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CNICINST 5300.2  
N94  
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CNIC INSTRUCTION 5300.2

From: Commander, Navy Installations Command

Subj: COMMANDER, NAVY INSTALLATIONS COMMAND NONAPPROPRIATED  
FUND PERSONNEL MANUAL

Ref: (a) DOD 1401.1-M, Personnel Policy Manual for  
Nonappropriated Fund Instrumentalities, 13 December  
1988  
(b) DOD 1400.25-M, DoD Civilian Personnel Manual, 1  
December 1996

Encl: (1) Personnel Manual for Commander, Navy Installations  
Command Nonappropriated Fund Operations

1. Purpose. To provide personnel policy for Commander, Navy  
Installations Command (CNIC) Nonappropriated Fund (NAF)  
employees and managers.

2. Background. Navy policy is to provide operational and  
support activities with essential CNIC mission support services,  
as well as produce programs that effectively contribute to the  
morale, well-being and quality of life (QOL) of Naval personnel  
and their family members. This instruction supplements NAF  
personnel policy guidance in references (a) and (b).

3. Policy

a. This instruction applies to the personnel management  
operations for NAF employees within CNIC.

b. Requests for waivers of any of the CNIC policies of  
enclosure (1) that are not contained in higher level regulations  
or laws must be submitted to CNIC HQ Fleet and Family Readiness  
(CNIC N9). The waiver request shall include justification for  
the waiver. Waivers can either be for relief of a specific  
individual or relief in general. Relief in general waivers will  
remain in effect for 12 months following the date the request  
for a waiver was approved.

#### 4. Responsibilities

a. CNIC is responsible for:

(1) Reviewing waiver requests for deviation for CNIC specific personnel policy.

(2) Updating enclosure (1) as required.

(3) Implementing policy contained in enclosure (1).

b. Region Commanders (REGCOMs) are responsible for:

(1) Reviewing waiver requests from subordinate commands.

(2) Reviewing each approved waiver 12 months after approval for applicability.

(3) Implementing policy contained in enclosure (1).

c. Installation Commanding Officers (COs) are responsible for:

(1) Reviewing waiver requests from Installation.

(2) Implementing policy contained in enclosure (1).

#### 5. Action

a. CNIC shall:

(1) Approve or deny waiver requests for deviation from CNIC specific personnel policy.

(2) Update enclosure (1) as required.

(3) Implement policy contained in enclosure (1).

b. REGCOMS shall:

(1) Review waiver requests from subordinate command.

(2) Submit recommended waiver requests to CNIC N9.

(3) Review each approved waiver request 12 months after approval for applicability.

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(4) Implement policy contained in enclosure (1) within the Region.

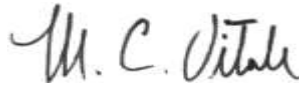
c. Installation COs shall:

(1) Review waiver requests from within the Installation.

(2) Submit recommended waiver requests to REGCOM.

(3) Implement policy contained in enclosure (1) within the Installation.

6. Forms and Reports. Forms contained in enclosure (1) can be obtained on the forms section at below link.



M. C. VITALE

Vice Admiral, U.S. Navy

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**PERSONNEL MANUAL**

**FOR ALL**

**COMMANDER, NAVY INSTALLATIONS**  
**COMMAND (CNIC)**

**NONAPPROPRIATED FUND (NAF)**

**OPERATIONS**

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**CHAPTER 1**  
**INTRODUCTION TO NAF HUMAN RESOURCE (HR) MANAGEMENT**

101. Purpose. This regulation establishes policies for the administration of a total HR program for all NAF employees of the Commander, Navy Installations Command (CNIC). Nonappropriated fund (NAF) employees are not subject to most laws administered by the Office of Personnel Management (OPM). As a result, the policies, procedures, and entitlements relating to employees paid from appropriated funds (APF) and those relating to NAF employees are different. There are, however, instances where legislation not applicable to NAF employees has been administratively adopted, through this regulation or higher level regulations, for application to CNIC NAF employees. The objectives of this regulation are to:

- a. ensure NAF employees are treated equitably and fairly per applicable laws, executive orders, and other pertinent regulations.
- b. provide the basis for achieving the desired degree of uniformity among CNIC Nonappropriated Fund Activities in human resource management.
- c. recognize and provide a basis for dealing with labor organizations.
- d. promote those practices and processes that facilitate obtaining, developing, and retaining a NAF work force of well qualified individuals.
- e. achieve optimum use of available human resources.
- f. develop and maintain HR programs that help preserve nonappropriated fund operational and financial integrity and ensure successful completion of the NAF Activities' mission.

102. Coverage. The policies and procedures prescribed in this manual apply to NAF employees of CNIC including military and civilian Morale Welfare and Recreation (MWR) activities, Navy Flying Clubs (NFCs), Auxiliary Resale Outlets (AROs), Navy Gateway Inns & Suites (NGIS), Fisher House and any other NAF employees under the cognizance of CNIC. Other Navy NAF entities such as the United States Naval Academy may elect to use this instruction. Should other NAF activities elect to use this instruction, then they should issue a local document specifying their intention. Each entity/fund using this instruction will

be responsible for paying all fees associated with or claims involving their organization. Covered employees include:

- a. U.S. citizen NAF employees.
- b. U.S. nationals when the Status of Forces Agreement (SOFA) does not apply.
- c. off-duty enlisted members of the U.S. Armed Forces who work for NAF.
- d. resident aliens residing in the U.S., Commonwealth of Puerto Rico and in any of the territories of the U.S working for a CNIC NAF activity.
- e. non-U.S. citizen dependents of U.S. citizens employed by the Federal government and of non-U.S. citizen military members, where the host government recognizes such dependents as a part of the U.S. forces stationed in the host country.
- f. NAF employees at non-U.S. locations that do not have a SOFA.
- g. any NAF employee provided personnel services by CNIC.

103. Applicable Policies. HR management administration of NAF employees is based upon the principles and authorities contained in applicable Department of Defense (DOD), Secretary of the Navy (SECNAV) and other applicable Department of Navy (DON), Office of the Chief of Naval Operations (OPNAV) regulations, manuals and instructions as well as applicable public statutes, pertinent executive orders and specified OPM directives. NAF HR offices should print reference copies of DOD and Navy guidelines and review them as well as this instruction before making HR decisions.

104. Authorized APF Support for CNIC Activities. The APF support policy for CNIC can be found in DON Financial Management Policy Manual (NAVSO P-1000) and DODI 1015.10. The following summarizes the existing policy:

- a. Military CNIC programs are sub-divided into three categories.

- (1) Category A, mission-sustaining activities, are activities in which the military organization is the primary beneficiary and the NAF activity provides identifiable

recruiting and retention incentives.

(2) Category B, basic community support activities, contribute to the mission, but are capable of generating some NAF revenues; however, they are not expected to sustain operations solely with NAF funds. Significant operations are normally funded with APF.

(3) Category C business activities primarily benefit the individual, and have the capability to generate significant NAF revenues. APF support is very limited. Those installations which have been designated as overseas, or isolated and remote, may use APF funds for Category C operations.

b. Uniform Funding and Management (UFM) practice shall not be used as a mechanism to convert encumbered CNIC APF civilian positions to NAF positions. Should a civil service position become vacant, the UFM Memorandum of Agreement (MOA) may be modified to include the APF labor funds to be provided to the NAF activity; however if an unencumbered position is converted to a NAF or contract position, then the position shall not be converted back to an APF position. NAF positions for which APF reimbursement is received must be budgeted and executed per a MOA with the installation APF comptroller.

c. APF Support. All NAF activities, regardless of the category, are authorized to receive APF common support associated with protecting the health and safety of participants, employees, resources and property. When these costs are additional, identifiable, and can be segregated on a reasonable and meaningful basis, they should be identified as CNIC costs on the appropriate CNIC reports regardless of whether such costs are funded with APF or NAF.

(1) APF HROs may provide technical advice and counsel on an ad hoc, as required basis to NAF activities without reimbursement. Day-to-day HR administration is authorized only when no additional incremental APF costs are incurred. This threshold is defined as the annual expenditure of more than \$500 of APF annually in direct labor costs.

(2) NAF may use APF EEO services. The use may require NAF reimbursement of expenses.

(3) NAF will use APF drug testing services. Drug testing money is in a separate appropriation that is provided by DOD and the DOD appropriation covers both APF and NAF.

(4) NAF activities impacted by BRAC are authorized to use APF funds for BRAC actions.

105. Responsibilities

a. Assistant Secretary of Defense (Force Management and Personnel) (ASD (FM&P)) is responsible for all HR policy matters related to NAF employees in DOD.

b. ASD (FM&P) has designated Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD (CPP)) to oversee the issuance of NAF HR policy for DOD.

c. Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) is responsible for all civilian HR policy matters related to NAF activity employees in DON.

d. ASN (M&RA) has designated Deputy Assistant Secretary of the Navy (Civilian Human Resources) (DASN (CHR)) to oversee APF and NAF civilian HR policy within DON.

e. CNIC (N941) manages NAF civilian HR policy for all NAF activities under the cognizance of CNIC. CNIC (N941) will:

(1) maintain this manual in coordination with appropriate authorities and publish necessary revisions and changes.

