for days that are not workdays.

(4) Leave without pay may be granted employees for the following other types of military service:

(a) Summer training as members of Reserve Officers Training Corps.

(b) Temporary Coast Guard Reserve duty.

(c) Participation in parades by members of the State National Guard. (However, members of the National Guard in the District of Columbia are entitled to military leave with pay for participation in parades.)

(d) Training with a State Guard or other State military organization.

(e) Civil Air Patrol duty.

g. Court Leave

(1) Upon advance submission of a court order, subpoena, summons, or any other judicial notification, RFT and RPT employees shall be granted paid court leave for jury duty; to appear in court in an unofficial capacity as a witness on behalf of the U.S. Government or the Government of the District of Columbia; and to appear in court in an unofficial capacity as a witness on behalf of private parties where the United States, the District of Columbia, or a State or local government is a party to the proceedings. The court may be a Federal, District of Columbia, State, or local governmental-unit court. This provision does not apply to an employee appearing as a witness in a judicial proceeding that involves only private parties.

(2) RFT and RPT employees on court leave shall receive their regular pay for such time or shall retain the court fees received from the court, whichever is the greater amount. If the court fees are the lesser amount, such fees, exclusive of transportation when separately identified or otherwise identifiable, shall be turned over to the employing NAFI. However, when a State statute provides for reimbursement of expense or an expense allowance rather than a jury fee, employees shall receive their regular pay and the money paid by the court.

h. Leave Without Pay. Leave without pay may be granted an employee who is receiving benefits under the Longshoremen's and Harbor Worker's Compensation Act (Chapter IV, subparagraphs B.2.a.(4) and B.2.b.(7)) and a regular full-time or regular part-time employee for military service (Chapter IV, paragraph B.2.e.). Upon request, such leave may be granted instead of annual or sick leave. Such leave may not be granted for a period exceeding 1 year except for military service and other circumstances considered appropriate by the Head of the DoD Component or designee.

i. Military Furlough. Military furlough shall be granted to a RFT or RPT employee for induction or recall to active duty in one of the U.S. Military Services. An employee returned to duty from military furlough shall have the same seniority, status, pay, and annual leave accrual entitlements that the employee would have enjoyed had he or she remained at work instead of being placed on furlough.

CHAPTER V

PERSONNEL RELATIONS AND SERVICESA. EMPLOYEE-MANAGEMENT RELATIONS POLICY

* In conformance with the provisions of DoD Directives 1426.1 and 1400.5, *
* the Heads of DoD Components in their management of NAFI personnel shall *
recognize and strive toward the establishment of orderly and constructive
relationships between managerial and nonmanagerial personnel. Continued and
unimpeded communications are vital factors to an informed and productive work
force. These extend to a thorough understanding of conditions of employment,
job requirements, employee rights, privileges, and responsibilities of both
management and employees.

1. Standards of Conduct. The nature of many of the activities supported
by nonappropriated funds administered by DoD Components is such that the
civilian employees and assigned military personnel shall exemplify the highest
standards of personal conduct and integrity. The provisions of DoD Directive
5500.7 are applicable to NAFI employees. The Heads of DoD Components shall
ensure that their NAFI employees are fully acquainted with all aspects of the
government's standards for ethical conduct.

2. Loyalty. The Heads of DoD Components shall ensure that no person will
be employed or continue to be employed at a NAFI who:

a. Advocates the overthrow of the U.S. Government.

b. Is a member of an organization that advocates the overthrow of the
U.S. Government.

c. Participates in any strike against the government, including all
instrumentalities of the government.

3. Political Activity

a. The principles of 5 U.S.C. 7324 relating to political activity of
government employees are hereby administratively extended to NAFI employees to
the extent that no employee shall:

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

(2) Take any active part in a partisan political campaign.

b. NAFI employees retain the right to vote as they choose; express
their opinions on all political subjects and candidates; and participate in
nonpartisan political activity. Also, an employee may hold a State, terri-
torial, and local office if it does not conflict with duties, laws, or
executive orders. No inquiries shall be made concerning the political
affiliation of an employee or applicant for employment, and any disclosures of
political affiliation shall not be considered in the employment process of the
employee or applicant for employment.

c. Determinations as to violations of the above policy will be made by the Head of the DoD Component in which such violations are alleged to have occurred.

4. Employee Grievances

a. NAFI employees will have the right to present their complaints and grievances to management officials for prompt and equitable consideration.

b. Where a labor organization has exclusive recognition, any negotiated grievance procedure shall be governed by the provisions of 5 U.S.C. 7101 et seq., as implemented by DoD Directive 1426.1 and DoD 1400.25-M.

5. Adverse Actions and Administrative Appeals

a. Adverse Actions

(1) An adverse action is a personnel action, involving a RFT or RPT employee who completed a probationary period, that reduced the employee's basic pay or grade; placed the employee in a nonpay, nonduty status; or separated the employee from NAFI employment. Adverse actions include both disciplinary and nondisciplinary type action.

(2) Adverse actions do not include:

(a) Actions taken as the result of termination of temporary promotion.

(b) A termination or change to lower grade or pay when voluntarily initiated by the employee.

(c) Application of a revised prevailing rate schedule when there is no change to the position.

(d) A furlough, separation, or change to lower grade, pay, or employment category taken through reduction-in-force procedures.

(e) A temporary or continuing reduction in the number of basic workweek hours within the same employment category.

(f) A temporary reduction (no more than 14 consecutive days) in the number of basic workweek hours in one employment category to a number of hours included in another employment category.

(g) Actions taken as a result of an employee abandoning his or her position.

(3) Disciplinary actions which constitute adverse actions include:

(a) Suspension without pay for more than 30 days.

(b) Involuntary termination or removal for cause.

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(c) Involuntary demotion/downgrade to another position with a lower representative rate of pay when taken for disciplinary reasons.

(4) Nondisciplinary actions which may be considered adverse actions include:

(a) Furlough, an action (not effected by use of RIF procedures) that places an employee in a leave without pay status for more than 14 calendar days because of a lack of work, insufficient funds, or emergency situations.

(b) Involuntary demotion/downgrade to another position with a lower representative rate of pay that is based on reclassification of a position due to correction of a classification error, application of new classification standards, or a final decision on a tentatively classified position.

b. Procedures for Processing Nondisciplinary Adverse Actions. The Heads of DoD Components shall issue regulations and procedures for processing nondisciplinary adverse actions to include:

(1) An advance notice of proposed adverse action of at least 30 days, specifically outlining in writing, the reason(s) upon which the action is being taken. As an exception to the advance proposed action a notice to the employee at least 24 hours in advance of the action is authorized when:

(a) There is a significant reduction in the business of a NAFI and a reduction in the basic workweek of RFT or RPT employees is required for more than two consecutive basic workweeks (14 calendar days) because of a sudden mission change at the base or installation (such as, a sudden deployment of personnel to another location); or

(b) Due to unforeseeable circumstances, such as a sudden breakdown in equipment, or an emergency situation requiring immediate curtailment of activities, it is necessary to furlough employees for more than 2 basic workweeks (14 calendar days).

(c) Due to unforeseeable circumstances, such as an act of war, causing a permanent discontinuance of the work to be performed, it is necessary to separate employees.

(2) A reasonable time for the employee to reply, orally and in writing, to the proposed adverse action notice.

(3) A prompt and equitable decision in writing, after full consideration of the employee's reply.

(4) An opportunity for the employee to request a review and hearing.

(5) An option for management to place an employee in a pay and nonwork status during the notice period without charge to annual leave or sick leave.

(6) An option for an employee to request and be placed on annual leave (or continued in a sick leave status) during the time or a portion of the time, the employee shall be in a furlough status.

c. Procedures for Processing Disciplinary Adverse Actions. The Heads of DoD Components shall establish procedures for processing disciplinary adverse actions.

d. Adverse Action Administrative Appeals. The Heads of DoD Components shall issue regulations and procedures for handling employee appeals to disciplinary and nondisciplinary adverse actions.

6. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operation of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

7. Reduction in Force. The Heads of DoD Components shall develop and implement procedures for their respective organizations which shall provide for the orderly reduction of the work force of NAFIs with a minimum of disruption to operations.

8. Occupational Safety and Health. The administrators of NAFI personnel shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees in accordance with DoD Instruction 6055.1. Where safety technicians are not available within the installation, outside consultants shall be used.

9. Drug and Alcohol Abuse. The Heads of Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by

having certain key administrative NAFI personnel quartered on the installation. The occupation of Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS DISCLOSING INFORMATION

DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

1. A violation of any law, rule, or regulation; or
2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety.

DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures.

Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures. DoDD 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures.

employee must have at least 5 years of credited service to qualify for an annuity including the employer's contribution.

(2) The Heads of DoD Components may allow employees to retire earlier on a reduced annuity basis after attaining age 52, and completing 5 years or more of credited service.

d. Contributions. The Heads of DoD Components will determine the rate of employee contribution to the retirement program.

e. Retention of Accrued Credited Service for Retirement Annuity Purposes. When an eligible employee who is participating in a retirement plan terminates employment and is employed by another NAFI within 90 days, and the gaining NAFI offers a different retirement plan, the employee may carry forward his or her credited service accrued for retirement annuity purposes with the prior NAFI. The feasibility of continuing this "portability" provision shall be reviewed periodically by the DoD NAF Retirement and Insurance Committee. When the DoD Component NAFI's retirement plan includes a provision for disability annuity, the employee shall fulfill the gaining NAFI's own credited service vesting requirements for disability annuity prior to becoming eligible for that annuity. Complete policy and procedures are stated in Appendix B.

4. Workers' Compensation Benefits

a. Longshoremen's and Harbor Workers' Compensation Act. Civilian employees of NAFIs shall be provided compensation benefits in accordance with the provisions of 5 U.S.C. 8171. (Off-duty enlisted personnel employed by NAFIs are not civilian employees for the purposes of this Act.)

b. Coordination with other Benefits. Retirement or disability annuities shall be offset by the amount of workmen's compensation indemnity benefits payable. Any workers' compensation income received by a survivor annuitant derived from "on-the-job" incurred disease or injury to the employee shall also be used as an offset against the survivor annuity payable under the retirement plan.

5. Unemployment Benefits

a. Basis for payment. Under authority of the Unemployment Compensation for Federal Civilian Employees (UCFE) law (5 U.S.C. Chapter 85 and 20 CFR 609), the Secretary of Labor, on behalf of the United States, has entered into agreements with all the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. These agreements provide that benefits will be paid by a State to any unemployed Federal civilian employee whose wages have been assigned to that State in which the employee had his or her last official duty station, in the same amount and subject to the same conditions as if the Federal civilian service and wages had been included as employment and wages under the employment insurance law of the State involved.

b. Charge to employing NAFI. The Heads of DoD Components should be aware that they have to absorb the cost of paying unemployment benefits to Federal civilian NAFI employees. Thus, it is very important that each NAFI become conscious of its responsibility to safeguard, through good management

practices, NAFI funds by implementing procedures to reduce improper unemployment benefit payments. NAFI ability to provide State agencies with timely, accurate, and complete wage and separation information precludes adverse eligibility decisions from being made and avoids improper payment of benefits and charges to NAFI. The Heads of DoD Components may further curtail unwarranted payment of benefits by appealing State decisions to pay unemployment benefits to former employees whom the NAFI believes are not entitled to such payments. This is especially true in situations when former employees were removed for misconduct, resigned voluntarily, or refused a suitable job offer. Thus, the Heads of DoD Components should be aware that if an ineligible individual, including a retiree, receives improper payments, the former employer is charged for these costs, in addition to the costs charged to it for warranted payments. When additional or corrective information is provided to the States by NAFIs, redeterminations are made only when permitted under the appropriate State law.

6. Group Insurance

a. Coverage. Group insurance is designated to provide the broadest coverage against unforeseen events to NAFI employees and their dependents. Hence, the Heads of DoD Components shall assure that all their eligible NAFI employees have the opportunity to participate in group insurance plans meeting the requirements established in this Chapter.

b. Voluntary Participation. Employee participation in group insurance shall be voluntary. NAFI employees who are eligible shall be permitted to elect not to be covered.

c. Group Insurance Benefits

(1) The following group insurance benefits will be made available to all eligible employees:

- (a) Life Insurance
- (b) Accidental Death and Dismemberment
- (c) Comprehensive Medical Expense
- (d) Life and Medical benefits for eligible retired employees.

(2) The basic provisions for each of these benefits are set forth in Appendix B.

d. Retention of Group Insurance Rights. When RFT DoD NAFI employees participating in a NAFI Group Insurance Plan are transferred by reason of a functional transfer, and the gaining NAFI offers a different group insurance plan, such employees are entitled to transfer of certain group insurance participating rights, subject to the provisions and limitations of the gaining NAFI plan. These rights are

(1) Participation in those portions of the gaining NAFI plan that are counterparts of the losing NAFI plan in which the employees and his or her dependents were participating on the date immediately prior to the date of

retirement, or the employment status is changed so that the employee is ineligible to continue to participate in the retirement plan.

1. Option A. An employee may have all his or her contributions returned; and in addition, if the employee has been employed for 3 full years, for which he or she has made contributions, such employee shall receive interest on these contributions. No interest is payable for an employee who terminates before completing 3 full years of credited service.

2. Option B.

a. An employee who has completed more than 5 years of credited service but is still under age 30, may leave his or her own contributions in the plan and later receive an annuity commencing on his or her normal retirement date, if the employee is then living, in the amount that the employee's contributions have been sufficient to purchase for him or her.

b. An employee who has completed 5 or more years of credited service and has attained the age of 30 shall receive an annuity at normal retirement age based on his or her and the employer's contributions.

c. If the amount of annuity payable would be \$600 per year, or less, a one-time lump-sum payment of equivalent actuarial value may be made instead.

d. An employee who has elected Option B may elect to have his or her annuity begin on the 1st day on any month during the 10-year period immediately preceding his or her normal retirement date. In this case, however, the employee's annuity shall be reduced at the rate of one-third of 1 percent for each month (4 percent each full year) by which the elected annuity commencement date precedes age 62.

F. GROUP LIFE INSURANCE

Life insurance shall be provided in an amount equal to an employee's annual pay rounded to the next higher thousand plus \$2,000.

G. ACCIDENTAL DEATH AND DISMEMBERMENT

This coverage shall be furnished in an amount equal to the life insurance coverage subject to the customary schedules for dismemberment and the usual exclusions, including physical or mental infirmity or disease, ptomaine or bacterial infection, medical or surgical treatment (unless made necessary by a covered injury), suicide, or intentionally self-inflicted injury, or war or any act of war.

H. COMPREHENSIVE MEDICAL EXPENSE

1. Comprehensive Medical Expense Benefits. Comprehensive medical expense benefits cover medical expenses that result from serious or prolonged disabilities as well as from ordinary injuries or diseases, regardless of the number of injuries or diseases suffered. Benefits shall not only be payable for expenses arising in the hospital, but also for medical charges that are not a part of the hospital bill.

2. Amount of Benefits. The amounts of benefits shall be:

- * a. One hundred percent of the first \$1,000 of allowable hospital
* expense incurred in any calendar year, plus 80 percent of the amount in excess *
* of a deductible. (see subsection H.3., below.) *
- * b. Eighty percent of reasonable and customary surgical expenses
* incurred in any calendar year, in excess of a deductible (see subsection H.3., *
below).
- * c. Eighty percent of other medical expenses in excess of a deductible *
* in any calendar year. However, for excess expenses which are for treatment of *
a mental or nervous disorder while not confined in a hospital as an inpatient,
the benefit shall be 50 percent.

- * 3. Deductible. The deductible is the amount of covered charges that plan *
* participants must incur before the plan pays benefits. Deductibles should not *
* be abnormally high or low. Therefore, the Heads of DoD Components shall *
* establish deductibles that are in line with prevailing deductibles established *
* by private sector employers for similar health plans. The Heads of Components *
* shall determine such prevailing deductibles by keeping abreast of applicable *
* surveys and studies often reported in employee benefit industry periodicals, *
* and by consulting with private sector employee benefit consulting firms and *
* insurance companies. Such consultation could be accomplished during the normal *
* course of business with such organizations. Another factor that needs to be *
* considered when setting deductibles is the impact it has on total employee *
* cost, considering the amount of the employee premium. For example, a high *
* deductible increases employee cost and may not be appropriate if the employee *
* premium is already higher than normally found in similar private sector plans. *

4. Lifetime benefit. For any plan offered, including low-option type plans, the lifetime benefit for all incurred covered medical expenses combined shall be unlimited. This unlimited lifetime amount applies separately to each insured family member.

5. Second Surgical Opinions. Each plan, including low-option type plans, shall reimburse 100 percent of the expense incurred for a second surgical opinion, and a third one, if the first two opinions do not agree.

6. Catastrophic Coverage. Each plan, including low-option type plans shall provide a maximum-out-of-pocket limit so that when any insured family member's costs exceed a predetermined fixed amount, the plan will pay 100 percent of that person's costs for the rest of the calendar year. There shall be a maximum-out-of-pocket limit for the family so that when a family's total costs exceed a predetermined fixed amount, the plan will pay 100 percent of the family's costs for the rest of the calendar year.

7. Coordination With Other Benefits. The medical expense benefits program is designed to help meet the cost of disease or injury. Since it is not intended that greater benefits be received than the actual medical expenses incurred, the amount of benefits payable under the program shall take into account any coverage a family member has under other group plans; that is, the benefits under this program shall be coordinated with the benefits of the other group plans.

8. Effect of Medicare. The Heads of DoD Components shall ensure that the coordination of Medicare with NAFI employee benefit provisions shall be in compliance with currently applicable laws, rules, and regulations.

9. Dependents. The following categories of dependents shall be eligible for coverage under the comprehensive medical benefits programs:

- a. The employee's spouse.
- b. Unmarried children under age 19.
- c. Unmarried children under age 23 who are full-time students and also receive over 50 percent of their support from the employee.
- d. A child of any age who is physically or mentally handicapped and who depends on the employee for support, if the handicap existed before the child's 22nd birthday, or 23rd birthday if the child met the conditions of the previous paragraph (c) at the time he/she became handicapped.
- e. The term "children" shall include the employee's natural children, adopted children, stepchildren, foster children, and other children who are dependent upon the employee for support and live with the employee in a regular parent-child relationship.

10. Extension of coverage. At the option of the Component, if a covered employee loses eligibility for comprehensive medical expense coverage for any reason except voluntary cancellation, he/she may continue to be insured for comprehensive medical expense coverage for the 90-day period immediately following the date he/she ceases to be eligible, if he/she:

- a. Makes application for such extended coverage before such date;
- b. Biweekly pays employee's and employer's share of the premium; and
- c. Has been continuously insured under the policy during the three months immediately preceding the date eligibility ceases.

The premium payable shall be at the then applicable rate of the policy. No evidence of insurability or medical examination shall be required to continue such coverage.

I. CONVERSION PRIVILEGES

When by reason of termination or other change in his or her employment status, an employee is ineligible to continue to participate in the group life insurance or group medical plan, conversion privileges to individual life policies or individual medical expense policies shall be made available, in accordance with the conditions of the insurance policy in force. Life insurance and medical expense policies, if converted to individual policies within 31 calendar days of termination of the group life or group medical plan coverage, shall be issued without medical examination and at the insuring company's or companies' regular rates for individual life insurance or medical expense benefits plans. The whole cost of such insurance shall be borne by the insured.

J. WAIVER OF BENEFITS

Eligible employees who decline to enroll or participate in the retirement plan, the comprehensive medical expense plan, the life insurance plan, the accidental death and dismemberment plan, or the disability plan, shall be required to sign a waiver. The waiver shall explain the benefits declined (or shall refer the employee to documents that explain the benefits declined) and the impact the decision to decline has on the employee's subsequent ability to enroll in such benefit plans, including waiting period and evidence of insurability requirements. The signed waiver, or a memorandum for the record signifying the employee's refusal to sign a waiver, shall be placed in the employee's Official Personnel Folder.

K. BENEFITS FOR RETIREES

The following insurance benefits shall be provided to eligible retired employees. The Heads of Components may decide not to charge retirees for these benefits.

1. Life Insurance

a. Eligibility. When an employee retires at normal retirement date (age 62), or thereafter, with at least 5 years of credited service, and with 15 or more years of accumulated participation in the group life insurance program for active employees, he or she shall be eligible for the group life insurance program for retired employees on the date retired, provided the employee was insured under such program on the day before retirement.

b. Amount. Upon retirement on or after age 62, an amount of group life insurance shall be continued, based on the amount of life insurance in force on the day before retirement, until attaining age 65. Upon attaining age 66, the amount of life insurance shall be reduced by 25 percent of the amount in force just before attaining age 65. It shall be reduced thereafter by a further 25 percent on each of the 67th and 68th birthdays and it then shall remain at 25 percent of the amount of insurance in force just before attaining age 65.