(2) maintain oversight of policies and programs set forth in this manual, ensuring consistent implementation and continuous application at all NAF activities under the cognizance of CNIC.

(3) exercise the authorities specified in this manual.

(4) review and comment on all NAF civilian HR policy issues.

(5) provide guidance on the proper interpretation and application of NAF HR policies.

f. Depending upon the CNIC NAF operations the Installation Commanding Officer (ICO), the F&FR (N9) Region Head (may be military or civilian), the NGIS Region Head, N94 for Millington Detachment and other staffs, are responsible for supervision, administration and control of local NAF civilian HR policy that

complies with this and higher level regulations or policy issued by CNIC for their NAF employees and will be the organization level that will have the final decision on grievances, be the first step in the appeal process for disciplinary and adverse actions, approve staffing levels, approve waiver of spouse preference order of selection, denials of employment, etc. Each Region or staff using this instruction will specify in writing their organizational structure and responsibility to avoid compromise.

106. Legal Status of Civilian NAF Employees. NAF employees are Federal employees within DOD, but are not subject to many of the HR laws administered by OPM for APF employees.

a. 5 U.S.C. 2105(C) explains this status and identifies the OPM administered laws that cover NAF employees unless otherwise specifically stated. This section reads as follows:

(1) -An employee paid from NAF 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 U.S. 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:

(a) laws (other than subchapter IV of chapter 53 and sections 5550 and 7204 of this title) administered by OPM; or

(b) subchapter I of chapter 81 and section 7902 of this title. This subsection does not affect the status of these NAF activities as Federal instrumentalities.||

b. Subchapter IV of chapter 53 of 5 U.S.C., 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 consistent with the public interest under prevailing rates. This applies to Craft and Trade (CT) employees.

c. An opinion rendered by the Merit Systems Protection Board (MSPB) states NAF employees have no statutory or regulatory right of appeal to the MSPB because NAF employees:

(1) are not covered by the definition of employee set forth in 5 U.S.C. 7511.

(2) are not covered by 5 CFR 752.401.

(3) are specifically excluded as employees for the purpose of laws administered by OPM.

(4) are not covered by 5 U.S.C., 7121(d) and (e).

107. Supervisory Authority

a. DOD 1400.25-M, SC 1403.12 permits NAF employees to supervise APF employees, including assigned military. Conversely, this ruling provides the same authority for APF employees and assigned military to supervise NAF employees. NAF employees shall not supervise contract personnel.

b. No employee shall initiate, process, authorize or approve a personnel, payroll or travel action for themselves. The approval level shall be at least one level of management above the impacted employee. In some situations as specified in this instruction, two levels of supervision must approve before an action may be finalized.

108. New or Revised Programs. The provisions of this manual will not be construed as limiting NAF Activities in the development and administration of HR policies appropriate for sound and progressive career development and management programs. Such programs must meet the basic objectives and policies set forth in this manual. New programs or revisions to existing programs that modify NAF employee compensation, benefits or allowances beyond those authorized in this manual must be approved prior to implementation. Recommended changes must be forwarded to CNIC (N94) for approval through the appropriate chain of command prior to implementation.

109. Official Bulletin Boards. Each NAF activity shall have at least one official bulletin board to post required information for employees.

**CHAPTER 2**  
**EMPLOYMENT AND PLACEMENT**

201. Employment and Placement Policy. CNIC is committed to ensuring that the recruitment, selection, placement, promotion, termination, and other related HR actions involving NAF employees comply with the Federal government's commitment to fair employment practices and equal opportunity and treatment for both applicants and employees.

202. Equal Employment Opportunity (EEO)

a. Each NAF activity is responsible for paying all costs involved in processing EEO complaints. A MOU with the APF EEO Officer may be needed to provide for EEO counseling, investigations and complaint processing. Judgments in EEO complaints are technically against the Navy, therefore APF may be used to pay EEO settlements or for EEO -make whole determinations. When APF funds are not available, NAF funds may be used to pay the judgment.

b. In furtherance of the above, the head of each NAF activity will, to the maximum extent possible

(1) provide sufficient resources to administer their EEO program in a positive and effective manner.

(2) conduct a continuing campaign to eradicate every form of prejudice or discrimination based upon race, color, religion, age, sex, physical or mental disability or national origin, from HR policies and practices and working conditions, to include taking disciplinary action against employees who engage in discriminatory practices or sexual harassment.

(3) communicate this policy and employment needs to all sources of job candidates.

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

(5) establish a procedure for periodically evaluating the effectiveness of the overall EEO effort.

203. Employee Qualifications and Suitability Requirements

a. Qualifications

(1) Establishment of realistic qualification standards and requirements for any NAF position is a management responsibility. Such basic qualification requirements must be based on factual job requirements using OPM qualification guidelines and the duties and knowledge, skills and abilities (KSAs) in the position description (PD). Qualifications shall be written so that competition for the job is not restricted to any one individual and does not violate merit and EEO principles. The qualifications of each applicant shall be carefully reviewed and evaluated. Once qualification requirements are determined for a position and placed in an appropriate vacancy announcement, changes to the qualification requirements shall not be made unless an amended vacancy announcement with the revised qualifications is issued. Should the information in the vacancy announcement change, a new or amended vacancy announcement must be issued and left open for at least five calendar days.

(a) Use of Education in Qualification Requirements. Education may not be used as a screen-in, screen out, or basic qualifier for any position unless such requirement has also been designated by OPM for similar positions in the Civil Service. For example the 0510 and 1701 series both have a positive education requirement in the Civil Service therefore NAF positions in these series must use this same positive education requirement. In series where OPM does not define a positive education requirement, the NAF qualifications must include the option to meet the minimum qualifications by a combination of education and work experience or an equivalent amount of work experience alone. The degree requirement cannot be the only requirement for these positions.

(b) DOD mandated qualifications and training requirements for NAF caregiver positions are detailed in OPNAVINST 1700.9E. OPM will not use these qualifications for APF caregiver positions as DOD and Navy have not obtained OPM agreement to use the same qualifications used for NAF.

(c) Each application received will be screened to ensure that applicants meet the basic qualification requirements for the job being recruited. The vacancy file must document whether or not the applicant met the minimum qualification requirements for the position.

(d) Eligible candidates for all competitive

announcements must be formally evaluated against a job related crediting plan. Crediting plans must define the criteria for rating job applicants at different levels and must be determined by analyzing the job and tasks to be performed. The crediting plan shall be filed in the vacancy announcement file. A cutoff score for referral must be established and all eligible applicants with this cutoff score or higher scores will be considered as the Best Qualified (BQ) applicants for the vacancy. The BQ applicants will be referred to the supervisor for consideration. The supervisor can select any of the BQ applicants for the vacancy unless a special preference program applicant such as the Spouse Preference is involved. Special preference guidelines must be complied with when making selections.

b. Suitability

(1) NAF Activities shall ensure that all applicants are suitable for appointment. Information uncovered during investigations that reflects adversely upon the general character, conduct, suitability and reliability of any applicant or of a NAF employee will be handled with confidentiality and in a prompt and equitable manner.

(2) A demotion or removal action on suitability grounds will be processed under the established procedures for basic/severe disciplinary actions.

(3) When processing reassignment, demotion, or termination actions on suitability grounds, certain safeguards shall be observed. Information contained in Naval Criminal Investigative Service (NCIS) reports may only be used as support documents for these actions with the approval of NCIS.

(a) Sensitive information from investigative reports, which has occasioned the planned adverse action but which will not be released for use as evidence, may be made the basis for independent development of non-sensitive evidence to serve as grounds for the proposed action.

(b) When security considerations preclude using the investigative information as evidence and the employee is serving in a non-sensitive position, the adverse action cannot be taken until supportable evidence is found or the investigative evidence can be used.

c. National Agency Check with Inquiries (NACI)

(1) A NACI is required for all NAF personnel. The background checks will be updated every five years.

(2) Verification of a completed NACI will be filed on the right side of the official personnel folder (OPF).

d. Denial of Employment

(1) Any employee terminated for cause will not be reinstated or re-employed in any CNIC NAF activity.

(2) The Region F&FR Director (N9) must approve in writing the employment of any applicant who has been convicted of:

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

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

(c) Rehabilitated offenders may be hired for jobs for which they are needed and qualified. Each selection for appointment of a rehabilitated offender will be judged on its own merits.

(d) Employment may be denied to any person who was discharged from the Armed Services of the U.S. under other than honorable conditions after full review of the specific circumstances involved in each case.