2. Comprehensive Medical Expenses

a. Employees who retire and have been participating in the health plan for a reasonable length of time, and their dependents, shall be provided continued medical coverage. Dependents (other than those children whose coverage would be canceled at age 19 or 23) shall be eligible for continuous coverage until receiving Medicare coverage at age 65, regardless of the retiree's age.

b. When the retiree or dependent receives Medicare coverage at age 65, the Heads of Components are encouraged to at least structure their plans so that Medicare becomes the primary carrier, and the NAFI plan becomes the secondary payer of benefits using the "government exclusion" method of integration, subtracting Medicare payments before applying deductible and copayment provision.

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October 22, 1990

Personnel Policy Manual for
Nonappropriated Fund Instrumentalities

The Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Office of the Assistant Secretary of Defense (Force Management and Personnel), has authorized the following pen and page changes to DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988:

PEN CHANGE

Page III-9, subparagraph B.2.d.(4)(c)4. Delete.

PAGE CHANGES

Remove: Pages ii through x, II-1 through II-9, IV-3 through IV-8, V-1 through V-5, A-5 through A-7, and D-1&D-2

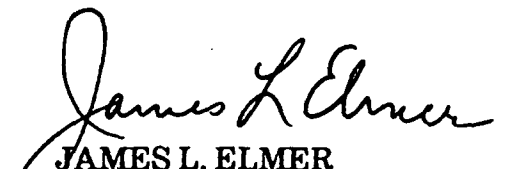
Insert: Attached replacement pages

Changes appear on pages ii, iii, v, II-1 through II-4, II-6, II-7, II-8, IV-3 through IV-7, V-2, V-3, A-6, A-7, and D-1 and are indicated by marginal asterisks.

NAVSO P-6073, the Navy publication number, that appeared on the Change Transmittal of Change 1 to DoD 1401.1-M is applicable to Naval Components only.

EFFECTIVE DATE AND IMPLEMENTATION

The above changes are effective immediately. Forward two copies of the revised implementing documents to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Office of the Assistant Secretary of Defense (Force Management and Personnel), within 120 days.


JAMES L. ELMER
Director
Correspondence and Directives

Attachments: 32 pages

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

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CHAPTER II

EMPLOYMENT AND PLACEMENT

A. EMPLOYMENT

1. General Policy. Each DoD Component shall ensure that the recruitment, selection, placement, promotion, termination and other related personnel actions involving NAFI employees are in consonance with the fair employment practices and equal opportunity and treatment for both applicants and employees.

2. Specific Policies

a. Categories of Employees. Each DoD Component shall categorize its NAFI employees for purposes of establishing for each employee the status of his or her employment within one of the following definitional categories:

* (1) Regular employees. Regular employees serve in continuing
* positions on a scheduled basis. They will be further categorized as "full-
* time" or "part-time", with a minimum schedule of 20 hours per week.

* (2) Flexible Employees. Flexible employees serve in either
* continuing or temporary positions up to 40 hours per week. The work may be
* scheduled in advance or may be on an as-needed intermittent basis.

b. Equal Employment Opportunity

(1) The Heads of DoD Components shall establish, maintain, and carry out a continuing affirmative action program designed to promote equal opportunity in every aspect of personnel policy and practice in the employment, development, advancement, and treatment of their NAFI employees. This includes aliens employed in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. This policy implements Executive Order 11478, P.L. 92-261, 42 U.S.C. 2000e-1, and DoD Directive 1440.1.

(2) The Head of each DoD Component shall:

(a) Provide sufficient resources to administer its equal employment opportunity program among the NAFIs in a positive and effective manner.

(b) Conduct a continuing campaign to eradicate every form of prejudice or arbitrary discrimination based on race, color, religion, sex, age, national origin, or handicapped condition, from personnel policies, practices, and working conditions to include appropriate action against employees who display prejudice or arbitrarily discriminate in action or interaction with other employees.

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(c) Communicate this policy and program and employment needs to appropriate sources of job candidates and solicit their recruitment assistance on a continuing basis.

(d) Utilize to the fullest extent the present skills of employees by all means, including the redesigning of jobs where feasible.

(e) Consistent with the organization of the individual NAFI activity and the scope of available advancement opportunities, establish an Upward Mobility Program for NAFI employees that will provide the maximum feasible opportunity for employees to enhance their highest attainable levels of skills, knowledge, and abilities through on-the-job training, job re-engineering, and other development measures so that they may perform at their highest potential and advance in accordance with their capabilities.

(f) Provide orientation, training, and guidance to managers and supervisors to ensure their understanding and implementation of the equal employment policy program.

(g) Provide for participation at the local community level with other employers, schools, universities, and public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability.

(h) Provide for counseling employees and applicants who believe they have been discriminated against and for informally resolving matters raised by them.

(i) Provide for the prompt, fair, and impartial consideration and disposition of complaints involving issues of discrimination.

(j) Establish a system for periodically evaluating the effectiveness of the overall equal employment opportunity effort.

c. Employment of Relatives. The employment, appointment, or promotion of relatives of commissioned officers, noncommissioned officers, and civilian officials who hold administrative positions in which they exercise jurisdiction or control over the employing NAFI is prohibited. Further, such officials may not advocate a relative's appointment, employment, promotion or advancement anywhere within the Department of Defense. This policy is consistent with provisions of 5 U.S.C. 3110. The policy does not prohibit the exercise of reemployment rights after military service as provided by the Military Selective Service Act of 1967, as amended. Component implementing directives should contain adequate instructions to ensure compliance with the provisions of 5 U.S.C. 3110 and Chapter 310, Federal Personnel Manual.

* d. Employment of Minors. The Heads of DoD Components may authorize
* the employment of minors, ages 14 and 15. The employment of persons under 18
* years of age shall be in accordance with the following:

(1) The Fair Labor Standards Act in that such persons may not be employed in or assigned to positions that are hazardous or detrimental to their health.

(2) Published state and local labor standards and requirements.

e. Employment of Retired U.S. Military Personnel. Retired members of the Uniformed Services shall be accorded the same rights and considerations as all other applicants for civilian employment in NAFIs. However, their employment shall be subject to the restrictions imposed by DoD Directive 1402.1.

f. Utilization of U.S. Off-Duty Military Personnel

(1) Subject to the provisions of DoD Directive 5500.7, enlisted personnel may be employed in a NAFI position after duty hours on other than a full-time basis. No NAF monies may be disbursed for payment of personal services to any military personnel, except as authorized above. Specifically precluded under the provisions of these instructions is the payment of NAF scheduled pay, bonuses, overtime pay, incentive pay, or any other remuneration for work performed by military personnel, while either on or off-duty, who are not employed in a NAFI position. Time worked in the military assignment shall not be used to determine the pay of enlisted personnel for duties performed in NAFI positions.

(a) The Heads of Components shall issue, for control purposes, specific instructions to preclude conflict of interest and preferential hiring of enlisted personnel who are assigned to a morale, welfare, recreation, billeting, or other activity supported by a NAFI as prime military duty.

(b) Compensation for off-duty hours worked shall be identical to that authorized in salary and wage schedules for civilian employees who perform similar duties and responsibilities.

(c) The total number of hours that off-duty enlisted personnel may work in one or more NAFIs shall not exceed 34 hours in any one administrative workweek.

(2) Active duty commissioned and warrant officers are prohibited from receiving compensation in any form from NAFIs except on an intermittent fee basis for services rendered in such capacities as officials at athletic events and participation in miscellaneous recreational and entertainment activities as approved by appropriate authority. Off-duty enlisted personnel may also be compensated for services rendered during these events on an intermittent fee basis, notwithstanding the provisions of subparagraph A.2.f.(1), above.

g. Reinstatement

(1) Regular employees who are separated voluntarily or involuntarily, other than for cause, may be reinstated by any DoD NAFI at any time after the date of their separation. Except for the benefit entitlements under the provisions of Chapter VI of this Manual, such personnel shall be considered to have been in a leave-without-pay status with rights, privileges, and benefits accruing as set forth in this Manual.

(2) An individual suspended or removed for reasons of national

security may be restored to duty in a NAFI at the discretion of the Head of the DoD Component concerned.

h. Transfers. A transfer is the movement of a NAFI employee from one NAFI to another. Except as provided in subparagraph A.2.h.(2) below, the transfer occurs without a break in service of over 1 workday.

(1) Transfer of Functions. A transfer of function is the transfer of responsibility for the performance of a continuing function from one NAFI to one or more other NAFIs within or between the DoD Components. An employee has no right to transfer with his or her function regardless of his or her personal preference, unless the alternative is separation or downgrading.

* (a) To provide equity and employment continuity, each regular NAF employee whose position is identified in a functional transfer between NAFIs, and who has the right to transfer, will be afforded the opportunity to transfer with his or her position. *

* (b) If the functional transfer results in a reduction in force (RIF) in the gaining NAFI, the employee who is qualified and who will accept employment will compete for placement with other employees for selection in the receiving NAFI with full credit for all prior regular NAFI service within the Department of Defense. *

* (2) A regular employee who has completed his or her probationary period and who is hired by a different NAFI within 6 months after removal from pay status because of RIF in a losing NAFI will be considered to have transferred to the gaining NAFI only for purposes outlined in subparagraphs A.2.h.(3), (5), and (6) below. *

(3) An employee who has transferred from one NAFI to another NAFI within DoD will be given service credit in the gaining NAFI for his or her prior DoD NAFI employment in accordance with the provisions of this Manual.

* (4) Upon transfer of a regular employee to another NAFI within DoD, the employee will be paid for the accumulated annual leave credited to his or her account. However, if the transferred employee elects, and the losing and gaining NAFIs agree, annual leave credit and the funds to cover its cost may be transferred from the losing to the gaining NAFI. *

(5) All accumulated sick leave credit shall be transferred by the losing NAFI to the gaining NAFI provided the individual is placed in a pay status in the gaining NAFI within 6 months. However, no transfer of funds shall be made from losing to gaining NAFI for sick leave credits transferred. The gaining activity will assume the financial obligation.

* (6) When a regular DoD NAFI employee participating in a NAFI retirement plan is transferred due to transfer of function, or is hired by a different NAFI within 90 calendar days of removal from pay status because of RIF in the losing NAFI, and the gaining DoD NAFI offers a different retirement plan, the employee is entitled to transfer of pension rights, so that on retirement the employee will draw a pension under the gaining DoD NAFI retirement plan, computed on total credited NAFI service with both losing and gaining NAFIs. Retirement credit will be in accordance with Chapter VI, *

paragraph C.3.e. and Appendix B, subsection B.5., "Retention of Accrued Credited Service for Retirement Annuity Purposes." Further, group life and health insurance coverage will be made available by the gaining DoD NAFI as described in Chapter VI, subsection C.6, effective with the date of application if the transferred employee files application for such coverage within 1 month from the date of employment with the NAFI.

i. Movement to NAFI Employment from Other Types of Employment. An employee in a public or private enterprise, whose duties are to be performed in a NAFI, may be employed by that NAFI without competition if the employee:

(1) Meets the citizenship requirement of the geographical area in which employed.

(2) Is qualified for the position.

(3) Has rendered at least 6 months of service in one or more positions in the previous employing activity immediately before being converted to NAFI employment.

(4) Is not precluded from NAFI employment because of dual compensation, nepotism, conflict of interest, or country-to-country agreement provisions.

j. Employee Move Cost-Reduction Program. In order to reduce costs to both the NAFI and to the employee, the Heads of DoD Components may establish an employee move cost-reduction program whereby an eligible employee may receive a monetary reward for opting to move his or her own household goods, for opting to sell his or her own house, or for opting not to ship a privately owned vehicle to or from overseas. The monetary rewards should be less than normal NAFI costs resulting from employee moves. Therefore, both the employee and the NAFI would benefit. Since the AAFES cost-reduction program has proven to be a success, the Heads of DoD Components are encouraged to use it as a guide in establishing Component programs.

B. RECRUITMENT, SELECTION, AND PLACEMENT

1. General Policy. Proper recruitment, selection and placement procedures are vital factors in the development of a viable and effective NAFI work force. To achieve this objective, the Heads of DoD Components, in the administration of their NAFI personnel, shall establish personnel management procedures which include careful job analysis; preparation of accurate job descriptions; establishment of the qualifications for positions; a broad source of applicants; objective selection procedures; and adequate indoctrination and supervision of the individual while on the job.

2. Specific Policies

a. Position Control

(1) At all times NAFI personnel management emphasis shall be to eliminate unnecessary positions at all levels, to increase productivity by improved control, and to ensure maximum utilization of NAFI worker hours. A continuing review of positions shall be conducted to ensure that requirements

are commensurate with operating needs.

(2) The Heads of DoD Components shall exercise strong supervision, through adjustments in the existing manpower resources of the employing NAFI, to ensure that established NAFI jobs do not exceed actual workload requirements.

b. Qualification Requirements. Establishment of realistic qualification standards and requirements for any NAFI position shall be based on factual job requirements. These qualifications shall be written so that the competition for the job is not restricted to any one individual. The qualifications of each applicant for a NAFI position shall be carefully reviewed and evaluated. The basic applicable principle is finding the best qualified person available for the job.

c. Employment Requirements

(1) To ensure that the most suitable and qualified persons are employed by NAFIs at all levels, the DoD Components shall ensure that established recruiting procedures are followed to the fullest extent practicable. These include submission of a complete and accurate application form, reference checks, and any security and other preemployment investigations deemed appropriate to the position, and compliance with P.L. 99-603, "Immigration Reform and Control Act of 1986," and Immigration and Naturalization Service Rules necessitated by it.

(2) The suitability of applicants will be determined by utilizing as a guide the provisions of Chapter 731 of the Federal Personnel Manual. Candidates for assignment to positions of trust will be scrutinized. Compliance with DoD 5200.2-R, "DoD Personnel Security Program," is required before placing an individual in a position of trust; such positions are to be designated by the Components. An individual who does not meet established suitability requirements may not be employed without prior approval of the local commander.

d. Veteran Employment Preference. Preference in employment, at the time of hire only, will be given to qualified applicants who meet (1) one of the veterans' preference eligibility criteria in 5 U.S.C. 2108 and (2) the minimum service requirements in FPM Supplement 296-33, provided they are equally qualified for the vacant position. (Exception: See Chapter II, paragraph D. -- especially D.9. -- and Chapter VII, paragraph B.1.a.)

e. Veteran Restoration Rights. Veteran restoration rights after military service shall be administered in accordance with provisions contained in 38 U.S.C. 2021, et seq.

* f. Training and Career Development. The Heads of DoD Components may institute career development programs for NAF employees in order to attract and retain a well-qualified work force. These programs shall embody training, counseling, appraisal and other improvement devices that will enable employees to develop and progress. *

* g. Work Performance Appraisals. The work performance of NAFI employees shall be evaluated fairly and objectively on both a scheduled and *

continuous basis with the results of such evaluation discussed with each individual employee.

* h. Employee Records and Files *

(1) The Heads of DoD Components shall ensure that NAFIs keep and maintain records in compliance with the Fair Labor Standards Act of 1938, as amended. Additionally, the Heads of DoD Components shall ensure that adequate records are maintained on all employees. Records shall include all official personnel documents effected during an employee's service. An employee's right to review his or her records and the protection of his or her privacy shall be in accordance with P.L. 93-579, the Privacy Act of 1974 (5 U.S.C. 552a).

(2) Except as provided in (a) below, NAFI health units operating under the control of a medical officer or a registered nurse under medical supervision shall retain records of medical examinations and other miscellaneous medical records and keep them confidential. Otherwise, they shall be kept in a separate locked cabinet during the employee's NAFI service and may not be made a part of the official personnel folder.

(a) Medical certificates and any other medical records of examinations used to determine an employee's fitness for the job are permanent records and shall be placed in a sealed envelope. The employee's name (last, first, middle initial), date of birth, and social security number, as illustrated in DoD 5000.12-M, shall appear on the envelope in its upper right hand corner, and the envelope shall be attached on the right side of the official personnel folder. The envelope shall remain attached until the employee's folder is acquired by another NAFI at which time the receiving NAFI, upon receipt of the folder, shall remove the sealed envelope and place its contents either in the health unit or in a locked cabinet for safeguarding medical records.

(b) Miscellaneous medical records, correspondence, dispensary records, and similar papers of temporary value shall be disposed of in accordance with the records disposition schedule of the DoD Component concerned.

(3) Records disposition shall be accomplished in accordance with instructions contained in the official records disposition schedule for DoD Nonappropriated Fund Employee Personnel Records as approved by the General Services Administration, National Archives and Records Service, on June 29, 1983, as may be amended. When the employment of an individual is terminated, the personnel folder shall be marked "Inactive" and filed in an inactive file. These folders shall be retained by the employing NAFI until proper disposition in accordance with the above-mentioned official records disposition schedule. Disposition of temporary records shall be in accordance with the above-mentioned official records disposition schedule. When a terminated employee is employed by another NAFI, the employee's personnel folder, upon request, shall be forwarded by the holder to the new employer.

(4) In an effort to expedite requests for information relative to retirement benefits or personnel data, the DoD Components shall advise, in writing, separating employees where they may obtain the desired information or record.

* i. Volunteer Service. The Heads of DoD Components (a) may prescribe regulations to provide for accepting volunteer services; and (b) prior to accepting volunteer services, tort liabilities and workers' compensation liabilities that may be incurred by their utilization shall be weighed. *

* j. Supervision of Appropriated Fund Employees. There is no legal prohibition against the supervision of appropriated fund employees within the DoD Components by NAF employees. *

* k. Details of Employees. A detail is a temporary assignment of an employee for a specified period, with the employee returning to his or her regular duties at the end of the detail. A detail to a lower-level position shall not adversely affect the employee's salary, classification, or job standing. Details of more than 60 days made to a higher grade position, or to a position with known promotion potential, shall be done under the merit promotion and staffing program. *

C. AFFIRMATIVE ACTION FOR HIRING, PLACEMENT, AND ADVANCEMENT OF HANDICAPPED INDIVIDUALS

1. The Heads of DoD Components shall give full consideration to employment of handicapped individuals in all NAFIs, and shall ensure implementation of all required laws, executive orders, rules, and regulations, including applicable regulations of the Equal Employment Opportunity Commission and the Office of Personnel Management. In meeting these requirements, NAFIs will ensure that qualified handicapped individuals, including current employees who became disabled after appointment, have equitable opportunities to be hired, placed, and advanced in NAFI jobs. In addition, the Heads of DoD Components are authorized and encouraged to use any civil service provisions for hiring handicapped individuals that do not cover NAFIs as a guide to further develop policies and programs that will foster the effort to promote and expand employment opportunities for handicapped individuals so that their skills may be utilized.

2. Affirmative action is to be an integral part of ongoing Component personnel management programs, as evidenced by persons with disabilities being employed in a broad range of grade levels and occupational series commensurate with their qualifications and by Component policies that do not unnecessarily exclude or limit persons with disabilities because of job structure or design or because of architectural, transportation, communication, procedural, or attitudinal barriers.

D. EMPLOYMENT OF SPOUSES OF MILITARY PERSONNEL

The Heads of DoD Components shall provide employment preference for spouses applying and referred for certain nonappropriated fund positions in all employment categories at grade levels UA-8 and below and equivalent positions and for positions paid at hourly rates in accordance with DoD Instruction 1404.12.

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his or her scheduled work (hour for hour) equal to the compensatory overtime worked.

(2) An employee's election to work compensatory overtime or to take compensatory time off to meet his or her religious obligations may be disapproved if such modifications in work schedules interfere with the efficient accomplishment of the assigned mission.

g. Flexible and Compressed Work Schedules. The Heads of DoD Components may authorize flexible and compressed work schedules. Procedures established shall be in accordance with P.L. 99-196, December 23, 1985.

2. Leave

a. Leave Sharing or Donation. The Heads of Components may establish a program that permits employees to donate annual and sick leave for the use of other employees for medical or family emergency or other hardship situations. It is suggested that the OPM programs for civil service employees be used as a guideline.

b. Annual

(1) Leave Authorization. The appropriate authority shall authorize and schedule annual leave when the workload permits and, whenever possible, at the convenience of the employee. Such leave shall be earned by incumbents who are designated as regular employees (including those off-duty military personnel classified in the latter category). The amount of annual leave earned depends on the employee's total length of creditable service.

(2) Creditable Service. Total creditable service shall be determined as follows:

(a) All prior DoD NAFI service, including service with current employer, as a regular employee.

(b) All active uniformed service, except for certain retired members of the uniformed services as outlined below, terminated by honorable discharge under honorable conditions or by transfer to inactive reserves under honorable conditions is creditable for determining the annual leave accrual rate. For an employee who is a retired member of any of the uniformed services, credit is restricted to the actual active service in the Armed Forces during wartime or in any campaign or expedition for which a campaign badge has been authorized. If the retired member meets one or more of the following conditions, all of his or her active service is counted for leave accrual purposes:

1 The retirement was based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict.

2 The retirement was based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in sections 101 and 301 of Title 38, United States Code).

3 On November 30, 1964, the retired member was employed in a civilian office to which the annual and sick leave law applied, and continues to be employed in an office of this kind without a break in service of more than 30 days.

(Note: The above provisions, set forth in subparagraphs B.2.b.(2)(b)1,2, and 3, are effective as of February 16, 1983. The leave accrual rate shall be adjusted as of this date. Recomputation of leave for employment periods before February 16, 1983 is not authorized.)

(c) Fractional parts of months shall be included in determining length of service. However, the total length of service shall be stated in terms of complete months.

(d) Credit for Military Training. Civilian employees of NAFIs who are called to active duty for short periods of time (not to exceed 6 weeks) with Reserve components of the U.S. Armed Forces shall continue to accrue annual leave credit during such periods. Nonduty time while in Reserve components is not creditable.

(3) Exemptions. No employee who is currently in a leave category as a result of more liberal provisions of the separate DoD Components before 6 September 1974 shall be penalized by being placed in a lower category for leave accrual or accumulation purposes.

* (4) Annual Leave Accrual. Annual leave shall be accrued by regular employees while in a pay status, excluding overtime hours worked in excess of 40 hours during the basic workweek. Employees receiving benefits under the Longshoremen's and Harbor Worker's Compensation Act and carried on the rolls of the employing NAFL in a leave-without-pay status do not accrue annual leave. *

(a) Employees with less than 3 years of service shall accrue 5 percent of the total hours in the basic workweek.

(b) Employees with 3 years but less than 15 years of service shall accrue 7.5 percent of the total hours in the basic workweek, except for the final biweekly period of the leave year when leave shall accrue at the rate of 12.5 percent of the total hours in the basic workweek.

(c) Employees with more than 15 years of service shall accrue 10 percent of the total hours in the basic workweek.

(5) Time of Crediting. The accrued leave is credited to the employee's individual leave record upon completion of the 90-calendar-day qualifying period; thereafter, at the end of the period in which it is earned.

(6) Changes in Rates of Accrual

(a) Changes in the rates of accrual are effective at the beginning of the first pay period following the completion of the prescribed service.

(b) When a change from a 7.5 percent to a 10 percent leave

category occurs at the beginning of the last full biweekly pay period in the calendar year, the employee's leave credit for that period shall be computed at 12.5 percent of hours in a pay status.

(7) Commission or Incentive-Paid Employees. Commission or incentive-paid employees are covered by the same annual leave policy which applies to regular employees. However, the computation of the annual leave pay to such employees shall be on the basis of hourly pay rate equivalents derived from the application of classification standards to the job. The employee's wage rate step of the currently authorized wage schedule for the appropriate job grade shall be used in determining the base rate for computing the earned annual pay.

c. Sick Leave

(1) Eligibility. Sick leave shall be credited to incumbents who are designated as regular employees (including those off-duty military personnel classified in this latter category). There is no qualifying period for the crediting of sick leave.

(2) Granting Sick Leave. All regular employees who have sick leave to their credit may be granted such leave for legitimate medical reasons.

(3) Sick Leave Credit Accruals

(a) Sick leave credits shall accrue at the rate of 5 percent of the total basic workweek hours in a pay status and shall be credited from the date of appointment to regular status.

(b) Sick leave credits including those accrued while on annual or sick leave, are credited to the employee's account at the end of the pay period in which accrued.

(4) Commission or Incentive-Paid Employees. Commission or incentive-paid employees are covered by the same sick leave policy which applies to regular employees. However, the computation of the sick leave benefits to such employees shall be on the basis of hourly pay rate equivalents derived from the application of classification standards to the job. The employee's wage rate step of the currently authorized wage schedule for the appropriate job grade shall be used in determining the base rate for computing the sick leave benefits.

(5) Accumulation of Sick Leave. There is no limit on the amount of sick leave that employees may accumulate and carry forward from one year to another. No payment for unused sick leave shall be made to an employee under any circumstances.

(6) Sick Leave Credits. Sick leave credits shall be transferred between NAFIs provided that the employee (a) did not retire from the losing NAFI, (b) is placed in a regular pay status in the gaining NAFI within 180 calendar days (or longer if Head of Component deems it appropriate) of removal from pay status in the losing NAFI, and (c) did not receive service credit for unused sick leave in accordance with subsection A.1. of Appendix B.

(7) On-the-Job Injury. An employee covered by workers' compensation insurance (5 U.S.C. 8171) shall be granted sick leave payments from the employee's accumulated sick leave balance in an amount which, when added to workers' compensation benefits, approximates but does not exceed the employee's basic salary.

* d. Excused Absence. The Heads of DoD Components or, designees, may authorize time off with pay to any NAFI employee. *

e. Absence for Maternity or Paternity Reasons

* (1) Leave for Maternity Reasons. Regular employees may request sick leave, annual leave, and/or leave without pay when incapacitation related to pregnancy and confinement has been properly established by medical authority. An absence covering pregnancy and confinement shall be treated as any other medically certified temporary incapacitation. *

* (2) Leave for Paternity Reasons. Regular male employees may request annual leave and/or leave without pay for purposes of assisting or caring for their children or the mother of the newborn child while she is incapacitated, as established by medical authority, for maternity reasons. *

(3) The Heads of DoD Components shall 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.

f. Military Leave

* (1) Regular full-time civilian employees who are members of Reserve Components of the Armed Forces of the United States, including the National Guard, are entitled to excused absence up to a maximum of 15 days per fiscal year without loss of pay, time, or performance rating when called to active duty or active duty for training. Any part of this excused absence that is not used in any given fiscal year accumulates for use in succeeding fiscal years, not to exceed a 15-day maximum carry-over. Therefore, an eligible employee could have a maximum total of 30 days to his/her credit for use during a fiscal year. *

* (2) In the case of regular civilian employees, who work less than full-time, the rate at which leave accrues shall be a percentage of the rate prescribed under subparagraph B.2.e.(1), above. The percentage shall be determined by dividing the number of hours in the employee's regularly scheduled workweek by the total number of hours that constitutes the normal full-time workweek of the employing NAFI. *

* (3) Regular civilian employees who are called to active duty for the purpose of providing military aid to enforce the law may be granted additional military leave not to exceed 22 workdays in a calendar year. These employees shall be granted leave upon presentation of competent orders. Compensation (other than a travel, transportation, or per diem allowance) received by an employee for such military services shall be credited against the pay payable to an employee with respect to his or her NAFI position for such period of military service. Military leave is to be granted only for workdays; the NAFI civilian pay of the employee shall be reduced only by the amount received *

for military service performed on a workday. The NAFI civilian pay shall not be reduced by any amount an individual may receive for days that are not workdays.

(4) Leave without pay may be granted employees for the following other types of military service:

(a) Summer training as members of Reserve Officers Training Corps.

(b) Temporary Coast Guard Reserve duty.

(c) Participation in parades by members of the State National Guard. (However, members of the National Guard in the District of Columbia are entitled to military leave with pay for participation in parades.)

(d) Training with a State Guard or other State military organization.

(e) Civil Air Patrol duty.

g. Court Leave

* (1) Upon advance submission of a court order, subpoena, summons, or any other judicial notification, regular employees shall be granted paid court leave for jury duty; to appear in court in an unofficial capacity as a witness on behalf of the U.S. Government or the Government of the District of Columbia; and to appear in court in an unofficial capacity as a witness on behalf of private parties where the United States, the District of Columbia, or a State or local government is a party to the proceedings. The court may be a Federal, District of Columbia, State, or local governmental-unit court. This provision does not apply to an employee appearing as a witness in a judicial proceeding that involves only private parties. *

* (2) Regular employees on court leave shall receive their regular pay for such time or shall retain the court fees received from the court, whichever is the greater amount. If the court fees are the lesser amount, such fees, exclusive of transportation when separately identified or otherwise identifiable, shall be turned over to the employing NAFI. However, when a State statute provides for reimbursement of expense or an expense allowance rather than a jury fee, employees shall receive their regular pay and the money paid by the court. *

h. Leave Without Pay. Leave without pay may be granted an employee who is receiving benefits under the Longshoremen's and Harbor Worker's Compensation Act (Chapter IV, subparagraphs B.2.a.(4) and B.2.b.(7)) and a regular full-time or regular part-time employee for military service (Chapter IV, paragraph B.2.e.). Upon request, such leave may be granted instead of annual or sick leave. Such leave may not be granted for a period exceeding 1 year except for military service and other circumstances considered appropriate by the Head of the DoD Component or designee.

* i. Military Furlough. Military furlough shall be granted to a regular employee for induction or recall to active duty in one of the U.S. Military *

Services. An employee returned to duty from military furlough shall have the same seniority, status, pay, and annual leave accrual entitlements that the employee would have enjoyed had he or she remained at work instead of being placed on furlough.

CHAPTER V

PERSONNEL RELATIONS AND SERVICES

A. EMPLOYEE-MANAGEMENT RELATIONS POLICY

In conformance with the provisions of DoD Directives 1426.1 and 1400.5, the Heads of DoD Components in their management of NAFI personnel shall recognize and strive toward the establishment of orderly and constructive relationships between managerial and nonmanagerial personnel. Continued and unimpeded communications are vital factors to an informed and productive work force. These extend to a thorough understanding of conditions of employment, job requirements, employee rights, privileges, and responsibilities of both management and employees.

1. Standards of Conduct. The nature of many of the activities supported by nonappropriated funds administered by the DoD Components is such that the civilian employees and assigned military personnel shall exemplify the highest standards of personal conduct and integrity. The provisions of DoD Directive 5500.7 are applicable to NAFI employees. The Heads of DoD Components shall ensure that their NAFI employees are fully acquainted with all aspects of the government's standards for ethical conduct.

2. Loyalty. The Heads of DoD Components shall ensure that no person will be employed or continue to be employed at a NAFI who:

a. Advocates the overthrow of the U.S. Government.

b. Is a member of an organization that advocates the overthrow of the U.S. Government.

c. Participates in any strike against the government, including all instrumentalities of the government.

3. Political Activity

a. The principles of 5 U.S.C. 7324 relating to political activity of government employees are hereby administratively extended to NAFI employees to the extent that no employee shall:

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

(2) Take any active part in a partisan political campaign.

b. NAFI employees retain the right to vote as they choose; express their opinions on all political subjects and candidates; and participate in nonpartisan political activity. Also, an employee may hold a State, territorial, and local office if it does not conflict with duties, laws, or executive orders. No inquiries shall be made concerning the political affiliation of an employee or applicant for employment, and any disclosures of political affiliation shall not be considered in the employment process of the employee or applicant for employment.

c. Determinations as to violations of the above policy will be made by the Head of the DoD Component in which such violations are alleged to have occurred.

* 4. Business-Based Actions *

a. Business-based actions are non-disciplinary, involuntary, and adverse personnel actions that are necessary to conduct business in an effective manner. Business-based actions include, but are not limited to:

- (1) Reduction in pay.
- (2) Reduction in hours of work.
- (3) Reduction in pay level.
- (4) Furlough.
- (5) Change in employment category.
- (6) Reduction in pay level based on reclassification of position.
- (7) Separation.

b. The Heads of DoD Components shall establish procedures for effecting business-based actions with a minimum of disruption to operations.

5. Employee Grievances

a. NAFI employees shall have the right to present their complaints and grievances to management officials for prompt and equitable consideration. The Heads of DoD Components shall establish procedures for deciding grievances of employees in an equitable and timely manner.

b. Where a labor organization has exclusive recognition, any negotiated grievance procedure shall be governed by 5 U.S.C. 7101 et seq., as implemented by DoD Directive 1426.1 and DoD 1400.25-M.

c. The employee grievance procedure may be used to resolve employee disputes of business-based actions and disciplinary actions of suspension of 30 days or less.

6. Disciplinary Actions

a. A disciplinary action is a personnel action affecting a regular employee that reduced the employee's basic pay or level; placed the employee in a nonpay, nonduty status; or separated the employee from NAFI employment and that was effected for cause; i.e., the disciplinary action stemmed directly from the actions of the effected employee.

b. Disciplinary actions do not include: *

- (1) Business-based actions.

(2) Actions taken as the result of termination of temporary promotion.

(3) Separation or change to lower pay or level when voluntarily initiated by the employee.

(4) Application of a revised prevailing rate schedule when there is no change to the position.

(5) Actions taken as a result of an employee abandoning his or her position.

c. Procedures for Processing Disciplinary Actions and Appeals. The Heads of DoD Components shall issue regulations and procedures for processing disciplinary actions and for handling employee appeals of disciplinary actions that result in reduction of pay or in separation. That appeals process shall include a final appellate decision above the level of Installation Commander or General Managers of the Army and Air Force Exchange Service.

7. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operation of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

8. Occupational Safety and Health. The administrators of NAFI personnel shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees in accordance with DoD Instruction 6055.1. Where safety technicians are not available within the installation, outside consultants shall be used.

9. Drug and Alcohol Abuse. The Heads of Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and

appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by having certain key administrative NAFI personnel quartered on the installation. The occupation of Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS DISCLOSING INFORMATION

The DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

1. A violation of any law, rule, or regulation; or
2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety.

DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures.

Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures. DoDD 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures.

K. WITHIN-GRADE INCREASES

1. Step Increases. An employee whose performance has been determined acceptable, and who has completed creditable service since his or her last equivalent increase in accordance with the following table, shall receive a within-grade increase.

	Steps 1/2/3	Steps 4/5/6	Steps 7/8/9
Calendar Weeks	52 weeks in each step	104 weeks in each step	156 weeks in each step

2. Creditable Service

a. Continuous full-time, part-time, temporary, and regularly scheduled intermittent NAFI employment is creditable service in the computation of a waiting period. Service credit is given for this employment during periods of annual, sick, and other leave with pay; advanced annual and sick leave; and service under a temporary appointment. Time in a nonpay status is creditable when it does not exceed, in the aggregate:

- (1) Two workweeks in the waiting period for steps 2, 3, and 4.
- (2) Four workweeks in the waiting period for steps 5, 6, and 7.
- (3) Six workweeks in the waiting period for steps 8, 9, and 10.

b. Leave of absence is creditable when it is granted an employee because of an injury for which compensation is payable, as is service with the Armed Forces during a period of war or national emergency.

3. Equivalent Increase. A new waiting period must be started if the employee receives an "equivalent increase." This equivalent increase is defined as an increase (or increases) in basic pay equal to or greater than the amount of the within-grade increment of the grade in which the employee is serving.

a. When an employee has served in more than one grade during the waiting period under consideration and it is necessary to determine whether he or she received an equivalent increase in a prior grade, an equivalent increase is an increase (or increases) in his or her scheduled rate of pay equal to or greater than the amount of the smallest within-grade increase for advancement between steps of the prior grade.

b. When an employee receives more than one increase in his or her scheduled rate of basic pay during the waiting period under consideration, none of which are equivalent increases, the first and subsequent increases are added until they amount to an equivalent increase, at which time he or she is considered to have received an equivalent increase.

c. The waiting period "under consideration" is that immediately preceding an employee's current entry into the rate of the grade in which he or she is now serving.

d. Increases not counted as equivalent increases are salary increases for UA employees resulting from a statutory increase for GS employees; wage increases granted under a wage system; increases resulting from the establishment of higher minimum pay rates by the OPM; quality step increases; territorial and foreign post differentials and cost of living allowances; and premium pay for overtime, night, or holiday duty.

(1) The waiting period for earning a within-grade increase during temporary promotion begins on the date of the temporary promotion and not on the date of the last equivalent increase in the regular grade.

(2) Upon being returned to the regular grade, an employee who was temporarily promoted is placed in the rate and given the waiting period credit that the employee would be entitled to if the employee had remained in the lower grade.

L. QUALITY STEP INCREASES

The Heads of DoD Components may authorize quality step increases to recognize and reward those regular UA employees who display continuing high quality performance.

M. IDENTIFICATION OF EXEMPT AND NONEXEMPT UA POSITIONS

In accordance with Chapter III, subparagraph B.2.d.(2)(b), in those geographical areas covered by the FLSA, as amended, UA position descriptions containing executive, administrative, and professional duties shall be annotated as "Exempt." Those position descriptions which do not meet the tests for exemptions pursuant to section 13(a)(1), FLSA, as amended, and as prescribed in FPM Letters, 551 series shall be annotated "Nonexempt."

N. OVERTIME AND OTHER PREMIUM PAY

1. Overtime

a. Employees in geographical areas covered by the FLSA shall have their pay set in accordance with the following:

(1) Exempt Employees. No employee identified as exempt may be paid overtime pay or given compensatory time off for work in excess of 40 hours in an administrative workweek, unless the overtime pay or compensatory time off is specifically authorized in advance, or pay for administratively uncontrollable overtime has been authorized. The doctrine of compensation for hours "permitted or suffered" to be worked shall not apply. Overtime rates, compensatory time off and administratively uncontrolled overtime pay shall be determined by application of the GS rules.

(2) Nonexempt Employees. By the FLSA, employees identified as nonexempt shall be paid overtime in consonance with the FLSA overtime provisions.

* b. Employees in areas not subject to the FLSA shall be paid overtime *
* or given compensatory time off, in accordance with the rules for GS employees, *
* for work in excess of 40 hours in a week. *

2 . Other Premium Pay

* a. The Heads of Components, and the Commander, AAFES, shall establish *
* rules for payment of shift differential, where required. The basic policy is *
* to pay shift differentials only in those localities where it is a prevailing *
* practice. *

* b. Holiday pay and leave may be authorized in accordance with rules *
* established by the Heads of Components and the Commander, AAFES. *

* c. Sunday premium pay may be authorized in accordance with rules *
* established by the Heads of Components and the Commander, AAFES. *

0. DETAILS

Details of a UA employee to perform the duties of another position, as distinguished from actually being appointed or assigned to the position, shall be governed by paragraph B.2.1., Chapter II, of this Manual. Employees who are improperly detailed to higher grade positions shall be allowed retroactive temporary promotions with backpay. A UA employee temporarily assigned to work of a higher grade may be temporarily promoted to the higher grade under the merit promotion and staffing program and given the pay of that position.

APPENDIX D

NAF PAY ADMINISTRATION¹
(Hourly Paid Employees)

A. GENERAL

1. Purpose. This Appendix supplements and complements governing pay policies and procedures prescribed by the Office of Personnel Management (OPM) in FPM Supplement 532-2, subchapter S8, NAF Pay Administration. While subchapter S8 applies only to Nonappropriated, Nonappropriated Leader, and Nonappropriated Supervisor (NA-NL-NS) positions and employees (that is, "prevailing rate," Crafts and Trades (CT)) in accordance with the provisions of this Manual, instructions contained in subchapter S8 have been generally applicable to Administrative Support (AS) and Patron Services (PS) positions and employees. "Generally applicable" means that the legal requirements and policies enunciated by OPM and which also incorporate appropriate Comptroller General decisions for NAF "prevailing rate" positions shall also apply to AS and PS categories. For overtime and other premium pay, Section N. of Appendix A shall apply to the AS and PS prevailing rate categories. Appendix A of this Manual provides guidance concerning pay policies and procedures for Universal Annual (UA) positions and employees.

2. Responsibility. The DoD Components shall integrate the instructional and explanatory material in this Appendix into their internal NAF pay administration directives.

3. Format. The clarification and examples are numbered and lettered, with pertinent headings also provided for easy reference to the corresponding sections of FPM Supplement 532-2, subchapter S8, and they should be reviewed when the provisions of that document are being applied.

4. Future Amendments. As additional clarification of FPM Supplement 532-2, subchapter S8 and related instructions become warranted, the Appendix will be amended.

B. SECTIONS OF SUBCHAPTER S8 CLARIFIED

1. GENERAL (S8-1)

a. Introduction (S8-1.a). For purposes of subchapter S8 and this Appendix, the term "lead agency" means the DoD Wage Fixing Authority.

b. Agency Responsibility (S8-1.b). "Agency" as used in this Appendix includes the DoD Components, as defined in this Manual. Unless authority is delegated to subordinate levels, Component headquarters are responsible for (1) defining the period of seven consecutive calendar days that make up each employee's administrative workweek, and (2) determining each employee's basic workweek. (See definitions of these terms under section S8-2.)

¹ TO BE USED ONLY IN CONJUNCTION WITH FPM SUPPLEMENT 532-2, S8. Section and paragraph titles within this Appendix are followed by parenthetical references to the part of FPM Supplement 532-2, S8 being discussed.

2. DEFINITIONS (S8-2)

a. Scheduled Rate of Pay (S8-2.a.(2)). This is any rate corresponding to the appropriate grade and step on the NA, NL, NS, AS, or PS wage schedules issued by the DoD Wage Fixing Authority, including a retained rate of pay and rate on temporary promotion when applicable.

b. Employee (S8-2.a.(3))

(1) NAF Prevailing Rate Employee. This term is used interchangeably with the term "NAF Crafts and Trades" employee. An employee of a DoD NAFI who is employed in a recognized craft or trade or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having craft, trade, or laboring experience and knowledge as the paramount requirement.

(2) In Chapter III of this Manual the definition of "employee," as used in subchapter S8, has been extended administratively to include:

(a) Administrative Support (AS) Employee. This category includes those employees who perform clerical, secretarial, and administrative work that is of an office or nonmanual nature, and who are paid on an hourly pay schedule.

(b) Patron Services (PS) Employee. This category includes those employees who perform work requiring skill and knowledge in selling food and retail merchandise and in providing personal, recreational, and amusement services, as well as a variety of other morale support activities. They are paid on an hourly pay schedule.