(3) Employment may also be denied to, or terminated for, any person who has presented false or misleading information or failed to fully disclose any potentially adverse information on any of the employment or background investigation forms.

e. Citizenship Requirements

(1) Employment in Non-Foreign Areas. Per P.L. 99-603 all employees (both U.S. citizens and eligible non-citizens) must complete INS Form I-9 (21 Nov 91), Employment Eligibility Verification, at the time of hire. The employee must provide the documentation specified on the I-9 upon entrance on duty into each individual NAF activity. Should the employee fail to produce the required document(s), or a receipt for replacement document(s) in the case of lost, stolen or destroyed document(s)

the employee shall be terminated. Photocopies of documents are not acceptable. Questions should be directed to the nearest U.S. Citizenship and Immigration Services (USCIS) office.

(a) In CONUS, all employees must be a U.S. citizen or a bona fide resident (Green Card holder) unless Secretary of Labor certifies that no U.S. citizen or bona fide resident is available to fill the particular position. Non-citizens must meet all of the requirements established by INS to be eligible for employment in any NAF position.

(2) It is recommended that each HR office print out a copy of the I-9 Handbook for Employers from <http://www.uscis.gov/files/nativedocuments/m-274.pdf>.

(3) The requirement to file I-9s on the right side of the OPF has been changed by OPM. I-9s must be kept in a separate file either for three years after the date of hire or for one year after employment is terminated whichever is later. The form must be available for inspection by authorized U.S. Government officials.

(4) NAF Activities shall monitor the expiration date of all Green Cards and ensure that the employee provides information verifying the renewal. Employees who do not renew are no longer eligible for employment.

(5) Non-citizens who have a Green Card may be assigned to positions of trust after they receive a NACI but may not be assigned to sensitive positions.

f. Proof of Registration for the Draft. Males who are not current federal employees born after December 31, 1959 are required to certify that they have registered with the Selective Service System. In the event they fail to do so, they will be required to certify that they did not knowingly and willfully fail to register. This requirement must be met before the applicant can be appointed. The certification will be included with the job application and filed on the right side of the OPF.

g. OPFs. NAF Activities shall comply with the requirements of the "OPM Guide to Personnel Record Keeping." This guide can be found at <http://www.opm.gov/feddata/persdoc.htm>. All OPFs including those of flexible employees shall be sent to the National Personnel Records Center (Civilian), 1411 Boulder Blvd, Valmeyer, IL 62295.

204. Employment Restrictions

a. Relatives

(1) The employment, appointment, or promotion of relatives of commissioned officers, COs, Executive Officers (XOs), noncommissioned officers, and civilian officials who hold administrative positions in which they exercise jurisdiction or control over the employing NAF activity is prohibited. Such officials may not advocate a relative's appointment, employment, promotion or advancement anywhere within DOD.

This policy is consistent with the provisions of 5 U.S.C., 3110. This policy does not prohibit the exercise of reemployment rights after military service as provided by the Military Selective Service Act of 1967 as amended. A NAF activity may implement a stricter policy that further prohibits the employment of relatives. Care must be taken to ensure employment decisions adhere to the principles of ethical conduct in DOD 5500.7-R. For example, a policy may provide for the employment of relatives provided an employee is neither under the direct supervision of a relative, nor assigned to the same department as a relative. It must be emphasized that while the NAF activity has some latitude in this area, the policies adopted must be consistent with the EEO laws prohibiting discrimination on the basis of sex and marital status, as well as merit system principles.

(2) Public officials should avoid any appearance of nepotism. Public officials should also avoid any action, which might result in, or create the appearance of, preferential treatment to any person.

(3) To avoid the perception of favoritism, heads of NAF Activities shall be sensitive to ensuring that relatives of NAF employees, who are offered NAF employment, meet all qualifications requirements listed in the vacancy announcement and the PD, and that competitive procedures are fully followed during the selection process.

(4) Guidance should be requested from the local ethics office on questionable situations.

(5) For purposes of interpretation, "relative" includes: father, mother, son, daughter, brother, sister, uncle, aunt, first cousins, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brothers, or half sisters.

b. Minors. The employment of minors will comply with 29 U.S.C. 201-219, the Fair Labor Standards Act (FLSA) and applicable Federal and State child labor laws. 5 CFR 551.601 sets a general minimum age of 16 for employment subject to child labor provisions. Minors shall not be given work declared to be hazardous by the Department of Labor (DOL). Individuals younger than 18 also may not be employed in fire protection or in child care services. State and municipality laws concerning minors handling intoxicating beverages must be observed. Tours of duty for minors will be established per applicable Federal, State, and local laws but will be limited to eight hours each day and 48 hours each week.

c. Restrictions on the Assignment of Military Personnel

(1) Military personnel may be utilized in a Category A or B program, when the Military Service determines assignment of military personnel is required to support wartime or contingency operations, is required based on past practice, is required for sea/shore rotation, or when the position cannot be filled effectively with civilians. Category A swimming pools may utilize permanently assigned military personnel. Military personnel may be placed on temporary assignment for no more than 90 days. When 25 percent of the duties are CNIC NAF specific, the costs must be reported as expenses to the appropriate position. All costs associated with military personnel, including temporary duty travel, should be financed using APF. Additionally, the use of military personnel is authorized for all CNIC categories when essential for the provision of Executive Control and Essential Command Supervision (ECECS) and for the provision of security, when not otherwise available. Military personnel may be assigned to CNIC NAF Activities provided one of the following conditions is met:

(a) Effective ECECS cannot be provided by the assignment of civilian personnel.

(b) When required for deployments or at locations where qualified civilians are not available through the local labor market.

(c) To provide staffing for shipboard activities.

(d) Military personnel may be placed on temporary assignment to CNIC activities, to include detail and temporary duty, for a period not to exceed 90 calendar days. Temporary

assignments may be made under the following conditions:

1. The military member, possessing a non-critical rating, is awaiting reassignment or other personnel action and is not required to perform in their rating or military occupational specialty during that period.

2. Navy afloat or other deployed units arrive at supporting location and military members are required to augment the host installation.

3. Mobility or deployment requirements occur.

4. Training to upgrade or maintain essential military skills cannot be provided through other means.

(e) Military personnel officially assigned to duty in CNIC positions will not be paid any monetary supplement. These personnel will not receive any leave other than their authorized official military leave.

(f) Military personnel including those assigned for duty in NGIS will not be assigned or detailed to duty involving the selling or serving of alcoholic beverages. They may be voluntarily employed for this purpose in their off duty hours, as provided elsewhere in this manual.

(g) Culinary Specialist (CS) personnel may be detailed to duty at official entertainment or social functions held on government property and financed by official representation funds (ORF) per SECNAVINST 7042.7J. Such assignment will be considered regular military duty; duty hours and liberty times of affected CS personnel will be adjusted accordingly. Neither CS personnel nor other enlisted personnel will be detailed to duty for nonofficial entertainment or social functions that are not financed by ORF. Social functions not financed by ORF include those contributing to the personal benefit of an officer or group of officers, which have no connection with official duties and responsibilities. Entertainment for the enjoyment and benefit of those participating, occurring on a temporary or continuing basis, both during and after normal working hours, is a social function. Station, ship, staff, squadron and private parties, spouse luncheons, and all food service, other than essential food service, are defined as social functions, as are sales in bars, and cocktail lounges.

(h) Enlisted personnel assigned in their military capacity to positions in a NAF activity may not be employed in the same NAF activity during off-duty hours.

(i) Off duty enlisted personnel not assigned to the NAF activity may be employed in a NAF position after duty hours on other than a full-time basis and shall not work more than an average of 34 hours per week. Off duty officers and warrant officers shall not be employed (DOD 1400.25-M, SC 1405).

(j) Active duty commissioned and warrant officers are prohibited from receiving compensation in any form from NAF Activities except on an intermittent fee basis for services rendered while off duty in such capacities as officials at athletic events and participation in miscellaneous recreational and entertainment activities.

(k) NAF activity funds may not be expended for 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 regularly employed in a NAF position. Time worked in a military assignment will not be used to determine the pay of enlisted personnel for duties performed in NAF positions.

(2) Employment of Retired Uniformed Service Personnel

(a) The requirements of DODI 1402.1 of 9 Sep 07 shall be followed when hiring retired military personnel unless a Presidential declared state of emergency exists.

(b) Retired members of the uniformed services have every right to seek, and be considered for, civilian employment in NAF Activities on the same basis as other applicants; however, there is an obligation to assure that consideration for positions is extended to all candidates on an equitable basis, in strict compliance with the spirit and fundamental considerations of merit and open competition. Special measures are necessary to guard against the appearance that retired uniformed service members are being given preferential consideration. This is essential, not only in the interests of the public and of NAF employees, but to protect such retired personnel from unwarranted allegations that they obtained their positions through influence based upon prior military service.

(c) All NAF vacancies that result in the hiring of retired military will be publicized, and recruitment conducted,

over a sufficiently long period of time (advertised for a minimum of two weeks) to give all interested candidates an opportunity to apply. The qualification requirements for the position will not be written in a manner designed to give advantage to a particular individual or group of individuals. To avoid any suspicion or appearance of preferential treatment, full consideration must be given to qualified current NAF employees per regular promotion procedures. Reasonable efforts to locate other qualified candidates will be made before appointing a retired member of the uniformed services to a NAF position.