(3) The term "nonwage," where used, means Universal Annual.

c. Highest Previous Rate (S8-2.a.(6)). For the purpose of setting rates for employees in NAF positions, the term "highest previous rate" will include those pay rates previously paid to employees in AS, PS, or UA positions, in addition to NA, NL, and NS positions.

d. Representative Rate (S8-2.a.(7)). The term "General Schedule," as used in this definition, also means the UA schedule.

e. Promotion (S8-2.a.(8)). The term "General Schedule," as used in this definition, also means the UA schedule.

f. Change to Lower Grade (S8-2.a.(9)). The term "General Schedule," as used in this definition, also means the UA schedule.

g. Premium Pay (S8-2.a.(14)). This term means additional compensation for overtime work, Sunday work, and standby duty, as well as callback overtime work and holiday work.

h. Basic Workweek (S8-2.a.(17)). An employee's basic workweek, as defined, shall always be scheduled in advance of the 1st day of the administrative workweek in which it occurs.

DEPARTMENT OF DEFENSE
PUBLICATION SYSTEM
CHANGE TRANSMITTAL

OFFICE OF THE SECRETARY OF DEFENSE
(Force Management and Personnel)

CHANGE NO. 3
DoD 1401.1-M
October 30, 1991

Personnel Policy Manual for
Nonappropriated Fund Instrumentalities

The Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity), Office of the Assistant Secretary of Defense (Force Management and Personnel), has authorized the following page changes to DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988:

PAGE CHANGES

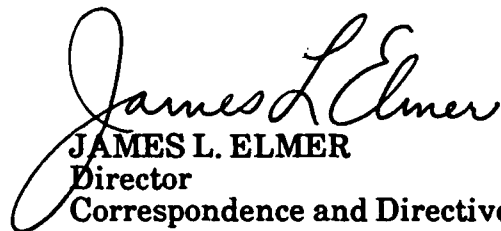
Remove: Pages ii through xvi, II-7 through II-9, and V-1 through V-4

Insert: Attached replacement pages

Changes appear on pages iii, xi&xii, xiv through xvi, II-8, II-9, and V-2 and are indicated by marginal asterisks.

EFFECTIVE DATE

The above changes are effective immediately. Forward two copies of revised implementing documents to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity), Office of the Assistant Secretary of Defense (Force Management and Personnel), within 120 days.


JAMES L. ELMER
Director
Correspondence and Directives

Attachments
22 pages

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

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- 1342.13 "Eligibility Requirements for Education of Minor Dependents in
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- 1400.5 "DoD Policy for Civilian Personnel," March 21, 1983
- 1400.6 "DoD Civilian Employees in Overseas Areas," February 15, 1980
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- 1402.1 "Employment of Retired Members of the Armed Forces,"
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- 11222 "Prescribing Standards of Ethical Conduct for Government Officers and Employees," May 8, 1965
- 11478 "Equal Employment Opportunity in the Federal Government," August 8, 1969
- 11582 "Observances of Holidays by Government Agencies," February 11, 1971
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- 2108 (veterans preference eligibility)
- 3110 (restrictions in the employment of relatives)
- 5332 (general schedule pay rates)
- 5342 (definitions)
- 5361 - 5366 (grade and pay retention instructions applicable to federal wage system employees)
- 5532-5533 (dual pay and dual employment)
- 5542 (overtime rates - compensation)
- 5544 (wage-board overtime and Sunday rates computation)
- 5911 (entitlement of quarters and facilities by civilian employees in the United States)
- 6305 (home leave)
- 7101-7103 (Labor management relations)
- 7324 (influencing elections; taking part in political campaigns; prohibitions with exceptions)
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8501 - 8509 (unemployment compensation)

Title 10, United States Code - Armed Forces

*

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*

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96-70, "Panama Canal Act of 1979," provides for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977

97-35, "OMNIBUS Budget Reconciliation Act of 1981," August 13, 1981. Title IX, Section 946(b) included NAFIs within the definition of "employer" for purposes of the Health Maintenance Organization Act

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98-397, "The Retirement Equity Act of 1984," improves the delivery of retirement benefits and provides greater equity under pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside of the home, and for other purposes

* 99-145, "DoD Authorization Act," November 8, 1985, Section 806, "Employment *
* Opportunities for Military Spouses," as amended (10 U.S.C., Section 133 Note) *

99-196, December 23, 1985, governs the implementation of flexible and compressed work schedules.

99-603, "Immigration Reform and Control Act of 1986," makes it unlawful to hire, recruit, or refer for a fee for employment, unauthorized aliens in the United States. This law necessitated a rule promulgated by the Immigration and Naturalization Service, U.S. Department of Justice. The rule provides for an employment eligibility verification system designed to prevent the employment of unauthorized aliens.

- * 101-189, Title XV, "Military Child Care Act of 1989," November 29, 1989. *
- * 101-510, "National Defense Authorization Act for Fiscal Year 1991," Section 331, *
- * Assistance Program for Employees of a NAFI adversely affected by Base Closures, *
- * amends Section 1013 of the Demonstration Cities and Metropolitan Development Act *
- * of 1966 (42 U.S.C. 3374); Title 10, United States Code, is amended by adding new *
- * Chapter 58, Section 1143(d), Employment Preference by NAFIs. *
- * 101-647, "Crime Control Act of 1990," November 29, 1990. *

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Chapter 713, Equal Employment Opportunity

Chapter 731, Suitability

Chapter 850, Unemployment Benefits

FPM Supplement 296-33, The Guide to Processing Personnel Actions, Subchapter 7, Adjudication of Veterans Preference Claims

FPM Supplement 512-1 Craft and Trades Job-Grading Standards

FPM Supplement 532-2 Federal Wage System - Nonappropriated Fund Employees

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FPM 551 Letters and Bulletins, Fair Labor Standards Act

FPM Letter 792-15, Federal Employees' Health and Counseling Programs

OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULARS

A-76 "Performance of Commercial Activities," (current edition)

continuous basis with the results of such evaluation discussed with each individual employee.

*
h. Employee Records and Files *

(1) The Heads of DoD Components shall ensure that NAFIs keep and maintain records in compliance with the Fair Labor Standards Act of 1938, as amended. Additionally, the Heads of DoD Components shall ensure that adequate records are maintained on all employees. Records shall include all official personnel documents effected during an employee's service. An employee's right to review his or her records and the protection of his or her privacy shall be in accordance with P.L. 93-579, the Privacy Act of 1974 (5 U.S.C. 552a).

(2) Except as provided in (a) below, NAFI health units operating under the control of a medical officer or a registered nurse under medical supervision shall retain records of medical examinations and other miscellaneous medical records and keep them confidential. Otherwise, they shall be kept in a separate locked cabinet during the employee's NAFI service and may not be made a part of the official personnel folder.

(a) Medical certificates and any other medical records of examinations used to determine an employee's fitness for the job are permanent records and shall be placed in a sealed envelope. The employee's name (last, first, middle initial), date of birth, and social security number, as illustrated in DoD 5000.12-M, shall appear on the envelope in its upper right hand corner, and the envelope shall be attached on the right side of the official personnel folder. The envelope shall remain attached until the employee's folder is acquired by another NAFI at which time the receiving NAFI, upon receipt of the folder, shall remove the sealed envelope and place its contents either in the health unit or in a locked cabinet for safeguarding medical records.

(b) Miscellaneous medical records, correspondence, dispensary records, and similar papers of temporary value shall be disposed of in accordance with the records disposition schedule of the DoD Component concerned.

(3) Records disposition shall be accomplished in accordance with instructions contained in the official records disposition schedule for DoD Nonappropriated Fund Employee Personnel Records as approved by the General Services Administration, National Archives and Records Service, on June 29, 1983, as may be amended. When the employment of an individual is terminated, the personnel folder shall be marked "Inactive" and filed in an inactive file. These folders shall be retained by the employing NAFI until proper disposition in accordance with the above-mentioned official records disposition schedule. Disposition of temporary records shall be in accordance with the above-mentioned official records disposition schedule. When a terminated employee is employed by another NAFI, the employee's personnel folder, upon request, shall be forwarded by the holder to the new employer.

(4) In an effort to expedite requests for information relative to retirement benefits or personnel data, the DoD Components shall advise, in writing, separating employees where they may obtain the desired information or record.

i. Volunteer Service. The Heads of DoD Components (a) may prescribe regulations to provide for accepting volunteer services; and (b) prior to accepting volunteer services, tort liabilities and workers' compensation liabilities that may be incurred by their utilization shall be weighed.

j. Supervision of Appropriated Fund Employees. There is no legal prohibition against the supervision of appropriated fund employees within the DoD Components by NAF employees.

k. Details of Employees. A detail is a temporary assignment of an employee for a specified period, with the employee returning to his or her regular duties at the end of the detail. A detail to a lower-level position shall not adversely affect the employee's salary, classification, or job standing. Details of more than 60 days made to a higher grade position, or to a position with known promotion potential, shall be done under the merit promotion and staffing program.

C. AFFIRMATIVE ACTION FOR HIRING, PLACEMENT, AND ADVANCEMENT OF HANDICAPPED INDIVIDUALS

1. The Heads of DoD Components shall give full consideration to employment of handicapped individuals in all NAFIs, and shall ensure implementation of all required laws, executive orders, rules, and regulations, including applicable regulations of the Equal Employment Opportunity Commission and the Office of Personnel Management. In meeting these requirements, NAFIs will ensure that qualified handicapped individuals, including current employees who became disabled after appointment, have equitable opportunities to be hired, placed, and advanced in NAFI jobs. In addition, the Heads of DoD Components are authorized and encouraged to use any civil service provisions for hiring handicapped individuals that do not cover NAFIs as a guide to further develop policies and programs that will foster the effort to promote and expand employment opportunities for handicapped individuals so that their skills may be utilized.

2. Affirmative action is to be an integral part of ongoing Component personnel management programs, as evidenced by persons with disabilities being employed in a broad range of grade levels and occupational series commensurate with their qualifications and by Component policies that do not unnecessarily exclude or limit persons with disabilities because of job structure or design or because of architectural, transportation, communication, procedural, or attitudinal barriers.

D. EMPLOYMENT OF SPOUSES OF MILITARY PERSONNEL

The Heads of DoD Components shall provide employment preference for spouses applying and referred for certain nonappropriated fund positions in all employment categories at grade levels UA-8 and below and equivalent positions and for positions paid at hourly rates in accordance with DoD Instruction 1404.12.

E. PREFERENCE IN HIRING FOR INVOLUNTARILY SEPARATED MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS

1. In accordance with P.L. 101-510, section 502(a) (which added section

* 1143(d) to title 10 U.S. Code) the Heads of the DoD Components shall take steps
* to provide preference in hiring by NAFIs for involuntarily separated members of
* the Army, Navy, Air Force, and Marine Corps, and their dependents. *

* 2. This program is in addition to section D. above, except that section
* shall have priority over a preference under this section. *

* 3. A person may receive a preference in hiring only once under P.L. 101-
* 510. Transition hiring preference is terminated upon placement in or
* declination of (whichever occurs first) a NAF position for which application is
* made. *

* 4. Preference applies to all NAF jobs, UA-8 and below and equivalent
* positions paid at hourly rates, regardless of the grade of the job, for which
* the individual eligible for transition hiring preference applies and is fully
* qualified. *

* 5. Preference applies to any NAF job which is open to competition in
* accordance with merit practices; even if there are enough "in-house eligibles"
* to otherwise limit competition just to them under merit procedures. In other
* words, preference will not be limited to just those vacancies where it is
* necessary to hire someone outside the organization. *

* 6. A person eligible for preference shall be referred for selection only
* if he or she is among the best qualified candidates after a competitive
* screening process is completed. *

CHAPTER V

PERSONNEL RELATIONS AND SERVICES

A. EMPLOYEE-MANAGEMENT RELATIONS POLICY

In conformance with the provisions of DoD Directives 1426.1 and 1400.5, the Heads of DoD Components in their management of NAFI personnel shall recognize and strive toward the establishment of orderly and constructive relationships between managerial and nonmanagerial personnel. Continued and unimpeded communications are vital factors to an informed and productive work force. These extend to a thorough understanding of conditions of employment, job requirements, employee rights, privileges, and responsibilities of both management and employees.

1. Standards of Conduct. The nature of many of the activities supported by nonappropriated funds administered by the DoD Components is such that the civilian employees and assigned military personnel shall exemplify the highest standards of personal conduct and integrity. The provisions of DoD Directive 5500.7 are applicable to NAFI employees. The Heads of DoD Components shall ensure that their NAFI employees are fully acquainted with all aspects of the government's standards for ethical conduct.

2. Loyalty. The Heads of DoD Components shall ensure that no person will be employed or continue to be employed at a NAFI who:

a. Advocates the overthrow of the U.S. Government.

b. Is a member of an organization that advocates the overthrow of the U.S. Government.

c. Participates in any strike against the government, including all instrumentalities of the government.

3. Political Activity

a. The principles of 5 U.S.C. 7324 relating to political activity of government employees are hereby administratively extended to NAFI employees to the extent that no employee shall:

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

(2) Take any active part in a partisan political campaign.

b. NAFI employees retain the right to vote as they choose; express their opinions on all political subjects and candidates; and participate in nonpartisan political activity. Also, an employee may hold a State, territorial, and local office if it does not conflict with duties, laws, or executive orders. No inquiries shall be made concerning the political affiliation of an employee or applicant for employment, and any disclosures of political affiliation shall not be considered in the employment process of the employee or applicant for employment.

c. Determinations as to violations of the above policy will be made by the Head of the DoD Component in which such violations are alleged to have occurred.

4. Business-Based Actions

a. Business-based actions are non disciplinary, involuntary, and adverse personnel actions that are necessary to conduct business in an effective manner. Business-based actions include, but are not limited to:

- (1) Reduction in pay.
- (2) Reduction in hours of work.
- (3) Reduction in pay level.
- (4) Furlough.
- (5) Change in employment category.
- (6) Reduction in pay level based on reclassification of position.
- (7) Separation.

* b. The Heads of DoD Components shall provide basic due process rights *
* in business-based actions (i.e., notice of a proposed action and the reasons *
* for it and an opportunity to respond) and include procedures such as objective *
* criteria and/or higher level review to guard against arbitrary actions. *

5. Employee Grievances

a. NAFI employees shall have the right to present their complaints and grievances to management officials for prompt and equitable consideration. The Heads of DoD Components shall establish procedures for deciding grievances of employees in an equitable and timely manner.

b. Where a labor organization has exclusive recognition, any negotiated grievance procedure shall be governed by 5 U.S.C. 7101 et seq., as implemented by DoD Directive 1426.1 and DoD 1400.25-M.

c. The employee grievance procedure may be used to resolve employee disputes of business-based actions and disciplinary actions of suspension of 30 days or less.

6. Disciplinary Actions

a. A disciplinary action is a personnel action affecting a regular employee that reduced the employee's basic pay or level; placed the employee in a nonpay, nonduty status; or separated the employee from NAFI employment and that was effected for cause; i.e., the disciplinary action stemmed directly from the actions of the effected employee.

b. Disciplinary actions do not include:

b. Disciplinary actions do not include:

- (1) Business-based actions.
- (2) Actions taken as the result of termination of temporary promotion.
- (3) Separation or change to lower pay or level when voluntarily initiated by the employee.
- (4) Application of a revised prevailing rate schedule when there is no change to the position.
- (5) Actions taken as a result of an employee abandoning his or her position.

c. Procedures for Processing Disciplinary Actions and Appeals. The Heads of DoD Components shall issue regulations and procedures for processing disciplinary actions and for handling employee appeals of disciplinary actions that result in reduction of pay or in separation. That appeals process shall include a final appellate decision above the level of Installation Commander or General Managers of the Army and Air Force Exchange Service.

7. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operation of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

8. Occupational Safety and Health. The administrators of NAFI personnel shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees in accordance with DoD Instruction 6055.1. Where safety technicians are not available within the installation, outside consultants shall be used.

9. Drug and Alcohol Abuse. The Heads of Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local

commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by having certain key administrative NAFI personnel quartered on the installation. The occupation of Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS DISCLOSING INFORMATION

The DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

1. A violation of any law, rule, or regulation; or
2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety.

DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures.

Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures. DoDD 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures.

DEPARTMENT OF DEFENSE
PUBLICATION SYSTEM
CHANGE TRANSMITTAL

OFFICE OF THE SECRETARY OF DEFENSE
(Force Management and Personnel)

CHANGE NO. 4
DoD 1401.1-M
January 15, 1993

Personnel Policy Manual for
Nonappropriated Fund Instrumentalities

The Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity), Office of the Assistant Secretary of Defense (Force Management and Personnel), has authorized the following page changes to DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988:

PAGE CHANGES

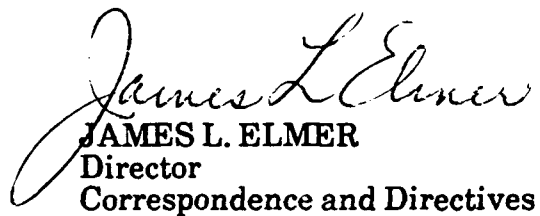
Remove: Pages iv through x and V-1 through V-4

Insert: Attached replacement pages and new pages V-5 through V-9

Changes appear on pages v, V-2 through V-4 and are indicated by marginal bars.

EFFECTIVE DATE

The above changes are effective immediately. Forward two copies of revised implementing documents to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity), Office of the Assistant Secretary of Defense (Force Management and Personnel), within 120 days.


JAMES L. ELMER
Director
Correspondence and Directives

Attachments
16 pages

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CHAPTER V

PERSONNEL RELATIONS AND SERVICES

A. EMPLOYEE-MANAGEMENT RELATIONS POLICY

In conformance with the provisions of DoD Directives 1426.1 and 1400.5, the Heads of DoD Components in their management of NAFI personnel shall recognize and strive toward the establishment of orderly and constructive relationships between managerial and nonmanagerial personnel. Continued and unimpeded communications are vital factors to an informed and productive workforce. These extend to a thorough understanding of conditions of employment, job requirements, employee rights, privileges, and responsibilities of both management and employees.

1. Standards of Conduct. The nature of many of the activities supported by nonappropriated funds administered by the DoD Components is such that the civilian employees and assigned military personnel shall exemplify the highest standards of personal conduct and integrity. The provisions of DoD Directive 5500.7 are applicable to NAFI employees. The Heads of DoD Components shall ensure that their NAFI employees are fully acquainted with all aspects of the government's standards for ethical conduct.

2. Loyalty. The Heads of DoD Components shall ensure that no person will be employed or continue to be employed at a NAFI who:

- a. Advocates the overthrow of the U.S. Government.
- b. Is a member of an organization that advocates the overthrow of the U.S. Government.
- c. Participates in any strike against the government, including all instrumentalities of the government.

3. Political Activity

a. The principles of 5 U.S.C. 7324 relating to political activity of government employees are hereby administratively extended to NAFI employees to the extent that no employee shall:

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

(2) Take any active part in a partisan political campaign.

b. NAFI employees retain the right to vote as they choose; express their opinions on all political subjects and candidates; and participate in nonpartisan political activity. Also, an employee may hold a State, territorial, and local office if it does not conflict with duties, laws, or executive orders. No inquiries shall be made concerning the political affiliation of an employee or applicant for employment, and any disclosures of political affiliation shall not be considered in the employment process of the employee or applicant for employment.

c. Determinations as to violations of the above policy will be made by the Head of the DoD Component in which such violations are alleged to have occurred.

4. Business-Based Actions

a. Definition. A business-based action (BBA) is a reduction in employment category or pay rate, a furlough of eight calendar days or more, or separation action initiated by management for non-disciplinary reasons. A BBA is used to adjust resources in response to changes in business revenue, budget, workload, organization, or mission. It is not used to address a performance or conduct deficiency. Employees are affected by BBAs only if so identified after an objective, fair and equitable ranking against other employees in the same employment category and group of affected positions.

b. Coverage. The following provisions cover Regular employees and those Flexible employees who have been on the rolls of the NAF activity effecting the BBA for three continuous years (except Flexible employees are not covered where they are furloughed, nor do they have a right to the third stage of the appeal process, i.e., appeal above the base level). Excluded from coverage are employees currently serving probationary periods (non-supervisory), employees with less than satisfactory performance ratings, and Flexible employees who have been on the rolls of the NAF activity effecting the BBA less than three continuous years. The following provisions are not applicable where they conflict with negotiated procedures under collective bargaining agreements.

c. Types of Business Based Actions

(1) Reduction in pay rate. Such actions could result from reorganization, realignment of workload, elimination of duties or responsibilities from a position, lack of funds, or from a need to be competitive with pay in other organizations or the local labor market.

(2) Furlough of a Regular employee (Flexible employees are excluded) for eight calendar days or more (temporary layoff for a definite or indefinite period of time).

(3) Change in employment category

(4) Separation

d. Factors to Consider Before Resorting to BBA. Careful planning is necessary to lessen adverse effects, prepare employees, and to avoid administrative and morale problems. It is important to consider whether the cause of the reduction or realignment is a temporary or permanent situation along with each of the various actions that may be taken. For example, a reduction in hours of work, a reduction in pay rate, or a furlough may be more appropriate than separation.

e. Business Based Action Procedures

(1) Determining Affected Employees.

(a) Covered employees must be ranked to determine the order in which they will be affected (unless all employees will be equally affected--separation due to base closure, for example). The ranking process must include performance and seniority. Performance may be the primary criterion. The performance factor must include at least the employee's last two performance ratings. If there is only one rating, then it must be used. If there is no rating, then a rating must be issued and used.

(b) The determination of the order in which employees were adversely affected, the process used to determine the order, and copies of the written notices shall be maintained in a separate BBA file apart from the employee's official personnel folder. Subject to the provisions of the Privacy Act of 1974, the BBA file shall be made available for review upon request only by an affected employee or by those whose official duties require access.

(2) Advance Notice. The minimum advance notice period for covered Regular employees is 7 calendar days for a non-separation action and 30 calendar days for separation. For covered Flexible employees, the minimum advance notice period is 24 hours for non-separation action and 7 calendar days for separation. Under emergency conditions (e.g., breakdown of equipment or other emergency conditions requiring suspension of operations, or an unanticipated reduction in business such as occurs with a sudden deployment of troops) a minimum of 24 hours notice may be given. The notice shall contain:

(a) The employee's position title, series, grade or payband level, and rate of pay.

(b) A description of the BBA and reason for it.

(c) Advice on severance pay entitlement, if applicable.

(d) Advice on loss of benefits, if applicable.

(e) If the action is separation:

1 A statement that the action taken is non-disciplinary and does not preclude re-employment.

2 Information on the reemployment priority list (RPL).

3 Information on eligibility for Civil Service positions for one year from date of separation, under the terms of the DoD/OPM Interchange Agreement.

4 Information on unemployment compensation

(f) An explanation of the employee's right to appeal, including how and where to appeal and the time limits.

(3) Appeals of Business Based Actions

(a) General. Covered employees have a right to appeal in accordance with the following provisions, within 7 calendar days after the effective date of the BBA, if they believe BBA regulations and procedures were not properly applied. Management decisions regarding the budget, workload, organization and mission are reserved to management and are not appealable. If an employee alleges that the action resulted from an act of discrimination, the action may only be contested through the discrimination complaint procedure.

A decision in favor of an employee entails the requirement that the employee be "made whole." This includes pay and restoration to duty including employment rights and benefits, as applicable. If, however, it is clear the same action would have been taken against the employee even if the regulatory or procedural error had not been made, then there is no "made whole" provision.

(b) Representation. An employee may be accompanied, represented, and advised by a representative of his or her own choosing, provided the person is willing and free to do so. The employee shall designate his or her representative in writing and provide the designation to the first stage deciding official. The representative's service must not result in a conflict of interest as determined by the installation commander. All costs for the representative shall be borne by the employee.

(c) Use of Official Time. The employee and his or her designated representative may use reasonable amounts of official duty time subject to supervisory determination as to when such time may be used in light of priority needs of the NAFTI. Such time may be used to prepare and present appeals.

(4) Business Based Action Appeals Procedure

(a) First Stage. The employee and his or her representative shall, not later than 7 calendar days after the effective date of the BBA, present an written appeal to the lowest level of management which can grant relief. Every effort shall be made to resolve the matter promptly and fairly at this stage. A written decision shall be provided to the employee within 7 calendar days of receipt of the appeal. It shall summarize the issue, the consideration given, and advise the employee of the right to seek relief at the next stage within 7 calendar days from the date of receipt of the decision, if he or she is not satisfied.

(b) Second Stage. A written appeal shall be submitted to an official, designated by management, in the chain of command above the official who considered the appeal at the first stage. Upon receipt of the

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appeal, the deciding official may designate a disinterested third party to review the facts and make a recommendation to the deciding official. A written decision shall be provided the employee within 45 calendar days of receipt of the appeal. The decision shall summarize the issue, the consideration given, and advise Regular employees of: (1) the right to request a review of the written appeal record by a level above the installation commander or principal management official of the Army and Air Force Exchange Service (AAFES); (2) how and where to file the request; and (3) time limits for filing. There is no further review or appeal above this level for covered Flexible employees.

(c) Third Stage (Applies to Regular employees only). The official above the installation commander, or the principal management official of AAFES, designated as the reviewer, shall make a decision based on the written record within 30 calendar days of receipt. NAF resources shall be used to accomplish BBA appellate review above the base level. Components may request exception to this NAF resource requirement. There is no further review or appeal above this level.

(5) Record of Appeal. A complete record of the appeal shall be maintained in the BBA file.

5. Reemployment Priority Lists.

a. Each personnel office servicing a NAF activity that separates employees by BBA shall establish a Reemployment Priority List (RPL) to provide placement assistance to those separated by BBA. Separated employees shall have priority placement rights in the NAF activity from which separated and priority consideration rights at other NAF activities in the commuting area. They shall immediately be placed on the RPL and remain on the RPL until reemployed, but not longer than 1 year from the date of separation.

b. NAF employees who were separated by BBA no more than one year prior to the effective date of this RPL policy shall be added to the RPL. Placement or consideration is prospective from the time placed on the list. As an exception to the general rule, employees so added shall remain on the list until reemployed or until one year from the date they were added whichever comes first.

c. A person on the RPL shall be offered employment in a vacant position in the NAF activity from which he or she was separated if:

(1) Management is filling a vacancy by other than detail or position change (promotion, demotion, reassignment).

(2) The position is in the same or lower employment category as the position from which separated.

(3) The position is in the same or lower grade or pay level as the position from which separated.

(4) The position has substantially the same duties as the position from which separated.

d. If the offer is declined, the person will be removed from the RPL and the next eligible person on the RPL will be offered the position, and so on until the RPL is exhausted.

e. Rehiring an individual on the RPL is a noncompetitive recruitment action. Therefore, such individuals shall be rehired before those who receive preference in competitive recruitment actions.

f. A person on the RPL must also be offered priority consideration for NAF jobs in other DoD NAF activities in the commuting area if:

(1) The NAF activity is filling the vacancy by other than detail or position change (promotion, demotion, reassignment);

(2) The vacancy is in the same or lower grade or pay level as the position from which the person on the RPL was separated;

(3) The vacancy is in the same or lower employment category as the position from which the person on the RPL was separated; and

(4) The vacancy has substantially the same duties as the position from which the person on the RPL was separated.

g. DoD NAF activities shall exchange RPLs within the commuting area to effect the above requirements.

h. An individual's name is removed from the RPL when he or she accepts an offer of a position in the same or higher employment category as the position from which separated in any DoD NAF activity. Declination of such an offer constitutes removal from the RPL.

6. Employee Grievances

a. NAFI employees shall have the right to present their complaints and grievances to management officials for prompt and equitable consideration. The Heads of DoD Components shall establish procedures for deciding grievances of employees in an equitable and timely manner.

b. Where a labor organization has exclusive recognition, any negotiated grievance procedure shall be governed by 5 U.S.C. 7101 et seq., as implemented by DoD Directive 1426.1 and DoD 1400.25-M.

c. The employee grievance procedure may be used to resolve employee disputes of business-based actions and disciplinary actions of suspension of 30 days or less.

7. Disciplinary Actions

a. A disciplinary action is a personnel action affecting a regular employee that reduced the employee's basic pay or level; placed the employee in a nonpay, nonduty status; or separated the employee from NAFI employment and that was effected for cause; i.e., the disciplinary action stemmed directly from the actions of the effected employee.

b. Disciplinary actions do not include:

- (1) Business-based actions.
- (2) Actions taken as the result of termination of temporary promotion.
- (3) Separation or change to lower pay or level when voluntarily initiated by the employee.
- (4) Application of a revised prevailing rate schedule when there is no change to the position.
- (5) Actions taken as a result of an employee abandoning his or her position.

c. Procedures for Processing Disciplinary Actions and Appeals.

The Heads of DoD Components shall issue regulations and procedures for processing disciplinary actions and for handling employee appeals of disciplinary actions that result in reduction of pay or in separation. That appeals process shall include a final appellate decision above the level of Installation Commander or General Managers of the Army and Air Force Exchange Service.

8. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operation of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

9. Occupational Safety and Health. The administrators of NAFI personnel shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees in accordance with DoD Instruction 6055.1. Where safety technicians are not available within the installation, outside consultants shall be used.

10. Drug and Alcohol Abuse. The Heads of Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

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B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by having certain key administrative NAFI personnel quartered on the installation. The occupation of Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS DISCLOSING INFORMATION

The DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

1. A violation of any law, rule, or regulation; or
2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety.

DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures.

Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures.

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DoDD 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures.

SUPPLEMENTARY

INFORMATION

ERRATA

DEPARTMENT OF DEFENSE PUBLICATION SYSTEM

CHANGE TRANSMITTAL

OFFICE OF THE SECRETARY OF DEFENSE

Assistant Secretary of Defense for Force Management Policy

DoD 1401.1-M

CHANGE 5

October 20, 1995

PERSONNEL POLICY MANUAL FOR NONAPPROPRIATED FUND INSTRUMENTALITIES

The Deputy Assistant Secretary Civilian Personnel Policy, has authorized the following pen changes to DoD 1401.1-M, "Personnel Policy Manual For Nonappropriated Fund Instrumentalities," December 1988:

PEN CHANGES

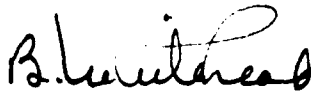
Pages VII-2 and VII-3,

Delete paragraphs B.4.a. through subparagraph B.4.b.(4).

Insert a new subsection B.4. "The payment of allowances and differentials to NAF employees shall comply with DoD 1400.25-M, "DoD Civilian Personnel Manual (CPM)," Chapter 592, "Overseas Allowances and Differentials." The delegation of authority restrictions provided in that Chapter apply to NAF. However, the Commander, AAFES, will be considered a Head of Agency."

EFFECTIVE DATE

The above change are effectively immediately.



B. C. WHITEHEAD

Director

Correspondence and Directives

NAVSO P-6073



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CHANGE TRANSMITTAL

DoD 1401.1-M

OFFICE OF THE SECRETARY OF DEFENSE
Assistant Secretary of Defense for Force Management Policy

CHANGE 6
February 16, 1996

PERSONNEL POLICY MANUAL FOR
NONAPPROPRIATED FUND INSTRUMENTALITIES

The Deputy Assistant Secretary Civilian Personnel Policy, has authorized the following pen changes to DoD 1401.1-M, "Personnel Policy Manual For Nonappropriated Fund Instrumentalities," December 1988:

PAGE CHANGES

Remove: Pages ii through xvi, III-1 through III-10, V-7 through V-9, and Appendix C-3 through C-4

Insert: Attached replacement pages and new pages xvii through xxiv and H-1 through H-5

EFFECTIVE DATE

The above change are effectively immediately.

B. C. Whitehead

B. C. WHITEHEAD

Director

Correspondence and Directives

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REFERENCES

This list may not be complete. Heads of DoD Components shall ensure compliance with all applicable Executive Orders, laws, rules, regulations, etc., including those that may not be listed below.

EXECUTIVE ORDERS

- 11137 "Relating to Certain Allowances and Benefits for Civilian Employees of Nonappropriated Fund Instrumentalities of the Armed Forces," January 7, 1964. Amended by EO 11382 on November 28, 1967.
- 11222 "Prescribing Standards of Ethical Conduct for Government Officers and Employees," May 8, 1965. Amended by EO 12565 on September 25, 1986.
- 11478 "Equal Employment Opportunity in the Federal Government," August 8, 1969. Amended by EO 12106 on December 28, 1978.
- 12568 "Employment Opportunities for Military Spouses at Nonappropriated Fund Activities," October 2, 1986.
- 12674 "Fundamental Principles of Ethical Conduct for all Executive Branch Employees," April 12, 1989. Amended by EO 12731 on October 17, 1990.
- 12871 "Labor-Management Partnerships," October 1, 1993.
- 12953 Actions Required of all Executive Agencies to Facilitate Payment of Child Support, February 27, 1995.

PUBLIC LAWS

- 88-448 "Dual Compensation Act of 1964," August 19, 1964.
- 90-40 "Military Selective Service Act of 1967," June 30, 1967, as amended.
- 92-261 "Equal Employment Opportunity Act of 1972," March 24, 1972.

- 92-392 "Government Employees-Prevailing Rate System," August 19, 1972. An Act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes.
- 92-576 "Longshoremen's and Harbor Workers' Compensation Act," October 27, 1972. Provides compensation rules for NAF employees injured on the job. Amended in 1984 by P.L. 98-426.
- 93-259 "Fair Labor Standards Amendments of 1974," April 8, 1974. Amends the Fair Labor Standards Act of 1938, to cover nonsupervisory Federal employees under its provisions for minimum wage, overtime and nondiscrimination because of age. Amended on November 17, 1991, by P.L. 101-157.
- 93-406, "Employee Retirement Income Security Act," September 2, 1974.
- 93-579 "Privacy Act of 1974," December 31, 1974. Amends title 5, United States Code by adding Section 552a to safeguard individual privacy from the misuse of Federal records, and to provide that individuals be granted access to records.
- 95-256 "Age Discrimination in Employment Act Amendments of 1978," April 6, 1978. Amends the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the Act.
- 95-454 "Federal Service Labor-Management Relations Act," October 13, 1978. Amended on June 13, 1991 by P.L 102-54.
- 95-595 "Budget and Accounting Procedures Act of 1978," November 4, 1978. Amends the 1950 act to require that the Comptroller General provide for a financial audit with respect to pension plans for employees of the Federal Government, its agencies, and instrumentalities; to require that an annual report, including a financial statement and an actuarial statement, be furnished to Congress and the Comptroller General with respect to such plans; and for other purposes.
- 96-70 "Panama Canal Act of 1979," September 27, 1979. Provides for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977.
- 97-35 "OMNIBUS Budget Reconciliation Act of 1981," August 13, 1981. Includes NAFIs within the definition of employee for purposes of the Health Maintenance Organization Act (Title IX, Section 946(b)).

schedules for appropriated fund employees. Amended by P.L. 99-196 on December 23, 1985.

- 98-94 "Department of Defense Authorization Act, 1984," September 24, 1983. Section 1253, "Employment Protection for Certain Nonappropriated Fund Instrumentality Employees," amends Chapter 81 of title 10, United States Code, by adding Section 1587 concerning "whistleblower" protection.
- 98-397 "The Retirement Equity Act of 1984," August 23, 1984. Provides greater equity under pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses.
- 99-145 "Department of Defense Authorization Act, 1986," November 8, 1985, Section 806, "Employment Opportunities for Military Spouses".
- 99-603 "Immigration Reform and Control Act of 1986," November 6, 1986. Makes it unlawful to hire, recruit, or refer for a fee for employment, unauthorized aliens in the United States. This law necessitated a rule promulgated by the Immigration and Naturalization Service, U.S. Department of Justice. The rule provides for an employment eligibility verification system designed to prevent the employment of unauthorized aliens.
- 99-638 "Nonappropriated Fund Instrumentalities Employees Retirement Credit Act of 1986," November 2, 1986. Provides credit under CSRS for certain NAF service performed after June 18, 1952, and before January 1, 1966.
- 101-189 "Military Child Care Act of 1989," November 29, 1989. Provides compensation rules for NAF employees in child care positions.
- 101-508 "Portability of Benefits for Nonappropriated Fund Employees Act of 1990," November 5, 1990. Section 7202 imposes employee benefit portability requirements when civil service employees move to NAF (& vice versa).
- 101-509 "Treasury, Postal Service and General Government Appropriations Act, 1991," November 5, 1990. Section 210 (Premium pay amendments) of section 529 (Federal Employees Pay Comparability Act of 1990) amends Subchapter V of 5 U.S.C. Chapter 55
- 101-510 "National Defense Authorization Act for Fiscal Year 1991," November 5, 1990. Section 331, "Assistance Program for Employees of a NAFI adversely affected by

Base Closures," amends Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 to include NAF employees in homeowner's assistance coverage. Also, adds 10 U.S.C. Chapter 58, Section 143(d) to grant hiring preference in NAF positions to eligible involuntarily separated military members and their dependents.

- 101-647 "Crime Control Act of 1990," November 29, 1990. Section 231 requires in part that every facility operated by the Federal Government or operated under contract with the Federal Government, that hires or contracts for individuals who have regular contact with children in the provision of child care services to children under the age of 18 years, conduct a criminal history check for all current and newly hired employees.
- 102-190 "National Defense Authorization Act for Fiscal Years 1992 and 1993," December 5, 1991. Section 661 which added section 1174a of title 10 U.S.C. 1174a, provides preference in hiring in NAF jobs for members of the Armed Forces, involuntarily or voluntarily separated with Special Separation Benefit (SSB) pay, and their dependents.
- 102-484 "Defense Conversion, Reinvestment, and Transition Assistance Act of 1992," October 23, 1992. Division D, Subtitle C, provides civilian personnel transition initiatives, including separation pay for appropriated fund employees.
- 103-3 "Family and Medical Leave Act of 1993," February 5, 1993. Provides eligible employees up to 12 administrative workweeks of leave without pay during a 12-month period to take care of certain family and medical needs.
- 103-94 "Hatch Act Reform Amendments of 1993," October 6, 1993. Permits federal employees to participate in certain political activities on their own time. Section 9 allows the garnishment of federal pay in order to settle commercial debts.
- 103-226 "Federal Workforce Restructuring Act of 1994," March 30, 1994. Restricts employees who resign or retire with an incentive on or after March 30, 1994, from re-employment with the U.S. government for five years following separation with an incentive unless the incentive is repaid.
- 103-337 "National Defense Authorization Act for Fiscal Year 1995," October 5, 1994. Section 343 limits payment of severance pay to certain appropriated fund employees transferring to NAF positions.
- 103-353 "Uniformed Services Employment and Reemployment Rights Act of 1994," October 13, 1994. Amends title 38 U.S.C. to improve reemployment rights and

benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

UNITED STATES CODE

Title 5 - Government Organization and Employees. Sections as amended:

- 2105 (status of nonappropriated fund employees)
- 2108 (veterans preference eligibility)
- 3110 (restrictions in the employment of relatives)
- 3326 ("Appointments of retired members of the armed forces to positions in the Department of Defense")
- 3502(a)(C)(ii) (portability of benefits - order of retention in reduction-in-force)
- 5332 (GS pay rates)
- 5334(g) (portability of benefits - rate on change of position)
- 5335(g) (portability of benefits - periodic step-increases)
- 5341-5349 ("Prevailing rate system")
- 5342 (prevailing rate system - definitions)
- 5361-5366 (grade and pay retention instructions applicable to federal wage system employees and to employees involuntarily moved to the civil service)
- 5373 ("Limitation on pay fixed by administrative action")
- 5531-5532-5533 ("Dual pay and dual employment")
- 5544 ("Wage-board overtime and Sunday rates; computation")

5551(a) (portability of benefits - "Lump-sum payment for accumulated and accrued leave on separation")

5595 (b)(2)(c) and (h) ("Severance pay")

5753 ("Recruitment and relocation bonus")

5754 ("Retention allowance")

5911 (entitlement of quarters and facilities by civilian employees in the United States)

6304(a) ("Annual leave; accumulation")

6308(b) (portability of benefits - "Transfers between positions under different leave system")

6312(a)(2) (portability of benefits - leave accrual and accumulation)

7101-7103 ("Labor management relations")

7204 ("Antidiscrimination in Employment; Other prohibition")

7324 (influencing elections; taking part in political campaigns; prohibitions; exceptions)

7901 (health services programs for civilian employees)

7902 (legal status of civilian NAF employees with regard to safety programs)

8171 (extends the provisions of the Longshoremen's and Harbor Workers' Compensation Act to NAF employees)

8423 (portability of benefits - "Government contribution")

8501 - 8509 ("Unemployment compensation")

Title 10 - Armed Forces

1143(d) (employment preference by NAFIs)

1580-1599 (concerns "Whistleblower" protection for NAF employees)

Title 29 - Labor

201-219 (implements provisions of the Fair Labor Standards Act)

1651 (Joint Training Partnership Act Provisions)

Title 31 - Money and Finance

1349 (requires at least one month suspension for certain motor vehicle and aircraft use violations)

Title 33 - Navigation and Navigable Waters (Chapter 18 of title 33 (Longshore and Harbor Workers' Compensation Act) applies with respect to disability or death resulting from injury, as defined by section 902(2) of title 33, occurring to an employee of a nonappropriated fund instrumentality)

Title 38 - Veterans Benefits

101 (definitions)

301 (definitions)

2021-2026 ("Veterans' reemployment rights")

Title 42 - The Public Health and Welfare

300e-9, Health Maintenance Organizations

410, Social Security (nonappropriated fund employees)

659, (authorizes the garnishment of federal salaries and retirees annuities and Social Security benefits, to enforce obligations of alimony and child support)

CODE OF FEDERAL REGULATIONS

Title 5 - Administrative Personnel

Part 310, Employment of Relatives

Part 530, Subpart B--Aggregate Limitation on Pay

Part 531, Subpart F--Locality-Based Comparability Payments

Part 532, Prevailing Rate Systems

Part 536, Grade and Pay Retention

Part 551, Pay Administration Under the Fair Labor Standards Act

Part 575, Recruitment and Relocation Bonuses; Retention Allowances

Part 731, Suitability

Title 20 - Employees' Benefits

Part 609, Unemployment Compensation for Federal Civilian Employees

OPM OPERATING MANUALS AND OTHER PUBLICATIONS

Federal Wage System - NAF

The Guide to Processing Personnel Actions

The CSRS and FERS Handbook for Personnel and Payroll Offices

The Federal Employees Group Life Insurance Handbook for Personnel and Payroll Offices

The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices

The OPM Job Grading Standards for Trades and Labor Occupations

OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULARS

A-76 "Performance of Commercial Activities" (current edition)

DEPARTMENT OF STATE REGULATIONS

Department of State Standardized Regulations (Government Civilians - Foreign Areas), April 2, 1961, as amended:

Section 030 (eligibility for allowances and differentials)

Section 270 (education allowances for dependents of civilian personnel employed overseas)

GENERAL SERVICES ADMINISTRATION REGULATIONS

"Records Disposition Schedule for DoD NAF Employee Personnel Records," as approved by the General Services Administration, National Archives and Records Service on June 29, 1983, as amended.