(d) Unless the President has declared a state of emergency, appointment of retired members of the uniformed services to any NAF position during the period of 180 days immediately following retirement must be accomplished consistent with DODI 1402.1 of 9 Sep 07.

(1) As an exception to the 180 day-rule, active duty enlisted military personnel who retire from military service while working off duty for a NAF activity may continue in the same appointment upon retirement provided the employee is either a flexible or part time employee, been employed for at least 90 days prior to their retirement, there is no change in the employment category, and the employment category remains the same for a minimum of 180 days after the date of retirement.

(e) Hiring approval officials must maintain complete case files for actions taken under this authority. The records must be available for inspection and be maintained for two years then may be destroyed. The requesting NAF activity must maintain records of approval of requests to waive the 180-day restriction. A copy of the approval must be maintained in the OPF.

(f) A retiring military individual, who is on terminal leave prior to actual retirement, may apply for employment with a NAF activity and may also begin work if all the requirements of DODI 1402

.1 have been met. The applicant shall include documentation that they are on terminal leave with their application.

d. Volunteers

(1) The head of the NAF activity will establish policies and procedures per this instruction and DODI 1100.21 for the

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acceptance of volunteers.

(2) A volunteer is a person who does not meet the definition of "employee" because they donate services that primarily benefit someone other than the NAF activity where volunteer service is performed. Under such circumstances, there is neither an implied nor expressed compensation agreement. Services performed by volunteers include personal services, which, if left unperformed, would not necessitate the assignment of an employee to perform them.

(3) A DD Form 2793 (Feb 2002), Volunteer Agreement for Appropriated Fund Activities and Nonappropriated Fund Instrumentalities shall be completed for each individual volunteering services to a NAF activity.

(4) Volunteers shall not be placed in policy-making or supervisory positions, and shall not receive cash awards or compensation of any kind for services rendered.

(5) Volunteers shall not perform duties for which there is an unfilled manpower requirement. Volunteers shall not perform dangerous duties that render them unusually susceptible to injury or to the possibility of causing injury to others.

(6) Volunteers shall have a license, privileges, or appropriate credentials, as would an employee performing the same or similar assigned duties. Strict compliance with DOD 1402.5 is required to obtain criminal history background checks on individuals volunteering in childcare and youth services.

(7) Volunteers are authorized reimbursement for incidental expenses incurred as a result of the services rendered. Reimbursement may be from APF or NAF that are authorized for use in support of the DON NAF activity involved.

(8) Pursuant to 10 U.S.C 1588 a person providing properly accepted voluntary services to an APF or a NAF activity shall be considered a government employee for worker's compensation only with respect to services that are within the scope of the voluntary services accepted. 10 U.S.C. 2733 contains instructions for determining the amount of compensation payable in such cases. Additionally, volunteers acting within the scope of the services accepted under the assigned scope of services will be treated as Federal employees for the purposes of determining liability under the Federal Tort Claims Act.

(9) Volunteer records shall be retained for three years following the termination of volunteer service by the organization receiving the service. After that period, a summary of each volunteer's service may be electronically maintained at the NAF activity until no longer needed.

e. Use of Civilian APF Employees. Rules and regulations concerning the administration of APF personnel assigned to CNIC N9 activities are published by OPM and are contained in APF HR regulations. APF personnel may be utilized on permanent assignment, or an additional or collateral duty basis, in Category A and B activities if they are performing managerial functions, or if the position requires technical or professional qualifications. Guidance on APF resources and use of APF finances should be obtained from APF HROs and APF budget and finance personnel and regulations.

f. Hiring of Former Federal Employees Who Received Voluntary Separation Incentive Pay (VSIP). Before hiring a former APF or NAF employee, the hiring NAF HR office shall obtain the employee's last SF-50 and verify that the employee has not received a VSIP within the past five years. A person who received a VSIP shall not be reemployed within DOD for one year after receiving a VSIP even if they pay back the VSIP. The person may be employed within two to five years after receiving a VSIP if the VSIP including taxes is repaid prior to employment.

g. Reemployment of Retired NAF Employees

(1) Individuals who are drawing a CNIC NAF retirement are eligible for rehire as a flexible employee for an indefinite period if their hours of work do not exceed an average of 19 hours per week or 988 hours over a running 12 month period. In other words if the employee is working in March 2009 the employee should not have worked more than 988 hours between the period of March 2008 and March 2009. Should the reemployment of a CNIC NAF retiree be necessary beyond these parameters a written request for waiver shall be submitted to CNIC (N94). The waiver approval may require that the individual's NAF retirement payments be discontinued while employed.

(2) Retirees from other DOD NAF activities may be employed and continue to draw the non-CNIC NAF retirement. Their service in the non-CNIC NAF activity will not count towards a CNIC NAF retirement.

(3) Individuals drawing APF retirement who worked as NAF during their career and made an irrevocable election to retain APF retirement coverage are eligible for rehire as a flexible employee for up to 60 days or for an indefinite period if their hours of work do not exceed an average of 19 hours per week. Any waiver to this will require that their pay be offset as a reemployed annuitant and may impact their APF benefits.

(4) Individuals drawing APF retirement and who never worked as NAF employees during their career may be hired as regular NAF employees with no impact on their APF benefits or retirement pay.

h. Employment and Reemployment Rights of Members of the Uniformed Services. The Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C 4301, strengthened and expanded the employment and reemployment rights of members of the Uniformed Services in private, State and Federal employment. Persons afforded protection under USERRA include military veterans as well as members of the Reserve components of the Armed Forces. Under USERRA, eligible service members are protected from discrimination in employment due to military obligations, are guaranteed prompt reemployment in their civilian jobs and are provided protection of those employment rights and benefits. USERRA requires DOL's Veterans' Employment and Training Service to provide employment and reemployment assistance to any Federal employee or applicant who requires it. Information about the USERRA is also available on the internet. An interactive system, "The USERRA Advisor" answers many of the most often asked questions about the law. It can be found in the "E-Laws" section of the DOL's home page. The internet address is <http://www.dol.gov>.

i. Reservist Differential Pay. 5 U.S.C. 5538 has been administratively extended to NAF activities. Employees who are recalled to active duty shall be paid a reservist differential equal to the amount by which an employee's projected civilian basic pay for a covered pay period exceeds the employee's actual military pay and allowances allocable to that pay period. The reservist differential is not payable for periods during which the employee is receiving civilian basic pay for performing work or using civilian paid leave or other paid time off.

j. Flexible Employees Who Are Not Working. Flexible employees who have not been scheduled for work for six months should be terminated unless they are on worker's

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compensation.

Keeping inactive employees on the rolls increases CNIC costs in

a number of areas and may result in inaccurate employment numbers.

205. Approval and Recruitment for NAF Positions

a. Heads of NAF Activities will develop staffing levels, which reflect the optimum numbers and grades, including series code, of all positions required in each department. The ICO/Regional (N9)/Region NGIS shall approve staffing levels.

b. The authority to select and approve recruitment for positions is delegated to the head of the NAF Activity for positions under their cognizance. The head of the NAF Activity may re-delegate this authority to lower supervisory levels at their discretion.

c. In order that the most suitable and qualified persons are employed by NAF Activities at all levels, heads of NAF Activities will ensure that established recruiting procedures are followed. Vacancy announcements must be posted for a minimum of five calendar days.

d. Activities may use open continuous vacancy announcements for high turnover and hard to recruit vacancies. When open continuous announcements are used, cut off dates will be used and all Best Qualified (BQ) applications received by the cutoff date will be considered. Applicants shall be considered and referred using merit principles.

e. A vacancy recruitment file will be established for each vacancy announcement. This file will be maintained for two years or as long as any potential complaints, appeals or grievances are pending and shall contain the following items:

(1) A written document signed by the delegated approving official that includes the salary range, the proposed area of consideration, whether or not any PCS expenses will be authorized and whether or not commercial advertising is proposed.

(2) A current PD.

(3) A copy of any advertisements.

(4) A copy of the vacancy announcement and any amendments used.

(5) A copy of all applications received including the selected applicant's application. The selected applicant's application will also be filed in their OPF.

(6) A copy of the crediting plan used to rate and rank applicants.

(7) A rating and ranking sheet indicating the rating for each applicant.

(8) Reference checks for the selected applicant.

(9) An approved selection memorandum and the offer letter.