"Joint Travel Regulation" (Volume II) - payment for official travel and transportation of U.S. Government employees

DoD DIRECTIVES

- 1010.4 "Alcohol and Drug Abuse by DoD Personnel," August 25, 1980
- 1010.9 "DoD Civilian Employee Drug Abuse Testing Program," August 23, 1988
- 1015.6 "Funding of Morale, Welfare and Recreation Programs," August 3, 1984
- 1342.13 "Eligibility Requirements for Education of Minor Dependents in Overseas Areas," July 8, 1982
- 1400.5 "DoD Policy for Civilian Personnel," March 21, 1983
- 1400.6 "DoD Civilian Employees in Overseas Areas," February 15, 1980
- 1401.3 "Employment Protection for Certain Nonappropriated Fund Instrumentality Employees/Applicants," July 19, 1985
- 1402.1 "Employment of Retired Members of the Armed Forces," January 21, 1982
- 1426.1 "Labor-Management Relations in the Department of Defense," November 10, 1988
- 1440.1 "DoD Civilian Equal Employment Opportunity (EEO) Program," May 21, 1987

- 4165.50 "Homeowners Assistance Program," June 26, 1991
- 5120.39 "Department of Defense Wage Fixing Authority Appropriated Fund Compensation," April 24, 1980
- 5120.42 "Department of Defense Wage Fixing Authority Nonappropriated Fund Compensation Programs," May 19, 1977
- 5500.7 "Standards of Conduct," August 30, 1993
- 5525.9 "Compliance of DoD Members, Employees, and Family Members Outside United States with Court Orders," December 27, 1988
- 7050.1 "Defense Hotline Program," March 20, 1987

DoD INSTRUCTIONS

- 1010.15 "Smoke-Free Workplace," March 7, 1994
- 1330.20 "Reporting of Morale, Welfare and Recreational (MWR) Activities Personnel Information," September 4, 1980
- 1400.10 "Employment of Foreign Nationals in Foreign Areas," December 5, 1980
- 1400.23 "Employment of Family Members of Active Duty Military Members and Civilian Employees Stationed in Foreign Areas," May 12, 1989
- 1401.1 "Personnel Policy for Nonappropriated Fund Instrumentalities (NAFIs)," November 15, 1985
- 1404.12 "Employment of Spouses of Active Duty Military Members Stationed Worldwide," January 12, 1989
- 5010.39 "Work Force Motivation," November 16, 1984
- 6055.1 "DoD Occupational Safety and Health Program," October 26, 1984
- 7000.12 "Financial Management of Morale, Welfare, and Recreational Activities," May 27, 1987

DoD 1401.1-M
Feb 16, 96

DoD MANUALS AND REGULATIONS

- 1015.8-R "DoD Civilian Employee Morale, Welfare, and Recreation (MWR) Activities and Supporting Nonappropriated Fund Instrumentalities (NAFIs) Regulation," November 1985
- 1400.20-M-4 "A Civilian Personnel Office Manual to Downsizing and Base Closure," July 1992
- 1400.25-M "DoD Civilian Personnel Manual," July 1978
- 1401.1-M-1 "Job-Grading System Manual for Nonappropriated Fund Instrumentalities," October 1981
- 5200.2-R "DoD Personnel Security Program," January 1987
- 5000.12-M "DoD Manual for Standard Data Elements," July 1989
- 7000.14-R "Financial Management Regulation- Nonappropriated Fund Policy and Procedures," Volume 13, August 1994

OTHER DoD PUBLICATIONS AND DOCUMENTS

Defense Outplacement Referral System (DORS), Nonappropriated Fund (NAF) User's Guide

Defense Federal Acquisition Regulation Supplement, Parts 222.7100 - 222.7102, 252.222.7000 and 252.222.7001 (hiring preference for contractor positions related to closure or downsizing)

DoD/OPM Interchange Agreement between the Department of Defense and the Office of Personnel Management for the noncompetitive movement of personnel between the civil service system and the DoD NAF system, September 20, 1991

CHAPTER III

POSITION CLASSIFICATION, PAY AND ALLOWANCES

A. GENERAL POLICY

1. Payband Classification and Pay System for White-Collar (Non-Crafts & Trades) NAF Employees.

a. Coverage. NAF white-collar employees world-wide except:

(1) Child Development Program Assistants, Leaders, and Technicians (an Appendix G, in development, will describe their classification and pay system); and

(2) Employees in Panama when the Panama Area Personnel Board directs a different system consistent with its delegated authority, Army regulations, and the Panama Canal Act of 1979.

b. Purpose. The payband system is designed to help managers establish competitive wages, strengthen the link between pay and performance, and provide an efficient classification and pay process. It replaces the traditional grade and step system with one that groups work of similar characteristics into bands. It assigns a pay range to each band, and, with few limitations, permits pay to be set within the range.

c. Relationship to AS, PS, and UA Systems. The payband system replaces the AS, PS, and UA pay systems described in this Chapter. Conversion of AS, PS, and UA employees to paybanding shall be in accordance with memoranda issued by the Office of the Deputy Assistant Secretary of Defense for Civilian Personnel Policy. AS, PS, and UA provisions in this Manual remain in effect until conversion is completed.

d. Implementation. The Heads of the Components are responsible for:

(1) Delegating classification and pay setting authority to the lowest practical level;

(2) Oversight, through personnel management evaluations or other means, to ensure Appendix H, "Payband Classification and Pay System for White Collar NAF Employees," is implemented in a manner that fosters equitable and efficient pay administration, and balances fiscal constraints with the need to recruit and retain a quality workforce; and

(3) Ensuring that NAF managers have access to any needed operating instructions, and advising the Deputy Assistant Secretary of Defense for Civilian Personnel Policy of any need for such instructions to be included in this Manual.

(4) Ensuring compliance with the labor relations provisions of 5 U.S.C. Chapter 71 and Executive Order 12871, "Labor Management Partnerships," in the course of such implementation.

2. Crafts and Trades (CT) Employees. P.L. 92-392 establishes the NAFI Federal Wage System (FWS) for CT employees. OPM Operating Manual, "Federal Wage System--NAF," contains instructions for the operation and implementation of the prevailing rate wage system for CT employees.

3. Administrative Support (AS) and Patron Services (PS) Employees. The principles of P.L. 92-392 and OPM Operating Manual, "Federal Wage System--NAF," are administratively extended to cover AS and PS positions.

4. Universal Annual (UA) Employees. The UA salary system covers employees in managerial, executive, technical, and professional positions not yet converted to the payband system described in paragraph A.1. above. The rates of compensation of the UA salary system shall be commensurate with the rates for the GS system for appropriated fund employees.

B. SPECIFIC POLICIES

1. Organization and Responsibilities.

a. DoD Wage Fixing Authority. DoD Directive 5120.39 establishes the DoD Wage Fixing Authority. DoD Directive 5120.42 defines its authorities and responsibilities in determining pay for NAF employees.

b. DoD Components. The DoD Components shall comply with the requirements of this Manual and ensure that the Commander and General Managers of the Army and Air Force Exchange Service (AAFES) discharge the responsibilities assigned to them for administration of the system.

c. Installation Commanders or General Managers of the Army and Air Force Exchange Service (AAFES). Installation Commanders or General Managers of AAFES shall, as delegated by the DoD Component headquarters, determine NAF pay category, title, and codes for jobs; apply job grading standards and pay; and administer authorized wage rates for their NAF employees.

2. Compensation

a. Increased Minimum Rates, Special Pay Rates, and Special Schedules.

(1) When prevailing rates for specific types of NAF jobs are so much above the maximum rates for those jobs on the NAF wage schedules that recruitment and retention of well-qualified individuals are significantly handicapped, Components may recommend to the Wage Fixing Authority increased minimum or special rates in accordance with Appendix E. Recommendations also must be documented to show coordination with other NAF employers in the local area. The Wage Fixing Authority will coordinate with DoD Components at the headquarters level before acting on recommendations for increased minimum or special rates.

(2) Existing authorized special schedules shall be continued and adjusted under current NAF practices pending decision by OPM or DoD on the most appropriate treatment of schedules. Prior approval of the DoD Wage Fixing Authority is required to establish new special schedules.

(3) Pursuant to FLSA, the cost of furnishing employees with board, lodging, or other facilities may be included in the wages paid to employees if such board, lodging, or other facilities are customarily furnished by the employing NAFI.

(4) Compensation for summer and student employment shall be in accordance with the rates-of-pay schedule issued by DoD.

b. Pay for NAFI Employees in the Panama Canal Area. The basic principles governing pay of all NAFI employees in the Panama Canal Area are contained in the Panama Canal Act of 1979, and in regulations promulgated by the Secretary of the Army. Regardless of nationality, NAF employees employed in the Panama Canal Area shall be paid at the scheduled salary or wage rate specified for the position.

c. Fair Labor Standards Act (FLSA). FLSA provisions apply to NAF employees, including off-duty military personnel, who are employed in geographical areas covered by the FLSA. The minimum rate to be paid these employees may not be less than the current Federal minimum wage or the applicable State or municipal wage, whichever is higher. Refer to Chapter VII regarding pay for employees in foreign areas.

d. Hourly Pay Plan

(1) In pay matters, except those dealing with grade and pay retention, the provisions of OPM Operating Manual, "Federal Wage System--NAF," augmented by Appendix D of this Manual, apply to hourly paid NAF employees.

(2) For grade and pay retention determinations, Subchapter VI of 5 USC Chapter 53, and Part 536 of 5 CFR, contain guidelines applicable to FWS employees. There is no grade retention for AS and PS employees. Pay retention entitlement for an employee moving to or from an AS or PS position shall be determined in accordance with the following:

(a) The employee shall:

- 1 On the effective date of the change to lower grade, hold an appointment as a Regular Employee.
- 2 Not have been changed to lower grade for personal cause, at his or her own request, or because the change to lower grade was a condition of a temporary promotion.
- 3 Have served for 1 continuous year immediately before the change to lower grade in one or more positions under the same pay system for which the grade or rate is higher than the one to which demoted, or in one or more grades or positions for which the representative rate is greater than the representative rate of the grade to which demoted.
- 4 Have a performance rating of satisfactory or better during the 1-year period.

(b) When an eligible employee is changed to a lower grade, he or she shall retain the scheduled rate of pay immediately before the change to lower grade or 150 percent of the maximum rate of scheduled pay for the grade of the position after the change to lower grade, whichever is less.

(c) An employee granted pay retention under this authority shall receive wage increases during the pay retention period. Such increases shall be granted whenever the wage schedule applicable to the position to which demoted is increased. The amount of increase shall be equal to the amount by which the rate for the maximum step of the new grade increases. If the new rate of pay is identical with or below the top step of the grade, the employee's rate of pay shall be fixed at the step of the grade that equals or exceeds the retained pay and pay retention then ceases.

(d) Pay is retained under this policy for a period of 2 years, unless it is terminated earlier by one of the following conditions:

- 1 A break in service of 1 or more work days.
- 2 A later change to lower grade which is effected for personal reasons at the employee's request.
- 3 Entitlement to a scheduled rate of pay that is equal to or higher than the retained rate because of another personnel action or normal operation of the pay system.

(e) When an employee receiving a retained rate is further demoted during the 2-year retention period, he or she begins a new 2-year retention period on the date of the last demotion. The retained rate during the new 2-year period continues to be based on the original retained rate, but may not exceed 150 percent of the maximum rate of his or her grade after the later demotion.

(f) When an employee receiving a retained rate accepts a temporary promotion to the same or a higher grade than that from which demoted, the temporary promotion does not affect the running of the pay retention period, which shall still end 2 years after the original demotion.

(g) When an employee receiving a retained rate is to be permanently promoted to the same or higher grade than that from which demoted, he or she is entitled to be paid the lowest scheduled rate of the grade to which promoted that exceeds the maximum scheduled rate for the grade of the position from which promoted by at least 4 percent or the retained rate of pay, whichever is higher. If the employee's retained rate of pay exceeds the rate range for the grade of the position to which promoted, entitlement to the retained rate of pay continues for the duration of the original 2-year period or until terminated by one of the conditions specified in subparagraph B.2.d.(2)(d).

(h) Upon termination of the 2-year pay retention period, the employee's rate of pay shall be adjusted to the maximum scheduled rate of the new grade.

(3) FLSA provisions as prescribed by OPM apply to all hourly paid employees in those geographical areas covered by the FLSA, as amended. The following additional guidance is provided on the application of the FLSA to AS and PS employees.

(a) AS and PS employees who are nonsupervisory employees, leader employees, supervisory employees classified below the 7 level, and supervisory employees at the 7 level who perform work not directly related to their supervisory functions more than 20 percent of the time, are nonexempt in relation to the FLSA executive criteria.

(b) The following AS and PS employees are exempt from the coverage of the FLSA:

1 Supervisory employees at the 7 level who perform supervisory and related duties 80 percent or more of the time, and who

2 Perform the following supervisory functions:

a Assume responsibility for planning and accomplishing a continuing workload which meets the intent of the recognized organizational unit requirements.

b Regularly exercise discretion and independent judgment in planning, directing, and controlling the work.

c Are responsible for significant personnel management duties.

e. Universal Annual (UA) Salary Plan

(1) Basic compensation for employees in managerial, executive, technical, or professional positions, who have not been converted to the payband system described in paragraph A.1. of this Chapter, shall be administratively fixed and adjusted equal with rates of compensation for appropriated fund employees in positions of comparable difficulty and responsibility, subject to the "General Schedule (GS)" (5 U.S.C. 5332). Components shall adjust the rates of pay of UA employees when the rates in the GS are changed to ensure that NAF pay rates are equal to GS rates for comparable work. The effective dates of adjustments shall be determined by the same method used for GS adjustments. Additional policy and guidance is at Appendix A, "Universal Annual Pay Administration Supplement."

(2) FLSA provisions, as prescribed by OPM, apply to UA employees in those geographical areas covered by the FLSA.

(3) There is no grade retention for UA employees. Pay retention entitlement for an employee moving to, from, or between UA positions shall be determined under the criteria for AS and PS employees. Pay determination procedures for permanent promotions between UA positions are specified in Appendix A, section F.

(4) Allowances and differentials established by OPM for eligible civilian employees in certain nonforeign areas, whose pay is fixed by statute, apply to UA employees. They are paid in accordance with 5 CFR Part 591. Policy for foreign area allowances or differentials is in Chapter VII of this Manual.

f. Severance Pay

(1) RFT and RPT employees who have completed at least 12 continuous months of service with one or more DoD NAFIs and who then are separated involuntarily from employment because of business-based action, or base or post deactivation or reorganization, shall receive severance pay, if not precluded by subparagraph (3) below.

(a) The amount of such remuneration shall be 1 week's basic pay for each year of continuous RFT or RPT service with one or more DoD NAFIs up to 4 years of service, for a maximum of 4 weeks of pay. This pay shall be based on the number of hours regularly scheduled to be worked during a week and at the rate received immediately before separation.

(b) Time served as a Regular NAF employee as well as time served in active duty with the U.S. Armed Forces that interrupted the civilian NAF service, shall be creditable for computing entitlement to severance pay.

(c) Periods of employment before separation that resulted in severance pay shall not be considered in later severance pay entitlement calculations for subsequent separations.

(2) As an exception to subparagraph (a), above, Heads of DoD Components may establish programs providing for the grant of additional severance pay to employees for whom

unlimited mobility has been made a condition of employment. Basic eligibility requirements are set forth in subparagraph (1), above, and the amount of remuneration shall not exceed 1 year's pay at the rate received immediately before separation.

(3) Involuntarily separated employees shall not receive severance pay if they:

(a) Are immediately employed in another Regular NAF position.

(b) Have refused an offer of employment without loss of pay, employment category, and seniority in any NAFI in the same commuting area, or in the case of employees covered in subparagraph (2), above, in any NAFI, regardless of commuting area.

(c) Have immediately accepted employment in a continuing appropriated fund position.

g. Dual Compensation. The provisions of 5 U.S.C. 5531, 5532, and 5533 (Dual Compensation Act of 1964, P.L. 88-448) pertaining to dual pay and employment apply to NAF employees.

h. Aggregate Limitation on Pay. Other provisions of this Manual limit specific elements of compensation. An employee's aggregate compensation, basic pay plus any allowance, differential, bonus, award, or other cash payment, shall not exceed the annual rate then payable for Level I of the Executive Schedule as of the end of the calendar year. This aggregate limitation on pay shall be in accordance with 5 CFR Part 530, Subpart B.

i. Prohibition on Personal Service Contracts. Personal service contracts may not be used to effect an appointment to a job that requires employing an individual on a continuing basis. Such positions shall be graded and paid under the appropriate schedule of the DoD Wage Fixing Authority.

j. Extra Pay. No salary or other supplementation of wages shall be provided to or accepted by any NAF employee. This provision does not affect existing special schedules such as tip and similar commission pay plans, or the executive and other pay plans approved by the OASD (FMP). Neither does it affect proper existing methods of distributing service charges provided for in special functions contracts and paid to service employees working the special functions.

k. Travel and Transportation. When it is clearly in the interest of the NAFI, expenses for essential travel and transportation of employees and their dependents shall be allowed in amounts not to exceed those prescribed in Volume 2 of the Joint Travel Regulations (JTR). Travel and transportation shall be paid, when appropriate, under the JTR to employees assigned duties associated with area wage surveys. The Heads of DoD Components and the Commander, AAFES, have approval authority for all matters covered by Volume 2, JTR, and may authorize specific exceptions only when it is in the best interests of the Component.

l. Round-Trip Travel Pursuant to a Permanent Change-of-Station (PCS). When authorizing round-trip travel between the old and new duty station to seek a permanent residence, more than one trip may be authorized the employee or spouse or both provided that the total trips combined do not exceed 10 days and the travel expenses for all trips do not exceed the constructive cost of one round trip.

m. Mileage Rates for PCS. The mileage rate when using a privately owned vehicle for PCS travel shall be the same as that prescribed in Volume 2 of the JTR for TDY travel regardless of the number of occupants in the vehicle. Authorization of this benefit is limited to those employees covered by an unconditional mobility agreement as a condition of employment.

n. Separate Maintenance Allowance (SMA) for PCS Transfers. The DoD Components may pay a Separate Maintenance Allowance (SMA) to UA employees who transfer nonlocally and who maintain separate households for minor dependent children so that they can finish the school term at the old duty station. The allowance shall be paid for no more than one semester, except that it may be paid for a full school year when the dependent is a high school senior. Maintaining a separate household means any living arrangement at the old duty station where the employee is paying a monthly amount for room and board for the dependents. The allowance shall be in the same amount as those prescribed by the Department of State for overseas employees receiving SMA for dependents living in the Continental United States (CONUS). Employees stationed in foreign overseas areas may receive SMA for other reasons as prescribed by the Department of State.

o. Recruiting Bonuses, Relocation Bonuses, and Retention Allowances

(1) General. These bonuses and allowances may be paid to non-crafts and trades employees not to exceed the basic 5 U.S.C. 5753 and 5754, and 5 CFR 575 limitations applicable to appropriated fund employees. 5 CFR 575.304 restrictions related to the Federal Government or non-Federal Government status of the prospective employer do not apply. These bonuses and allowances are used sparingly, only in very selective situations. They shall not be considered part of an employee's rate of basic pay for any purpose, including calculation of retirement annuity. Recovery of funds, on a pro-rata basis, must be sought when employees fail to complete their required period of service. The amount of a retention allowance should be reduced or terminated when it is determined that a lesser amount or no allowance at all would be sufficient to retain the employee, i.e. labor-market conditions have changed to the extent that recruitment of employees with needed qualifications is possible, the need for the services of the employee has lessened, or budgetary considerations preclude payment. An annual review and recertification of necessity must be made to continue the payment of the retention allowance.

(2) Documentation and Record Keeping. As a minimum, the following information shall be recorded each annual operating year:

(a) the number of employees accepting recruiting and relocation bonuses and retention allowances;

(b) the percentage of salary accepted, and the justification for the payment, in each individual case;

(c) any recertification of necessity, in each individual case, to continue the payment of a retention allowance; and

(d) a summary statement assessing the effect the bonus and allowance authority had on the activity's ability to recruit and retain quality employees in key positions.

3. Job-Grading System.

a. Components are responsible for placing each position in its proper pay category and assigning it a title, code, and grade based on the duties and responsibilities of the position and application of job-grading standards consistent with this Manual.

b. The DoD NAF Personnel Policy Office has final authority for determining the title, series, grade, and pay category for positions other than Crafts & Trades positions. Unresolved issues of this nature shall be submitted to the DoD NAF Personnel Policy Office for final determination.

c. Each DoD Component shall ensure that all NAF positions within its jurisdiction are graded in accordance with the appropriate job-grading standards specified in sub-paragraphs (1) through (6) below.

(1) Noncovered Positions. Positions which are not covered by the OPM job-grading standards or by those published in DoD 1401.1-M-1, "Job Grading System Manual for Nonappropriated Fund Instrumentalities," may be classified by application of related standards.

(2) Standards. When no standards exist, a copy of the position description and the classification rationale for the action shall be forwarded promptly through Component Headquarters to the DoD NAF Personnel Policy Office for review and post audit.

(3) Crafts and Trades. OPM has developed and issued a job-grading system for NAFI positions subject to the provisions of P.L. 92-392, that is, CT positions. Details of this system are contained in subchapter S6 of OPM Operating Manual, "Federal Wage System--NAF." Job-grading standards for these jobs are contained in the OPM Job Grading Standards for Trades and Labor Occupations. Supplemental guidelines are included in DoD 1401.1-M-1.

(4) Administrative Support (AS) and Patron Services (PS). DoD has developed and issued job-grading systems for NAFI positions not subject to the provisions of P.L. 92-392. Details of these systems and job-grading standards for AS and PS positions are contained in DoD 1401.1-M-1.

(5) Universal Annual (UA). For positions qualifying for inclusion in the UA salary plan, General Schedule Office of Personnel Management Classification Standards application standards are included in DoD 1401.1-M-1.

(6) Classification of Supervisory and Managerial Positions. While size of the organizational unit and number of subordinates supervised may affect the grade of a supervisor or manager, these factors alone may not be used in determining the grade of such supervisor or manager. In grading these positions, other factors shall be considered, such as kind, difficulty, and complexity of work supervised; degree and scope of responsibility delegated to the supervisor; and kind, degree, and scope of the supervision exercised. A reduction in the number of subordinates or size of the organizational unit supervised may not be used under any circumstances as the sole basis for reducing the grade of a supervisory or managerial position. A more detailed explanation of this policy is contained in DoD 1401.1-M-1.

4. Job-Grading Appeal System for CT, AS, PS & UA Employees.

a. A NAF employee may appeal at any time the grade, title, or series code assigned to his or her position, but not the job-grading standards established for the job nor other matters such as the accuracy of the job description, the rate of pay, or the propriety of a wage schedule rate.

b. Each DoD Component shall establish a position classification review and appeals system under the provisions of subchapter S7 of OPM Operating Manual, "Federal Wage System--NAF," for CT jobs, and Appendix C for AS, PS, and UA jobs.

7. Disciplinary Actions

a. A disciplinary action is a personnel action affecting a regular employee that reduced the employee's basic pay or level; placed the employee in a nonpay, nonduty status; or separated the employee from employment; and was effected for cause, i.e., the disciplinary action stemmed directly from the actions of the affected employee.

b. Disciplinary actions do not include:

- (1) Business-based actions.
- (2) Actions taken as the result of termination of temporary promotion.
- (3) Separation or change to lower pay or level when voluntarily initiated by the employee.
- (4) Application of a revised prevailing rate schedule when there is no change to the position.
- (5) Actions taken as a result of an employee abandoning his or her position.

c. Procedures for Processing Disciplinary Actions and Appeals. The Heads of DoD Components shall issue regulations and procedures for processing disciplinary actions and for handling employee appeals of disciplinary actions that result in reduction of pay or in separation. That appeals process shall include a final appellate decision above the level of Installation Commander or General Managers of the Army and Air Force Exchange Service.

8. Performance Management Program. To improve individual and organizational performance and strengthen the link between pay and performance, achievement-focused performance management programs shall be established. Recognition of team achievement is encouraged. Programs may be tailored to fit the mission and culture of the organization, but they must include the following core requirements:

a. An annual appraisal of whether performance met expectations, using at least two rating levels.

b. A fair and consistent method for deriving a summary rating from performance. At a minimum, performance expectations consistent with duties must be discussed with the employee.

c. Approval of the appraisal or rating at level above the rater where practicable, and retention of the appraisal in the employee's Official Personnel Folder for possible future use in reaching personnel decisions.

d. Provision for determining actions to be taken when expectations are met or not met. Payband employees rated less than satisfactory, or equivalent, will not be granted a pay increase (does not apply to crafts and trades employees as their pay is based on the prevailing rate system rules). Appropriate limits and approval levels should be set for cash awards and pay adjustments. An employee may grieve the rating, but not the amount of the pay change.

9. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operations of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

10. Occupational Safety and Health. Components shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees in accordance with DoD Instruction 6055.1. Where safety technicians are not available within the installation, outside consultants shall be used as appropriate.

11. Drug and Alcohol Abuse. Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances, applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the

only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by having certain key administrative NAFI personnel quartered on the installation. The occupation of Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

**D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS
DISCLOSING INFORMATION**

* 1. The DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

* a. A violation of any law, rule, or regulation; or *

* b. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety. *

* 2. DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures. *

* 3. Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures. DoD Directive 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures. *

3. Time Limit for Filing Application. An employee may file an application for review at any time. However, when the application involves a reduction in grade or loss of pay, it must be filed in a timely manner as in paragraph B.3.d. of this Appendix to establish and maintain entitlement to retroactive corrective action. This time limit may be extended if the employee can show that he or she was not notified of the time limit, was not aware of it, or was prevented by circumstances beyond his or her control from filing an application within the prescribed time limit.

4. Cancellation of Application. An employee's application for review or appeal under the DoD Component or DoD appeals system shall be canceled immediately when:

a. The employee requests the termination of his or her application. This request must be in writing.

b. It is learned that the employee is no longer in the job that was the subject of the application, except when the employee is entitled to retroactive benefits, including benefits allowable after the death of the employee.

c. An employee fails to prosecute or furnish required information promptly.

D. POSITION CLASSIFICATION APPEALS REVIEW FILE

Each DoD Component is responsible for maintaining a position classification review file that shall constitute the review record. This record may not contain any information that is not made available to the employee. This review file shall include:

1. An individual PD in which the duties are certified as being accurate. (If this cannot be accomplished, documentation of disputed duties and responsibilities shall be attached to the official PD.)

2. Pertinent organizational charts reflecting the location of the position.

3. An analysis and evaluation of the duties and responsibilities of the employee, as compared with appropriate standards, and a copy of the review decision.

4. Component recommendations or any supplementary information bearing on the employee's duties and responsibilities.

E. APPLICATION FOR APPEAL

1. The employee or his or her designated representative may file an appeal with the DoD NAF Personnel Policy Office after completing the DoD Component review level, except as outlined in paragraph B.3.b of this Appendix. The address of the DoD NAF Personnel Policy Office is 1400 Key Boulevard, Suite B200, Arlington, VA 22209-5144. The telephone number is (703) 606-3310, DSN 426-3310. The fax number is (703) 696-5469, DSN 426-5469. The

employee may file the appeal at any time. However, to retroactively correct an adverse action, the appeal must be filed within 15 calendar days of the date of receipt of the Component's decision. The appeal shall specify the part of the decision with which the employee disagrees. The time limit may be extended as outlined in subsection C.3. of this Appendix.

2. All decisions shall be based on the record established by the DoD Component's review of the employee's application, and by any pertinent information provided by the employee. However, the DoD NAF Personnel Policy Office may audit the job and take the results of the audit into account in reaching its decision. An employee has no right to have a representative present at a desk audit conducted by the DoD NAF Personnel Policy Office.

3. The DoD NAF Personnel Policy Office shall notify the employee and DoD Component, in writing, of its decision. If this office sustains the employee's application, the effective date of the change in classification of a position shall not be earlier than the date of the decision and not later than the beginning of the first pay period which begins after the 60th day from the date the application was filed, except when a later date is specifically provided in the decision. An appeal decision that corrects a downgrading or loss of pay retroactively shall require correction of records and supplemented salary payments. If the appeal decision sustains any other change in classification, such corrective action shall be implemented and effective no later than 60 days after receipt of the written final decision by the DoD Component. An appeal decision that results in a downgrading or loss of pay shall require corrective action consistent with the provisions of NAF personnel regulations.

F. APPEAL DECISION

The decision of the DoD NAF Personnel Policy Office is binding on all administrative certifying, payroll, disbursing, or accounting officers within DoD NAF activities. The decision is final and the employee has no further right to an administrative appeal.

APPENDIX H

PAYBAND CLASSIFICATION AND PAY SYSTEM FOR WHITE-COLLAR NAF EMPLOYEES

A. GENERAL

Basic policy is at Chapter III and includes provisions on coverage; purpose; relationship to the AS, PS, and UA systems; and responsibilities. Procedures for implementing the payband system are in sections B. through E., below.

B. STRUCTURE OF PAYBAND SYSTEM

Figure 1 on page H-2 depicts the structure of the NAF payband system. It shows, for each band, the generic work level, pay category, approximate number of employees covered, grades replaced, comparable GS grades, characteristics of work covered, and examples of jobs covered.

C. CLASSIFICATION

1. Determining Correct Band. Information from Figure 1 on page H-2, along with a more detailed description of work characteristics for each band, and a hierarchy of position guides or standard jobs for each band, are used to place a set of duties in the proper band. Any available Office of Personnel Management, Office of the Secretary of Defense, or DoD Component guidance on classification may be used as appropriate.

2. Authority for Placing a Position or an Employee in Band NF-6. Establishing an NF-6 (Senior Executive) position, or appointment of an employee to an NF-6 position, requires approval by the Component Assistant Secretary or designee, or Defense Agency Director. In AAFES, approval is required by the AAFES Board of Directors. Further approval at a level not lower than the same organizational level that approved the initial placement is required before an incumbent may receive an annual rate of pay equivalent to or in excess of the base pay rate for ES-5 of the executive schedule.

3. Classification Complaints. Employees may grieve the assignment of their position to a particular band. Also, where levels within a band have been established, the assignment of a position to a particular level may be grieved. Either the negotiated grievance procedure or the applicable NAF administrative grievance system may be used as appropriate. In accordance with 5 U.S.C. 7121, the negotiated grievance procedure may be used only if the classification results in a pay or payband reduction. Bargaining unit employees may use the applicable NAF administrative grievance system for classification complaints regarding actions that do not result in a reduction of pay or payband.

PAYBAND CLASSIFICATION AND PAY SYSTEM FOR WHITE COLLAR NAF EMPLOYEES

WORK LEVEL, PAY CATEGORY, APPROX. # COVERED	GRADES REPLACED	COMP. ARABLE GS GRADES	BASIC WORK CHARACTERISTICS OF BAND	EXAMPLES OF JOBS COVERED
Junior Clerical/ Customer Svc NF-1 65,000	AS/PS 1-4	GS 1-3	Routine clerical and customer service duties such as filing, receptionist, typing, demonstrating and selling merchandise, receiving money, making change.	Computer, Acct., Pers., Ops., Supply, Mail, File and Desk Clerk; I.D. Checker, Life Guard, Rec. Aid, Cashier, Duty Officer, Courier, Clerk-Typ., Jr. Sales Clerk
Senior Clerical/ Customer Svc NF-2 15,000	AS/PS 5-6	GS 4	More complex clerical, customer service, admin and technical support duties such as typing, shorthand, creating and maintaining files, applying regulations, conducting studies, demonstrating and selling merchandise, planning and conducting patron activities, supervising activities.	Rec. Asst., Water Safety Inst., Secy., Cashier, Computer or Pers. Clerk/Asst., Illustrator, Club Ops Asst., Payroll Clerk/Tech., Sr. Sales Clerk, Acct. Tech.
Specialist/ Management NF-3 11,000	AS/PS 7 and UA 5 thru UA 8	GS 5-8	Band includes management entry-level jobs and certain admin. and technical full performance jobs. Also includes jobs that assist full performance specialists in the following program areas: sports, acct., payroll, budget, theater programs, catering, purchasing, computer centers, personnel, and retail.	Retail Mgr. (Main or Branch Store), Stockroom Mgr., Shift Mgr. (Retail), Admin. Asst., Secy., Rec. Spec., Supv. Rec. Spec., Computer Spec., Acct. Tech., Access Payable Ldr., Gen. Ledger Ldr., Supv. Acct. Tech., Illustrator, Bowling Ctr. Mgr., Caterer, Club Mgr., Procurement Asst./Agent
Senior Specialist/ Management NF-4 5,000	UA 9-12	GS 9-12	A subject matter expert in a highly specialized area, responsible for developing local regulatory compliance procedures, and addressing related problems. Representing area of expertise to a NAFI and public. Planning, organizing and directing program activities, ensuring program budget compliance, performing the full range of supervisory duties, evaluating program effectiveness, representing program to customer, coordinating support services. In an audit/review capacity, conducting surveys and studies of activities and functions. Examining mission, function, organization, reports, functional statements, etc., to correlate, analyze, determine and recommend management action to resolve problems or improve efficiency of operations.	Sr. Auditor, Mech. Engr., Managers of Food Actys (Burger King), Gen. Mgr. (Exchange), Retail Maint. & Br. Stores, Family Spt., Pers., Rec., & Spt. Svc., Sports Spec., Rec. Spec., Supv. Rec. Spec., Enpl. Rel. Spec., Computer Spec./Prog. Analyst, Spt. Svc. Supv., Food and Beverage Dir., Marketing and Advertising Spec., Club Coord., MWR Director
Top Management NF-5 1,000	UA 13-15	GS 13-15	Typically mgd/supv positions. Staff specialist positions at a regional or national level may be included. Includes managing a large NAFI at a large installation or directing a major program area at a regional level. Planning, organizing and conducting a comprehensive program integrating a variety of resources at the national level. Serving as a consultant, providing guidance, assistance and advice to field activities. Coordinating with other national staff, and other military departments. Planning, coordinating, directing and controlling all phases of a major area/division within a NAFI. Developing or revising long range plans and policies which impact the NAFI and serviced community. Directing the mgd. of subordinate activities to include examining and making recommendations concerning expansion, relocation or discontinuation.	General Mgr. (Exchange), Attorney, Labor Rel., Retail Mgr. (Main Store), Retail Mgr. (Region), Family Spt. Officer, Pers. Mgmt. Spec., Pers. Officer, Policy & Prog. Mgr., Community Rec., Prog. Rev. & Dev., Prog. Analyst, Community & Family Acts. Prog. Mgr., Sr. Proc. Mgr., Comptroller, Finance Mgr., Club Mgr., Community Cn., Dir., Supv. Benefits Prog. Mgr., Club Coord., K2
Senior Executive NF-6 20	UA 16-18	SES ES 1-6	Executive positions, with extensive mission accomplishment responsibilities in directing an entire N/F component, or a major sub-division thereof.	Director, Hospitality Management (Component Level), Chief Operating Officer (entire exchange system)

FIGURE 1

Feb 16, 96
DoD 1401.1-M

D. PAY SCHEDULES

1. **The Wage Setting Division (WSD), DoD Civilian Personnel Management Service.** The WSD publishes NAF payband schedules. These schedules establish the minimum and maximum pay rates for each payband in accordance with the following policy:

a. **Minimum/Maximum for Bands NF-1 & 2 and Minimum for Band NF-3.** These rates are determined by a WSD survey of wages paid to employees in a representative number of retail, wholesale, recreation, finance, and insurance establishments in the immediate locality, who are engaged in activities similar to those in NAFIs. 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 WSD-developed pay report is attached to each schedule. It contains the average hourly rate of pay and the range of pay from high to low for certain surveyed jobs.

b. **Maximum for Band NF-3 and Minimum/Maximum for Bands NF-4 through NF-6.** Minimum rates in effect on the effective date of this Appendix will serve as a basis for future adjustments to minimum rates. Beginning in January 1996, the minimum rates for NF-4 through NF-6 will be adjusted by a percentage equal to any "national" Employment Cost Index (ECI) percentage increase for GS employees, rounded down to the nearest \$500. The maximum rate for NF-6 will be adjusted to equate to the rate for Level IV of the Executive Schedule, in accordance with 5 U.S.C. 5373. The maximum rate for NF-5 will be adjusted to equate to the highest GS-15, step 10, locality pay rate. The maximum rates for NF-3 and NF-4 will be adjusted to equate to 40% and 63% respectively, of the NF-5 maximum rate, rounded up to the nearest \$500.

2. **Amendments to Pay Schedule Policy.** The DoD NAF Personnel Policy Committee will review pay schedule policy periodically and propose any amendments to the DASD (CPP) who, in turn, will formally coordinate proposals with DoD Components.

E. PAY SETTING

1. **General.** Except for the special pay setting situations stated in subsection E. 2., below, management may determine where within the minimum and maximum rates of the proper band to set an employee's annual rate of basic pay. In setting an employee's rate of basic pay, consideration should be given, but not necessarily limited to, such factors as assigned duties and responsibilities; performance (performance management program policy is discussed in Chapter V); budget; competitiveness with Federal and private sector pay; current rates of pay for similar positions; and the amount and timing of previous pay increases, cash awards, bonuses, and allowances. The term "basic pay" as used in this Appendix means the annual rate of pay for the employee, including any portion that may be attributed to comparability with private sector pay in a locality, before any deductions and exclusive of additional pay of any kind. Basic pay may not exceed the maximum rate for the employee's payband. The hourly rate of basic pay is determined by dividing the annual rate by 2087.

2. Special Pay Setting Situations.

a. Fair Labor Standards Act (FLSA) Minimum Rate Requirement. The minimum rate paid may not be less than the current Federal minimum wage, or the applicable State or municipal wage, whichever is higher.

b. Transfer of Function. When a function is transferred from one NAFI to another within or between Components, pay for employees who move with their positions shall be set at a rate within the band that is not less than the employee's rate of basic pay immediately before the move. As an exception to this provision, where a portion of the pay is clearly defined as a locality adjustment, the locality pay adjustment need not be continued when the employee moves to an area with a lower locality pay adjustment. Future rates of pay will be in accordance with the receiving NAFIs policies and compensation programs consistent with the requirements of this Manual.

c. Promotion. See subsection E.3., below.

d. Involuntary Moves to NAF under the DoD Employee Benefit Portability Program. When a GS employee is involuntarily moved to a NAF Payband position, the employee's basic rate of pay will be set at a rate within the payband to which assigned that is not less than the employee's GS scheduled annual rate of pay, as defined in 5 CFR 531.602, plus the corresponding GS locality differential. Future rates of pay will be in accordance with the receiving NAFIs policies and compensation programs consistent with the requirements of this Manual. If the employee's last GS scheduled annual rate of pay plus the GS locality differential is above the maximum rate of the payband level to which moved, pay retention is required in accordance with portability program pay retention policy issued by DASD (CPP) memorandum of April 16, 1991.

3. Pay Increase. An employee may be granted a pay increase within a band, with or without a position change. A promotion occurs, except for temporary details, when an employee is moved to a higher band. It may also occur where the Component has established tiers or sub-bands and the employee is moved to a higher level. A promotion requires a minimum pay increase of 5%, or an increase to the minimum rate of the higher band, whichever is greater.

4. Pay Decrease. An employee's pay may be decreased within the band for the following reasons: change in duty station to a locality pay area with a lower locality rate of pay; business-based action, performance-based action, or disciplinary action in accordance with Chapter V of this Manual; classification error; and employee requested job reassignment. A detail is not a basis for a pay decrease. When an employee is moved to a lower band involuntarily, it is a demotion.

5. Annual Across-the-Board Adjustments. These adjustments are not required, but may be granted not to exceed the limits described in paragraphs E.5.a. through d., below. When the minimum rate for the band is raised in accordance with section D., above, employees at the bottom of the band, who are rated at least satisfactory or equivalent, must be given a pay increase to keep their rate of pay within the pay range for the band.

a. Employees in Bands NF-1 and 2. The adjustment shall not exceed the average percentage adjustment stated on the pay report attached to the current pay schedule. It shall not be granted if both the ECI adjustment and the locality adjustment are canceled for appropriated fund GS employees.

b. Employees in Bands NF-3 through 5, and NF-6. The adjustment shall not exceed the respective adjustment granted to corresponding appropriated fund GS and SES employees.

c. Employees at or Near the Top of a Band. The employee's basic pay may not exceed the maximum rate for the employee's band.

d. Employees in a Less than Satisfactory or Equivalent Status. Such employees are ineligible for pay increase. This means that in some cases their pay may fall below the minimum rate of the band.