(10) Copies of the written notification(s) to the non-selected applicants.

f. NAF vacancy announcements must indicate if relocation costs will be paid or negotiated in all cases.

g. NAF vacancy announcements shall include an EEO statement and information on how an applicant may obtain information on reasonable accommodation. Announcements should also list any other special requirements such as security requirements, travel, shift work, heavy lifting, use of Electronic Fund Transfer (EFT), and noncompetitive promotion potential.

h. Heads of NAF Activities shall require adherence to the terms advertised in job announcements, including the area of consideration and mandatory qualifications.

i. Vacancy announcements may be issued for projected vacancies and pending classification as long as the announcement includes a statement that this is the case. Applicants should be notified when an announcement is closed without use.

j. When a NAF position is abolished due to base closure, regionalization, etc., the position will not normally be reestablished. Should reestablishment of the position become an operational requirement, the head of the Region or CNIC staff must approve the need for the position and provide justification for the reestablishment. The document shall be retained in the recruitment file. If a NAF employee was separated as a result of the abolishment, that person must be non-competitively placed in the newly established NAF position if the position is identical to the position that was abolished and if the position

is reestablished within one year of the employee's separation.

k. Social Security Number (SSN). Disclosure of the SSN is mandatory for applicants and employees to obtain the services, benefits, or processes they are seeking.

l. The Privacy Act Statement for NAF applicants is "Authority to request this information is derived from 5 U.S.C. 301, Departmental Regulations. The purpose of this information is to determine the qualifications, suitability, and availability of applicants for employment with a NAF activity, and of current employees for reassignment, reinstatement, transfer, or promotion. The information will be used to assess qualifications, entitlement, and overall employment suitability. Completion of information on this form is voluntary. Failure to provide this information may prevent you from receiving full consideration for the position you seek.||

206. Employment Preference

a. Reemployment Priority List (RPL). Each NAF HR office that separates regular non-probationary employees and flexible employees, who have three years or more in the NAF activity immediately prior to the announcement of the Business Based Action (BBA), will establish a RPL to provide placement assistance to those separated by BBA using the guidelines in DOD 1400.25-M SC 1403, DOD 1401.1-M Chapter V.

b. Spouse Preference. The "Employment Opportunities for Military Spouses" as amended (10 U.S.C., 1784) and Executive Order 12568, "Employment Opportunities for Military Spouses of Nonappropriated Fund (NAF) Activities give spouses preferential consideration for NAF positions at the NF-3 and below and equivalent CT positions. The preference may be used multiple times for flexible positions. Spouse Preference is considered used when the spouse is placed in a regular full time (RFT) or regular part time (RPT) position.

(1) Spouse employment has a very positive impact on the military and on military retention.

(2) Spouses eligible for preferential consideration are wives or husbands of an active duty military member of the U.S. Armed Forces, including members of the National Guard or Reserves on active duty. The marriage must have occurred before the military member received official PCS orders to the installation at which employment is being considered. Spouse

preference applies to in-service placement actions.

(3) The time period of eligibility for spousal preference begins 30 days before the military member's reporting date at a new duty station outside of the current duty station's commuting area and applies without time restriction except that spouses seeking preference with less than six months time remaining in the area may be non-selected.

(4) Eligible spouses who are placed on applicant referrals to the selecting official shall be selected for the vacancy. Should there be more than one spouse preference eligible among the referred applicants, the selecting official may select the best of the spouse preference eligible applicants using interviews or application review.

c. Preference in Hiring for Voluntary Separation Incentive (VSI) or Special Separation Benefits (SSB) Programs for Military Members of the Armed Forces and their Dependents. Per 10 U.S.C., the heads of DOD components will take steps to provide preference in hiring by NAF Activities for involuntarily separated members of the Army, Navy, Air Force, and Marine Corps, and their dependents.

d. Veteran's Preference. In competitive recruitment actions open to outside applicants, outside applicants with veteran's preference will be selected over less qualified outside non-veteran's preference applicants. One level of management above the selecting official will review and approve the non-selection of individuals with veteran's preference. Veteran's preference does not apply to in-service placement actions.

e. Special Selection Consideration for Disabled Individuals. Per DODI 1400.25 NAF Activities may noncompetitively employ disabled individuals subject to these individuals being certified by the State Rehabilitation Service or the Veteran's Administration. When employment in a NAF position is proposed, the initial appointment will be on a temporary basis not to exceed 24 months. After completion of the 12-month period, management may convert the employee to a permanent position and such conversion is authorized noncompetitively. Under no circumstances will a temporary appointment of a disabled individual be extended beyond the initial 24-month period.

f. Family Members in Foreign Areas. Family members in

foreign areas receive preference for all NAF jobs. Preferences apply when not at variance with the SOFA or as prescribed by DODI 1400.23.

207. Probationary Period.

a. New Hire Probation. A one year probationary period applies to all regular employees when employed as indicated in DODI 1400.25-M. During the probationary period, should the employee's performance or conduct indicate that the individual may not be an acceptable Federal employee, the employee shall be terminated. The only acceptable reason for extending a probationary period is to make up non-paid time that occurred during the probationary period. The information concerning the serving of the probationary period shall be included in the PAR remarks. Separation procedures are contained in chapter five.

b. Supervisory or Managerial Probation. A one-year supervisory probationary period is required for supervisors and managers the first time they are appointed to a supervisory or managerial position. During this probationary period, new supervisors and managers shall receive training on supervisory/managerial functions. Managers and supervisors may not continue in the supervisory or managerial position if they do not satisfactorily complete the supervisory probationary period. These employees should be returned to their previous non-supervisory grade or pay band level if failure occurs. When employees are returned to their previous grade or pay band level during the supervisory or managerial probationary period, their pay may be adjusted to the previous non-supervisory rate at management's option. Returning employees to their previous grade and pay level during the probationary period is not a disciplinary action and is not grievable or appealable.

208. Physical Examinations. Health standards for Categories A, B, and C personnel will follow the requirements of 5 CFR 339.201. For child care and youth programs, OPNAVINST 1700.9E applies.

a. Selected individuals for positions that have greater than normal environmental or functional requirements should have a pre-employment physical. A SF 78 (Rev 10/69), Certificate of Medical Examination may be used. Functional and environmental requirements in the position description should be marked in section four of the SF 78.

b. Individuals selected for overseas positions shall also

be given a pre-employment physical. This examination should include

(1) functional requirement 35 mental and emotional stability.

(2) environmental factor B26 working closely with others.

(3) any other environmental or functional requirements of the position or geographic location of the position.

#### 209. Employee Resignation

a. Resignation is a separation in response to an employee's request for the action. It is a voluntary expression of the employee's desire to leave the organization. An employee is free to resign at any time and to set the effective date of the resignation. The employee is not required to give advance notice, although a minimum of two weeks written advance notice is desired to allow for a replacement or work adjustment. The NAF activity may point out the desirability of another date, but it may not arbitrarily set another date and have the action remain a voluntary resignation.

b. Employing HROs will ensure that an employee does not experience a break in service when moving, or transferring between NAF and APF positions. The avoidance of breaks in service is necessary to ensure employees are extended entitlements under the portability and interchange legislation. Portability entitlements cannot be given when there is more than a three day break in service. The DOD/OPM Interchange Agreement cannot be used if there is more than a one-day break in service. To ensure that NAF employees are afforded necessary protection, the following procedures will be utilized by servicing NAF HR offices:

(1) The losing HRO will contact the gaining HRO to work out an agreeable "drop" date and "pickup" date assuring that no break in service takes place.

(2) The normal drop date will occur on the last day of the pay period (need not be a workday). Correspondingly, the pick up date will normally be the first day of the new pay period. Again, this day need not be a workday. These two days, Saturday and Sunday, are normally the beginning and end of an administrative workweek. Irrespective of what days are used,

servicing HROs are responsible for ensuring that no break in service, (i.e., one or more calendar days), takes place when a NAF employee moves to a NAF position in another organization, or during a move from NAF to an APF position.

(3) Once an employee submits a written resignation (signed part E of SF-52, Request for Personnel Action or similar notification), the employee may not rescind the resignation without management approval.

(a) Verbal resignations may be accepted if necessary. When a verbal resignation is accepted, a written record of the conversation will be made and a copy of the written record will be sent to the employee and attached to the resignation SF-52.

210. Non-Competitive Reinstatement. A former and otherwise eligible NAF employee who meets the qualifications requirements may be reinstated/rehired to any NAF position on a noncompetitive basis as long as the:

- a. employee's separation was not for cause.
- b. employee did not resign while under oral or written notice of management's intent to propose separation for cause.
- c. vacant position is in a pay band, grade level or employment category no higher than the pay band previously held by the employee. Reinstatements to a higher pay band, salary, grade or to a higher employment category (flexible to regular) must be made on a competitive basis.

211. Promotions Involving Reclassification Actions

a. Employees in positions meriting reclassification to a higher grade due to the addition of duties and responsibilities that are the result of planned management action or gradual accrual of duties may be promoted non-competitively when the following conditions are satisfied:

(1) Employee will continue to perform the same basic function(s) of the former position as well as the new duties assigned and under the same supervisor.

(2) Addition of the new duties and responsibilities will not adversely affect the grade of another occupied position.

(3) Additional duties and responsibilities do not change a former non-supervisory position into a supervisory position.

(4) Employee meets all requirements for promotion to the position.

(5) There are no other employees performing the same duties as the employee.

b. Promotions as a result of the application of a newly issued classification standard and no change in duties are processed as non-competitive promotions.

#### 212. Changes of Position

a. Management may accept voluntary requests from employees in higher pay bands, grades or employment categories, and make selections from these requests for positions in the same or in lower pay bands or grades on a noncompetitive basis. In such cases, the employee must meet the minimum qualification requirements of the new position and the change cannot be to a more desirable position.

b. Changes in employment category or grade and reassignments involving pay increases shall be competitive. This includes changes between part-time (PT) and full-time (FT) and regular and flexible. Changes to a lower grade or employment category may be processed non-competitively as voluntary actions if the employee makes a written request.

c. Changes that adversely impact PT or FT employees are normally processed as BBAs or using disciplinary procedures.

d. Changes in hours that do not change the employment category, change in hours between 35 and 40 for RFT, changes from scheduled flexible to unscheduled flexible or from unscheduled flexible to scheduled flexible do not require competitive procedures or BBAs and are not adverse (disciplinary) actions.

213. Field Recruitment Assistance. Field activities may request recruitment assistance from CNIC (N94).

214. Training and Development. The purpose of training is to improve the Knowledge, Skills, and Abilities (KSAs) that relate to successful job performance in an employee's current position. Training should promote operational efficiency and a safe

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working environment. Training programs may also provide employees with opportunities for continuous personal development.

a. Responsibility for Training. NAF Activities will provide continuous training opportunities for all employees. Training is the responsibility of management at all levels of the organization.

(1) On the Job Training (OJT). Most training will be given on the job. An employee should be provided with instruction and demonstration before the employee performs a task. Close supervision is necessary to determine whether further training or other action is required. Training may be accomplished, within the work schedule, by individual or group instruction. Audiovisual aids may be used to supplement instruction, but not as a substitute for actual training.

(2) Formal Training. Managers shall inform their employees of available formal training courses. Selections for such training will be made in an equitable manner among all qualified employees. Training will be arranged in priority order of benefit to the NAF activity and funded in priority order to the extent funds are available.

(3) Initial instruction and subsequent annual refresher training in food sanitation will be given to all food services supervisory personnel, and food service workers employed in food service operations including civilian cafeterias.

b. Executive employees may join professional organizations or associations and participate in their training programs. When approved by the Region (N9), the cost of this training and related expenses not paid by the organization or association may be paid with NAF. Individual membership fees in professional organizations are a personal expense and may not be paid from NAF. A NAF activity may obtain official organizational membership that can be paid with NAF. NAF employees may act as liaison (i.e., a non-voting and non-decision-making role) to non-Federal entities. Non-Federal entities include organizations like the National Recreation and Parks Association (NRPA) with which NAF employees have had long-standing working relationships. Requests to serve in a liaison capacity must be approved in writing by the command ethics advisor. NAF employees may participate in the management of a non-Federal entity (e.g., president, vice president, board member, etc.) only if it is done on personal time, at personal expense, and in

a personal (vice organizational) capacity. A NAF employee may not take on a mixed role of serving as liaison, and also serve in a management capacity for a non-Federal entity.

c. Reimbursement for Education and Tuition. NAF Activities may establish NAF activity wide programs to provide regular NAF employees educational assistance for tuition, laboratory and other instructional fees. The program, if established, must be in writing and must be made available for all eligible employees. Reimbursement may not be made for the purpose of the employee obtaining a degree. Unlike training that is identified by management, this policy applies to mission related courses that employees desire to attend for self development at accredited institutions of their choice on a voluntary basis, regardless of the funding source. Reimbursement may not be made for non-mission related courses. This type educational assistance program when offered shall include at least the following guidelines:

(1) This assistance will not be provided in whole or in part for courses that the employee is receiving other Federal or State tuition subsidies such as VA educational benefits, scholarships, grants, etc.

(2) Courses are normally taken on a voluntary off duty basis. If courses are not available during off duty hours, the employee must take leave or arrange for a schedule change subject to applicable regulations, local provisions, and approval by the employee's supervisor.

(3) Limits may be placed on the dollar amount that will be reimbursed.

(4) Reimbursements will be taxed as required by Internal Revenue Service (IRS) regulations.

(5) Tuition assistance will be paid by one of the following methods:

(a) Payment will be made direct to the academic institution if a billing procedure is established.

(b) The employee will pay the academic institution and submit a claim for reimbursement upon successful completion of the course(s).

(6) Successful completion requires a grade of a "C" or

better for undergraduate courses, a grade of "B" or better for graduate courses and "Satisfactory" for courses that have no letter grade. The employee shall provide a valid written grade report to the employee's supervisor and include it with the request for reimbursement. This shall be done within 30 days of completing the course.

(7) When an employee fails to complete a course successfully, the employee shall reimburse the NAF activity all costs paid to the employee. The NAF activity may also restrict the employee's future participation after an unsuccessful completion.

(8) The employee must sign a written continued service agreement to work for the NAF activity for at least three times the length of the training. The continued service time begins at the completion of the training. The minimum continued service time for a semester hour is one month. Should the employee fail to fulfill the continued service agreement, the employee will reimburse the NAF activity for the cost related to all remaining time. The head of the NAF activity may waive the reimbursement if justified.

d. Record of Training. Training received, including food handling in the case of individual employees, will be made a matter of record for all NAF employees. OJT will also be made a matter of record, to include the specific types of training completed, the length of time involved, and actual hours or days, including dates.

215. New Employee Orientation. Indoctrination imparts general information that the manager has determined to be mutually beneficial to the employee and the NAF activity. First-line supervisors are responsible for indoctrination. Orientation to the job should be accomplished within a reasonable period after the new employee reports for duty.

a. Employee Check-in List. CNIC 12300/18 (03-03), New Employee Indoctrination Checklist should be used for all new employees to ensure prescribed HR actions are completed. The completed form is to be filed on the left side of the employee's OPF.

b. Installation Clearance. New employees and separating employees shall comply with all installation clearance processes. The local installation clearance form shall be used. The supervisor will give the employee the clearance form and

will also ensure that all NAF activity property is returned. The supervisor will also ensure that the employee clears through NAF activity HR and payroll. When the employee is unable to process out, the supervisor will ensure that the departing employee is processed out in a timely manner.

216. Domestic Violence (Lautenberg Amendment). The Domestic Violence Misdemeanor Amendment to the Gun Control Act (commonly referred to as the Lautenberg Amendment) applies to both Civil Service and NAF employees, and all of the steps outlined in the OCHR policy memo of May 15, 2003 apply equally to NAF activities. The memo is posted at <http://www.mwr.navy.mil> under personnel and policy. Where reference is made to DCPDS in the memo, SAP should be substituted instead, and where reference is made to the HRSC, your NAF HR office should be substituted. NAF activities shall:

- a. Complete identification of and maintain a current list of "covered positions"
- b. Notify current and future employees in covered positions
- c. Post notice on official bulletin boards
- d. Input identification of covered positions into HR data system
- e. Follow required procedures when filling vacancies in these positions.

217. Drug Testing. Current DON Workplace Program guidance applies to both APF and NAF employees and is in DON Civilian Human Resources Manual (CHRM) Subchapter 792.3 of 1 November 2005 and can be reviewed at [http://www.donhr.navy.mil/DFWP Policies.asp](http://www.donhr.navy.mil/DFWP_Policies.asp).

a. NAF drug testing is to be included and paid for from the same contracts as currently utilized for APF employees. The APF organization(s) are to administer drug testing for both NAF and APF.

b. Since HRSCs/HROs have been testing APF employees for some time the required actions and designations should already be in place. NAF testing should be incorporated into the process and the testing officials made aware that they are also responsible for conducting NAF testing.

c. The DON Drug Testing Manager will maintain the DON Test Designated Position (TDP) listing, receive all test results, distribute documentation of all non-negative test results to appropriate Drug Testing Coordinators (DPCs) and provide mandatory training for NAF activity Drug Program Coordinators (DPC).

d. Heads of Navy NAF Activities will appoint in writing a primary NAF activity DPC.

e. The NAF activity NAF HR office will need to prepare a list of employees that occupy TDPs and forward it to the NAF activity DPC to incorporate with the APF employees in the testing database. They will also need to work out a process for communicating changes in TDP employees.

f. Site collection procedures including identifying the notification official need to be established. This procedure needs to be worked out and documented. The collection process will then follow the guidelines in the DWFP Handbook.

g. Activities that have a labor organization must fulfill their bargaining obligations.

h. A signed individual notice as provided in the DON Drug Free Workplace Handbook must be issued to each employee whose position has been determined to meet the criteria of a TDP at least 30 days prior to the individual being subject to unannounced random testing. A procedure for issuing this notice to future new employees during the entrance on duty (EOD) process must also be developed.

i. The NAF HR office must add a statement of the drug-testing requirement to new vacancy announcements for TDPs. Documentation will also be included in PDs of TDPs.

j. The approval level for each accident, unsafe practice or reasonable suspicion testing must be established and documented. The approval level may be re-delegated no lower than one level above the supervisor requesting the test.

k. Local procedures must be established to ensure that an employee found to use illegal drugs is immediately taken out of his or her TDP until appropriate corrective action has been taken.

l. Local procedures need to be established on the handling of disciplinary actions for NAF employees as the steps and appeal processes of NAF and APF are not the same.

m. Local procedures need to be established to ensure that a good test has been completed and results received before a final offer of employment is made.