6. Foreign and Nonforeign Area Allowances and Differentials. Provisions on foreign allowances and differentials are contained in Chapter VII. A nonforeign allowance or differential established for appropriated fund employees is not granted to employees in bands NF-1 and NF-2 as their rates already are based on the prevailing rate, but may be granted to employees in bands NF-3 through NF-6. Managers should strive for consistency in a geographical area, internally and among Components.

SUPPLEMENTARY

INFORMATION

ERRATA

DEPARTMENT OF DEFENSE
DIRECTIVES SYSTEM TRANSMITTAL

NUMBER	DATE	DISTRIBUTION
DoD 1401.1-M, Change 7	September 30, 1996	Special

ATTACHMENTS

19 pages

INSTRUCTIONS FOR RECIPIENTS

The following page changes to DoD 1401.1-M, "Personnel Policy Manual For Nonappropriated Fund Instrumentalities," December 1988, are authorized:

PAGE CHANGES

Remove: Pages vi through xiii, V-3 through V-9

Insert: Attached replacement pages and new pages VIII-1 through VIII-4

EFFECTIVE DATE

The above changes are effective immediately.


Larry E. Curry, Director
Correspondence and Directives



WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT

AD-A267857

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e. Business Based Action Procedures

(1) Determining Affected Employees.

(a) Covered employees must be ranked to determine the order in which they will be affected (unless all employees will be equally affected—separation due to base closure, for example). The ranking process must include performance and seniority. Performance may be the primary criterion. The performance factor must include at least the employee's last two performance ratings. If there is only one rating, then it must be used. If there is no rating, then a rating must be issued and used.

(b) The determination of the order in which employees were adversely affected, the process used to determine the order, and copies of the written notices shall be maintained in a separate BBA file apart from the employee's official personnel folder. Subject to the provisions of the Privacy Act of 1974, the BBA file shall be made available for review upon request only by an affected employee or by those whose official duties require access.

(2) Effective Date and Requirement for Extended Employment. In some individual cases, the Chapter VIII requirement for extended employment for retirement and health insurance eligibility will affect the determination of the effective date of separation.

(3) Advance Notice. The minimum advance notice period for covered Regular employees is 7 calendar days for a non-separation action and 30 calendar days for separation. For covered Flexible employees, the minimum advance notice period is 24 hours for non-separation action and 7 calendar days for separation. Under emergency conditions (e.g., breakdown of equipment or other emergency conditions requiring suspension of operations, or an unanticipated reduction in business such as occurs with a sudden deployment of troops) a minimum of 24 hours notice may be given. The notice shall contain:

(a) The employee's position title, series, grade or payband level, and rate of pay.

(b) A description of the BBA and reason for it.

(c) Advice on severance pay entitlement, if applicable.

(d) Advice on loss of benefits, if applicable.

(e) If the action is separation:

1 A statement that the action taken is non-disciplinary and does not preclude re-employment.

2 Information on the reemployment priority list (RPL).

3 Information on eligibility for Civil Service positions for one year from date of separation, under the terms of the DoD/OPM Interchange Agreement.

4 Information on unemployment compensation

5 Information on other benefits described in Chapter VIII, as applicable. *

(f) An explanation of the employee's right to appeal, including how and where to appeal and the time limits.

(4) Appeals of Business Based Actions *

(a) General. Covered employees have a right to appeal in accordance with the following provisions, within 7 calendar days after the effective date of the BBA, if they believe BBA regulations and procedures were not properly applied. Management decisions regarding the budget, workload, organization and mission are reserved to management and are not appealable. If an employee alleges that the action resulted from an act of discrimination, the action may only be contested through the discrimination complaint procedure.

A decision in favor of an employee entails the requirement that the employee be "made whole." This includes pay and restoration to duty including employment rights and benefits, as applicable. If, however, it is clear the same action would have been taken against the employee even if the regulatory or procedural error had not been made, then there is no "made whole" provision.

(b) Representation. An employee may be accompanied, represented, and advised by a representative of his or her own choosing, provided the person is willing and free to do so. The employee shall designate his or her representative in writing and provide the designation to the first stage deciding official. The representative's service must not result in a conflict of interest as determined by the installation commander. All costs for the representative shall be borne by the employee.

(c) Use of Official Time. The employee and his or her designated representative may use reasonable amounts of official duty time subject to supervisory determination as to when such time may be used in light of priority needs of the NAFI. Such time may be used to prepare and present appeals.

(5) Business Based Action Appeals Procedure *

(a) First Stage. The employee and his or her representative shall, not later than 7 calendar days after the effective date of the BBA, present an written appeal to the lowest level of management which can grant relief. Every effort shall be made to resolve the matter promptly and fairly at this stage. A written decision shall be provided to the employee within 7 calendar days of receipt of the appeal. It shall summarize the issue, the consideration given, and advise the employee of the right to seek relief at the next stage within 7 calendar days from the date of receipt of the decision, if he or she is not satisfied.

(b) Second Stage. A written appeal shall be submitted to an official, designated by management, in the chain of command above the official who considered the appeal at the first stage. Upon receipt of the appeal, the deciding official may designate a disinterested third party to review the facts and make a recommendation to the deciding official. A written decision shall be provided the employee within 45 calendar days of receipt of the appeal. The decision shall summarize the issue, the consideration given, and advise Regular employees of: (1) the right to request a review of the written appeal record by a level above the installation commander or principal management official of the Army and Air Force Exchange Service (AAFES); (2) how and where to file the request; and (3) time limits for filing. There is no further review or appeal above this level for covered Flexible employees.

(c) Third Stage (Applies to Regular employees only). The official above the installation commander, or the principal management official of AAFES, designated as the reviewer, shall make a decision based on the written record within 30 calendar days of receipt. NAF resources shall be used to accomplish BBA appellate review above the base level. Components may request exception to this NAF resource requirement. There is no further review or appeal above this level.

* (6) Record of Appeal. A complete record of the appeal shall be maintained in the BBA file. *

5. Reemployment Priority Lists.

a. Each personnel office servicing a NAF activity that separates employees by BBA shall establish a Reemployment Priority List (RPL) to provide placement assistance to those separated by BBA. Separated employees shall have priority placement rights in the NAF activity from which separated and priority consideration rights at other NAF activities in the commuting area. They shall immediately be placed on the RPL and remain on the RPL until reemployed, but not longer than 1 year from the date of separation.

b. NAF employees who were separated by BBA no more than one year prior to the effective date of this RPL policy shall be added to the RPL. Placement or consideration is prospective from the time placed on the list. As an exception to the general rule, employees so added shall remain on the list until reemployed or until one year from the date they were added whichever comes first.

c. A person on the RPL shall be offered employment in a vacant position in the NAF activity from which he or she was separated if:

(1) Management is filling a vacancy by other than detail or position change (promotion, demotion, reassignment).

(2) The position is in the same or lower employment category as the position from which separated.

(3) The position is in the same or lower grade or pay level as the position from which separated.

(4) The position has substantially the same duties as the position from which separated.

d. If the offer is declined, the person will be removed from the RPL and the next eligible person on the RPL will be offered the position, and so on until the RPL is exhausted.

e. Rehiring an individual on the RPL is a noncompetitive recruitment action. Therefore, such individuals shall be rehired before those who receive preference in competitive recruitment actions.

f. A person on the RPL must also be offered priority consideration for NAF jobs in other DoD NAF activities in the commuting area if:

(1) The NAF activity is filling the vacancy by other than detail or position change (promotion, demotion, reassignment);

(2) The vacancy is in the same or lower grade or pay level as the position from which the person on the RPL was separated;

(3) The vacancy is in the same or lower employment category as the position from which the person on the RPL was separated; and

(4) The vacancy has substantially the same duties as the position from which the person on the RPL was separated.

g. DoD NAF activities shall exchange RPLs within the commuting area to effect the above requirements.

h. An individual's name is removed from the RPL when he or she accepts an offer of a position in the same or higher employment category as the position from which separated in any DoD NAF activity. Declination of such an offer constitutes removal from the RPL.

6. Employee Grievances

a. NAFI employees shall have the right to present their complaints and grievances to management officials for prompt and equitable consideration. The Heads of DoD Components shall establish procedures for deciding grievances of employees in an equitable and timely manner.

b. Where a labor organization has exclusive recognition, any negotiated grievance procedure shall be governed by 5 U.S.C. 7101 et seq., as implemented by DoD Directive 1426.1 and DoD 1400.25-M.

c. The employee grievance procedure may be used to resolve employee disputes of business-based actions and disciplinary actions of suspension of 30 days or less.

7. Disciplinary Actions

a. A disciplinary action is a personnel action affecting a Regular employee that reduced the employee's basic pay or level; placed the employee in a nonpay, nonduty status; or separated the employee from employment; and was effected for cause, i.e., the disciplinary action stemmed directly from the actions of the affected employee.

b. Disciplinary actions do not include:

- (1) Business-based actions.
- (2) Actions taken as the result of termination of temporary promotion.
- (3) Separation or change to lower pay or level when voluntarily initiated by the employee.
- (4) Application of a revised prevailing rate schedule when there is no change to the position.
- (5) Actions taken as a result of an employee abandoning his or her position.

c. **Procedures for Processing Disciplinary Actions and Appeals.** The Heads of DoD Components shall issue regulations and procedures for processing disciplinary actions and for handling employee appeals of disciplinary actions that result in reduction of pay or in separation. That appeals process shall include a final appellate decision above the level of Installation Commander or General Managers of the Army and Air Force Exchange Service.

8. **Performance Management Program.** To improve individual and organizational performance and strengthen the link between pay and performance, achievement-focused performance management programs shall be established. Recognition of team achievement is encouraged. Programs may be tailored to fit the mission and culture of the organization, but they must include the following core requirements:

a. An annual appraisal of whether performance met expectations, using at least two rating levels.

b. A fair and consistent method for deriving a summary rating from performance. At a minimum, performance expectations consistent with duties must be discussed with the employee.

c. Approval of the appraisal or rating at level above the rater where practicable, and retention of the appraisal in the employee's Official Personnel Folder for possible future use in reaching personnel decisions.

d. Provision for determining actions to be taken when expectations are met or not met. Payband employees rated less than satisfactory, or equivalent, will not be granted a pay increase (does not apply to crafts and trades employees as their pay is based on the prevailing rate system rules). Appropriate limits and approval levels should be set for cash awards and pay adjustments. An employee may grieve the rating, but not the amount of the pay change.

9. Incentive Awards and Recognition Programs. Recognizing that NAFI employees at all levels share responsibility for the efficient and economical operations of the activity in which they are employed, incentive awards programs shall be established to the extent feasible, and within resources available, for the purpose of improving these operations and recognizing deserving employees.

10. Occupational Safety and Health. Components shall create and maintain a safe and healthful environment for their employees and for the users of facilities managed for the morale, welfare, and contentment of military personnel, their dependents, and authorized civilians. All safety and health regulations shall be strictly adhered to by NAFI employees in accordance with DoD Instruction 6055.1. Where safety technicians are not available within the installation, outside consultants shall be used as appropriate.

11. Drug and Alcohol Abuse. Components shall ensure that drug and alcohol abuse control programs are available to NAFI employees in accordance with the provisions of DoD Directive 1010.4.

B. LABOR-MANAGEMENT RELATIONS POLICY

The Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq., is implemented within the Department of Defense by DoD Directive 1426.1 and DoD 1400.25-M. The statute, as implemented by these DoD issuances, applies to Nonappropriated Fund Instrumentalities (see 5 U.S.C. 7103 (a)(2) and (3) and DoD 1400.25-M, Chapter 711).

C. ENTITLEMENT TO PERSONAL SERVICES AND GOVERNMENT QUARTERS

The privileges afforded NAFI employees shall be consistent with those available to appropriated fund employees. In addition, the personal use of the facilities of the NAFI in which an individual is employed may be authorized by local commanders when the use by regular eligible patrons is not diminished. The entitlement of 5 U.S.C. 5911, (Government Quarters and Facilities) as well as any other regulations prescribed by the President and deemed to be necessary and appropriate to carry out the provisions of this section, are hereby administratively extended to NAFI civilian personnel. The Heads of DoD Components shall prescribe the regulations necessary to carry out the provisions of 5 U.S.C. 5911. Except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAFI employees will be expected to secure them from the private sector. Also, exceptions may be made when, in the judgment of the commander, the mission of the installation will be better accomplished by having certain key administrative NAFI personnel quartered on the installation. The occupation of

Government quarters on a temporary basis by NAFI employees while traveling on official business is authorized.

**D. "WHISTLEBLOWER" PROTECTION FOR NAFI EMPLOYEES AND APPLICANTS
DISCLOSING INFORMATION**

1. The DoD Components shall ensure that the confidentiality of employees and applicants making disclosures are protected fully. In accordance with 10 U.S.C. Chapter 81, NAFI employees and applicants for NAFI employment may not be impeded from disclosing information to appropriate authority that they reasonably believe evidences:

- a. A violation of any law, rule, or regulation; or
- b. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific damage to public health or safety.

2. DoD Directive 7050.1, "Defense Hotline Program" May 20, 1987, establishes the DoD Hotline for reporting fraud or mismanagement, assigns responsibility and prescribes managing and operating procedures.

3. Concerning protection against reprisals, DoD Directive 1401.3 provides policy and implements P.L. 98-94, DoD Authorization Act, 1984, section 1253 (10 U.S.C. 1587) which establishes protection against reprisals for certain NAFI civilian employees and applicants who have made protected disclosures. DoDD 1401.3 sets forth responsibilities and authorities for providing such protection and prescribes operating procedures.

CHAPTER VIII

CIVILIAN ASSISTANCE AND RE-EMPLOYMENT (CARE)
FOR NAF EMPLOYEES AFFECTED BY WORKFORCE REDUCTIONS

A. FUNDING OF NAFI BASE REALIGNMENT AND CLOSURE (BRAC) COSTS

Consistent with the Under Secretary of Defense for Personnel and Readiness memorandum of November 24, 1993, funding of NAFI BRAC costs from appropriated fund BRAC accounts is authorized. Additional policy is stated in the OUSD(C) memorandum of December 21, 1993, "Financial Management Policy and Procedures for Base Closure and Realignment." Components are responsible for identifying base closure program requirements for affected tenant activities, including NAF activities, to obtain authorized funds.

B. PROGRAMS APPLICABLE ONLY IN BRAC SITUATIONS

1. Annual Leave Savings. Employees who earn annual leave and will be involuntarily separated as a result of BRAC shall be offered the opportunity to accumulate annual leave without regard to existing "use or lose" limitations. However, limits on any annual leave used in calculating retirement annuities remain in effect. Until publication of Chapter 1500 of the DoD Civilian Personnel Manual, basic policy is stated in the Principal Director, ODASD (CPP), memorandum of June 1, 1993.

2. Non-Federal Hiring Incentives. A temporary program may be established for the payment of retraining and relocation incentives to encourage non-federal employers to hire and retain individuals whose employment is being terminated because of BRAC. The total combined payment for retraining and relocation for any one individual may not exceed \$10,000. No incentive may be paid for training or relocation commenced after September 30, 1999. Until publication of Chapter 1500 of the DoD Civilian Personnel Manual, basic policy is stated in the DASD (CPP) memorandum of August 25, 1995.

3. Hiring Preference for Certain Contractor Jobs. Consistent with subpart 222.7100 of the Defense Federal Acquisition Regulation Supplement, a request for procurement of a contractor to provide base "caretaker" services needed as a result of BRAC shall include language to ensure that employees affected by BRAC receive the right of first refusal for jobs, for which they are qualified, that would be created by award of the contract. Examples of such contracts include those covering environmental restoration, utility modification, security, and fire prevention.

C. PROGRAMS APPLICABLE IN BRAC AND GENERAL WORKFORCE REDUCTION SITUATIONS

1. Voluntary Separation Incentive Pay (VSIP). Component Heads may authorize VSIP to encourage certain employees to voluntarily resign or retire to reshape and reduce the workforce, and reduce the need for involuntary separation by Business-Based Action. 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 U.S.C. 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 OASD (FMP). A VSIP may not be paid to any employee separating after September 30, 1999. Until publication of Chapter 1500 of the DoD Civilian Personnel Manual, basic policy is stated in the Principal Director, ODASD (CPP), memorandum of June 1, 1993.

2. Joint Training Partnership Act (JTPA). The National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484), made dislocated DoD employees, including NAF employees, eligible for training, adjustment assistance, and employment services through the Department of Labor in accordance with Title III of the JTPA (29 U.S.C. 1651 et seq). Until publication of Chapter 1500 of the DoD Civilian Personnel Manual, basic policy is stated in the Principal Director, ODASD (CPP), memorandum of June 1, 1993.

3. Extended Employment for Retirement and Health Insurance Eligibility. To enable employees to reach first eligibility for a retirement annuity or retiree health insurance, employees shall be carried in an annual leave status beyond the scheduled separation date to the extent such leave is available in the employee's annual leave 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. Until publication of Chapter 1500 of the DoD Civilian Personnel Manual, basic policy is stated in the Principal Director, ODASD (CPP), memorandum of June 1, 1993.

4. Defense Outplacement Referral System (DORS). DORS is an automated referral system designed to provide opportunities for placement consideration to current DoD civilian employees, including NAF employees, and their spouses who may be adversely affected by workforce reduction. Such individuals shall be given an opportunity to register. Registration policy and procedures are stated in the DORS NAF User's Guide and Automation Guide.

5. Reemployment Priority List (RPL). In accordance with Chapter V of this Manual, each personnel office that separates a NAF employee by Business-Based Action shall establish an RPL to provide priority placement assistance to the former employee for one year from the date of separation.

6. Office of Personnel Management (OPM) and DoD Interchange Agreement. Consistent with 5 U.S.C. 2105 (c)(1)(D), on September 20, 1991, OPM and DoD entered into an agreement entitled, "Agreement for the Movement of Personnel Between the Civil Service System and the NAF System in DoD." It permits the movement of NAF employees to positions in the competitive service in the same manner that employees of the competitive service are transferred to such positions. DoD appropriated fund personnel offices should make every effort to include in the minimum area of consideration those NAF employees who are employed within the minimum area of consideration and are eligible for noncompetitive appointment under the Interchange Agreement.

7. Pay and Employee Benefits Protection Under the "Portability of Benefits Act." "The Portability of Benefits for Nonappropriated Fund Employees Act" of 1990, P.L. 101-508, as amended, provides pay and benefits protection for employees who move between NAF and appropriated fund positions under certain conditions.

8. Permanent Change of Station (PCS) Expenses. PCS expenses may be authorized for essential travel and transportation of NAF employees and their dependents in amounts not to exceed those prescribed in Volume 2 of the Joint Travel Regulations (JTR) when NAF employees:

- a. Are entitled to and accompany a transfer of function; or
- b. Have been issued a Business-Based Action (BBA) notice and are to be reassigned or transferred within DoD before separation; or
- c. Have yet to receive a BBA notice, and obtain positions on their own initiative at another DoD NAFL, and the move is considered to be in the interest of the Government; or
- d. Are former Regular Full-Time or Part-Time employees separated by BBA, or decline a transfer with function, and are reemployed within one year of separation under a non-temporary appointment at a permanent duty station other than where separation occurred.

9. Homeowners Assistance Program (HAP). The HAP is authorized by P.L. 89-754, section 1013, as amended by P.L. 101-510 to cover NAF employees. Basic policy is contained in DoD Directive 4165.50 and DoD 1400.20-M-4. The Executive Agent for this program is the U.S. Army Corps of Engineers. The law authorizes financial assistance to those eligible military and DoD civilian employee homeowners, including NAF employees, serving at or near military installations who suffer losses incident to the disposal of their homes caused by a drop in real estate values when such military installations are ordered closed, or the scope of operations is reduced. The assistance received may take the form of payment from the government to ameliorate the loss resulting from private sale of the home; sale of the home to the government; or reimbursement of losses due to mortgage foreclosure. The law provides a HAP fund established as the Homeowners Assistance Fund, Defense. Therefore, appropriated funds are authorized for NAF employees eligible for HAP.

10. Severance Pay. Eligible employees separated by Business-Based Action shall receive severance pay in accordance with Chapter III of this Manual.

11. Temporary Continuation of Health Insurance. Eligible NAF employees affected by Business Based Action (BBA) shall be offered the opportunity to elect to retain their health insurance coverage for up to 18 months from the BBA separation. To be eligible, the employee must be separated by BBA, or resign or retire (if not meeting the required years of participation in the plan to continue benefits into retirement) after receipt of a BBA separation notice, and have been enrolled in a NAF health insurance plan for at least six months and still be enrolled at the

time of separation by BBA. Components may require the employee to pay the full cost of the coverage to include any applicable administrative fee. Components may finance the employer's share and administrative fee, for up to 18 months, from BRAC or NAF funds. Although NAF employees are not covered by the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 health benefits extension requirements applicable to private sector employees, nor the health benefit extension requirements applicable to federal appropriated fund employees, NAF employers should consider these requirements when determining length of extension and cost to the employee. Until publication of Chapter 1500 of the DoD Civilian Personnel Manual, basic policy is stated in the Principal Director, ODASD (CPP), Memorandum of June 1, 1993.

12. Unemployment Compensation. Eligible employees shall receive unemployment compensation in accordance with federal and applicable state law. Chapter VI of this Manual contains basic policy.