218. Details. Detail personnel actions shall meet the following criteria:

a. Details shall not involve a change in pay or employment category.

b. Details to a higher grade/pay band or to a statement of unclassified duties shall not exceed 60 days.

c. Details to the same or lower grade/pay band shall not exceed one year.

d. A PAR shall be prepared for each detail of more than 30 days.

e. An employee does not have to meet formal qualification requirements for a position to be detailed to the position except for any minimum education licensure and certification requirements. Time spent in details is considered qualifying experience and will be so credited during qualification determinations.

219. Portability of Benefits Program. A "Portability of Benefits for Moves Between Civil Service and Nonappropriated Fund Employment Systems" reference guide is available at <http://www.cpms.osd.mil>. Each NAF activity should download a copy of the guide for reference.

220. Performance Evaluations and Individual Development Plans (IDPs)

a. Policy. The contents of this section apply to all incumbents of civilian CNIC NAF positions.

(1) Since employee performance is the key to the success of any organization, the importance of a performance evaluation cannot be overstated.

(2) Managers/supervisors who fail to evaluate their

employees could jeopardize employees continued employment or salary rates. Managers must give a performance evaluation the highest priority in fulfilling their supervisory/managerial tasks. Employees may take action, i.e., grieve, if necessary, the untimely or total absence of required and scheduled performance evaluations.

(3) The immediate supervisor shall inform all newly hired employees of the supervisor's performance expectations and provide the employee with a copy of the appraisal form during the employee's indoctrination process. The indoctrination will also include a complete explanation of the various appraisal uses and its importance to the employee's work life with the organization.

b. The Performance Process

(1) CNIC 5300/17 (04-11), Navy Nonappropriated Fund Employee Performance Evaluation Form shall be used to evaluate the performance of NAF employees. An explanation of the contents of the form and its use can be found on the reverse side of the form. There is also a place for the supervisor to add additional appraisal elements as needed. This is the only form authorized for use.

(2) The performance evaluation form also includes an IDP. This must be completed or updated annually during the performance process.

(3) All NAF employees, regardless of an employment category, must be given a performance evaluation annually. Each employee shall receive an evaluation each calendar year. The rating cycle will be determined by the NAF activity. Each element and an overall rating of outstanding; highly satisfactory; satisfactory; minimally satisfactory; or unsatisfactory will be given. When there is a rating of unsatisfactory on any one-performance element, the overall performance evaluation shall be unsatisfactory. Supervisors shall inform and counsel all employees and especially new employees on their performance on a continuing basis.

(4) On completing the appraisal form, managers/supervisors must recommend whether or not pay band employees are to be afforded pay increases/awards. Pay increases and cash awards must have two levels of approval unless the Region CO is the issuing official.

(5) Annual performance evaluations are valid for a period not to exceed 14 months, i.e., 425 days from the date of formal approval. The reason for the 60 additional days is to allow management time to complete the next scheduled annual rating of the employee. Presumptive ratings may be made as outlined in the BBA process if needed for a BBA action.

(6) Employees, without an annual appraisal, are provided with a "presumptive" satisfactory rating until they receive their annual rating.

(7) Ratings for dependability shall not be based upon attendance or approved leave usage. The employee cannot be adversely impacted by usage of approved leave. Absences without approved leave are handled as conduct issues.

(8) Supervisors may elect to reevaluate an employee's performance at any time that performance has changed enough to justify reevaluation.

(9) Transferring employees shall be given a close out rating.

## 221. Awards

a. An incentive awards program shall be authorized and funded for NAF employees. APF shall not be used to fund NAF employee awards nor shall NAF be used to fund APF employee awards. The program will encourage improved performance of NAF employees, which, in turn, will improve the efficiency, and economy of NAF operations. Incentive awards may recognize and reward employees individually, or in groups, who perform special acts or services in the public interest in connection with their employment.

b. Award Approval. Awards will be approved within the guidelines of this instruction and higher level regulations, laws and instructions. This authority may be delegated to the head of the NAF activity if a local procedure on awards has been established. To prevent any potential conflict of interest, the next level of supervision above the head of the NAF activity must approve awards for the head of the NAF activity. The granting of awards should be as close as possible to the actual event or performance that called for the award, otherwise the biggest part of the "recognition" and "motivation" factor of such awards has been lost.

c. Incentive Award Types

(1) Cash awards shall not exceed a total of \$10,000 in any calendar year. Federal, State/local income and Federal Insurance Contributions (FICA) taxes shall be deducted. The cash awards process may include on-the-spot cash awards.

(2) Non-monetary award/honorary awards

(3) Suggestion awards. Acceptance of the award constitutes an agreement that the use by the Government of the U.S., and its instrumentalities, of any idea, methods, or device for which the award is made will not form the basis of a claim of any nature upon the Government of the U.S., or its instrumentalities by the employee, employee's heirs, or assignees.

(4) Pay adjustments for performance for pay band employees.

(5) Length of service awards for civilian service.

(6) Time off awards.

d. Financial Responsibility. Expenses for local awards will be paid from local NAF funds. Expenses for awards made by CNIC (N9) will be charged to the appropriate central NAF account.

e. Award Ceremony. Activities are encouraged to present awards to employees at an appropriate ceremony.

f. Time Off Award for NAF Employees

(1) Time off Award Limits

(a) The amount of time off granted to any one individual in any one leave year shall not exceed 80 hours. For part time employees or those with an uncommon tour of duty, total time off granted during any calendar year should be based on the average number of hours of work generally worked during a two-week period.

(b) The amount of time off award granted to an individual for a single contribution should not exceed 40 hours. Awards for part time employees or those with an uncommon tour of duty will be prorated as indicated above.

(c) Time off granted as an award should be scheduled and used within one year after the effective date of the award.

(d) Time off awards shall not be converted to a cash payment under any circumstances.

(e) A time off award shall not be transferred between DOD components. Managers and supervisor should make every effort to ensure that the employee is able to use the time off award before leaving the NAF activity.

(2) Time Off Awards Determination and Approval

(a) A decision to grant a time off award for a period in excess of one workday must be reviewed and approved by an official at an organizational level higher than the individual making the initial decision. Thus, the head of the NAF activity may designate subordinates to make initial award determinations, subject to their final review and approval. All such designations must be included in local operating guidance.

(b) Supervisors may grant time off awards not to exceed one workday without further review and approval. Supervisors have this authority if it is so indicated in the PD, or delegated in writing.

(3) Eligibility Criteria. A time off award may be granted to an employee in recognition of superior accomplishment, or other personal effort, which has contributed to the quality, efficiency, or economy of government operations.

(4) Documentation

(a) Any time off award will be supported by appropriate written justification and will include a description of the reason for granting the award.

(b) The amount of time off will be documented on a PAR that will be retained in the employee's OPF. A separate PAR may be used for each separate award, or a single PAR may be used for all time off granted as an award during the leave year.

(c) When the time off award is used, it should be recorded as administrative leave, unless a separate time recording account has been set up locally.

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g. DON Honorary Awards. NAF employees are eligible for DON honorary awards such as the Distinguished Civilian Service Award, Superior Civilian Service Award, and Meritorious Civilian Service Award.

**CHAPTER 3**  
**NAF CLASSIFICATION, PAY AND ALLOWANCES**

301. Pay Policy

a. The pay band system is designed to help managers establish competitive wages, strengthen the link between pay and performance, and provide an efficient classification and pay process. The pay band system assigns a pay range to each band, and, with few limitations, permits pay to be set within that range.

b. Each region shall develop a local pay policy that supplements this chapter and defines how pay options delegated in this instruction will be handled. This pay policy will be posted on bulletin boards. The local policy may be stricter than the policies in this instruction but they may not authorize anything more than authorized in this instruction.

c. Permanent change of station (PCS) expenses will not exceed those prescribed in the Joint Travel Regulations (JTR), Volume 2. The employee shall sign a Transportation Agreement any time PCS expenses are paid. DD 1617 (NOV 1999), Department of Defense (DOD) Transfer of Civilian Employees Outside CONUS (OCNUS) Transportation Agreement may be used but the first paragraph must be deleted unless NAF is reimbursing all of the same expenses as the JTR authorizes to be paid to APF employees.

(1) Relocation Income Tax Allowance (RITA). When an employee relocates to another permanent duty station in conjunction with a PCS, the reimbursement amounts received on settlement claims from the payment office must be reported as income to the IRS and may be taxed. Mandatory Federal Withholding Tax (FWT) and applicable, FICA, and Medicare taxes will be withheld by the employer on PCS moves. A PCS W-2 reflecting entitlement (income) and taxes withheld will be issued to the traveler for each calendar year that entitlement is issued to the employee or on their behalf (e.g., airline tickets). The traveler may also have to pay state and local taxes applicable to the old and new permanent duty stations.

(2) All TAD and PCS travelers must submit travel claims for reimbursement within five duty days of completion of travel. On PCS moves a settlement voucher shall be submitted upon completion of each portion of the move for which an advance has been issued.

d. The privileges afforded NAF employees shall be consistent with those available to APF employees. In addition, local COs may authorize the personal use of the facilities of the NAF activity, in which an individual is employed, 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 administratively extended to NAF employees.

(1) Employees working in a FF&R program are not entitled to participate as a recipient of the services of that program during assigned working hours.

(2) In the U.S., except in isolated situations in which the only suitable quarters and facilities available are government-owned, NAF employees will be expected to obtain their quarters from the private sector. Exceptions may be made when, in the judgment of the command, the mission of the installation will be better accomplished by having certain key administrative NAF personnel quartered on the installation.

(3) The occupation of government quarters on a temporary basis by NAF employees while traveling on official business is authorized.

e. Annual Review of Pay. Supervisors must address the issue of "pay adjustment" at least once a year during the annual performance evaluation cycle. The decision to grant or not grant a pay adjustment is not a grievable matter.

f. Effective Date of Pay Changes. The effective date of a change in pay rate is the first day of the first pay period on or after the date the action is approved in writing by the authorized approving official, unless a subsequent date is specifically stated. As a general rule a salary increase may not be made retroactively. An exception however can be made if an increase such as a temporary promotion is delayed by some administrative oversight or a clerical error that occurs after approval by the authorized approving official. Unavoidable delays (e.g. to verify a condition of employment) and delays that result from the employee's own acts are not exceptions to the rule against retroactive effective dates (Comptroller General (CG) Decision B-184817 28 November 1975). Retroactive actions shall be approved in writing by the head of the NAF activity.

g. Advances in Pay. Pay advances for CNIC NAF employees shall not be authorized. Employees are authorized to receive pay only in the following situations:

(1) Pay on payday for hours of work already completed, premium pay or approved earned/donated leave that has previously been appropriately documented and certified in the timekeeping system.

(2) Money authorized under the JTR for travel and allowance situations and properly documented and certified in approved travel orders.

(3) Pay for accrued but unused annual leave after separation from CNI NAF employment.

(4) Severance pay as authorized after separation.

(5) Pay for incentive awards after proper documentation and approval by the authorized approving authority.

(6) Back pay after proper documentation and approval by authorized approving authority for settlement of grievances/appeals.

(7) This also applies to Local National (LN) employees overseas unless there are specific additional authorizations in the host country's SOFA.

i. Withholding Pay. Per 5 U.S.C. 5511 and 5512, NAF Activities are authorized to withhold employees pay in the following circumstances:

(1) Individuals Terminated. If an employee indebted to the NAF activity is removed for cause, the pay accruing to the employee will be applied, in whole or in part, to the satisfaction of any claim or indebtedness.

(2) Individuals in Arrears. The pay of an individual in arrears to the NAF activity will be withheld until the debt is paid. When possible, an agreement indicating the repayment arrangement should be developed and signed by employee upon employment or at any time thereafter.

(3) Resignation Situations. When an employee resigns and does not turn in all assigned government equipment, etc.

before departing, any remaining pay including the annual leave pay off due to the employee may be withheld to the extent necessary to satisfy the debt to the government.

(4) Court Orders. NAF payroll offices must comply with all court orders for withholding pay from NAF employees.

(5) Government Issued Material/Property. When employees are issued government material, etc., they will be required to sign a receipt that indicates the need to return it in good working order. The installation clearance process should include clearing all issuing agents and turning in all issued government material/property.

(6) Notification Requirements. When pay is going to be withheld, the employee must be notified in writing and the employee should be offered the opportunity to make full restitution.

i. The annual rate of pay for pay band and CT is determined by multiplying the hourly rate of pay by 2087 hours.

j. Services Contracts. A service contract may not be used to hire an individual for a job that requires such services on a continuing basis or where an employee employer relationship results from the performance of work. In these cases, positions will be established, graded and paid under the appropriate NAF pay schedule. NAF Activities must include a benefits waiver clause in all contracts. Additionally, benefits coverage is not provided for private organizations, concessionaires, or any individual/organization not officially designated for being under the program management of CNIC (N94). For additional information concerning coverage under a service contract, refer to CNIC 5890.1. This does not preclude NAF Activities from obtaining sporadic temporary services via proper contracting procedures if an employer and employee relationship is not created with the worker.

(1) Payments for Services Contracts

(a) Payments under service contracts must be paid on a fee basis only. A contract to which a salary or wage is attached is prohibited. Fee payments that aggregate \$600 or more to anyone, other than a bona fide company or corporation during a calendar year, will be reported in the aggregate amount paid, and include the name, address, and SSN of the recipient of such payments.

(b) If an individual, or group, enters into a services contract with a NAF activity, it is the responsibility of the NAF activity to complete an IRS Form 1099 to report on distribution from pension, annuities, retirement or profit sharing plans, individual retirement accounts (IRAs), insurance contracts, etc., the total of such contractual payments, if the combined total of the contract compensation was \$600 or more in the calendar year. NAF employees may only enter into service contracts with a NAF activity for which they are not employed and provided there is no conflict of interest or other ethical issues with either NAF activity. BUPERSINST 7043.1B contains additional guidance.

(2) NAF employees shall not be compensated wholly or in part by supplemental remuneration composed of fees or commissions. NAF employees shall not enter into contracts in the NAF activity (same fund) in which employed. As an exception, up to 90 percent of fees collected by CNIC may be paid to the Professional Golf Association (PGA) golf professional or other NAF contract instructor provided the following requirements are met:

(a) The contract will provide that all lessons be conducted while the individual is off duty in a non-work status. The supervisor shall ensure that the employee works the required number of hours in a workweek. During the period of time that lessons are being conducted the individual is a private contractor and is not considered as a NAF employee for NAF benefits or risk insurance programs including worker compensation. The individual is responsible for all risks, insurance and liabilities incurred or required for contractors while conducting the lessons per CNICINST 5890.1.

(b) All lesson fees collected will be paid to the NAF activity, listed as income to the NAF activity and become the property of the NAF activity.

(c) The contract may provide for the NAF activity to pay the qualified instructor up to 90 percent of the fees collected for each lesson the contractor conducts. This payment will not be issued as part of the employee's normal pay or included in the regular paycheck. It will not be considered as employee compensation for any purpose. At the end of the year, the NAF activity will issue an IRS Form 1099 to the individual indicating the amount of funds paid. The individual contractor

is responsible for all taxes (income, social security, Medicare, etc.) related to the contract income.

(d) The head of the NAF activity will establish and enforce internal controls to ensure these requirements are met.

(3) No contracts will be entered into with current APF employees.

k. Retained Grade and Pay. CT employees are eligible for retained grade and pay under the circumstances specified in OPM Operating Manual FWS NAF. Pay band employees do not receive retained grade or pay.

l. Wage Survey Participation. In wage areas where CNIC has the majority of the employees, the Region head of the NAF activity will designate employees to support completion of the wage survey as required by DOD WSD guidelines.

302. Dual Compensation. The provisions of the Dual Compensation Act (DCA) of 1964, P.L. 88-448, and 5 U.S.C. 5533 pertaining to dual pay and dual employment apply to NAF employees.

a. Except as provided by 5 U.S.C 5533 an individual (including a NAF employee) is not entitled to receive pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday). Authorized exceptions include:

(1) Title 39 U.S.C. 1001 permits an individual of the Postal Service to be paid concurrently as an employee of the Postal Service (other than as a member of the Board of Governors or of the Postal Rate Commission), and as an employee of any other Federal agency without regard to 5 U.S.C., section 5533.

(2) 5 CFR section 550.504 provides that when a department or agency encounters difficulty in obtaining employees to perform required personal services because of 5 U.S.C., section 5533(a) the agency may make an exception from that section upon determining that the required services cannot be readily obtained otherwise. When these situations are encountered, the head of the NAF activity may submit a written request through the major claimant for waiver to CNIC (N9). Approved waivers shall not be valid longer than one year without re-justification and approval. The request shall:

- (a) specify the positions to which it applies.
  - (b) justify why the exception is needed.
  - (c) include concurrence from the local Ethics Office.
  - (d) include a statement that all appropriate contracting procedures will be complied with and that the most cost-effective proposal shall be used.
- (3) Federal employees shall not engage in outside employment or activities that conflict with or create the appearance of a conflict of interest with their official duties and responsibilities. NAF Activities may require employees to receive prior approval for outside employment (5 CFR, section 2635.803).
- (4) Members of the Armed Forces on active duty may not normally receive pay from another Government position unless authorized by law. The exceptions are
- (a) enlisted personnel not holding military positions in the NAF activity may be employed as part-time or flexible employees during off-duty hours in NAF Activities not to exceed 34 hours per week as authorized by DOD 1401.1-M and DODI 1400.25, SC 1403. Sections 204 c (1) (h) and (i) apply if the Military Member is assigned to the NAF activity for duty.
  - (b) members of the Armed Forces Reserves and members of the National Guard may receive military pay and allowance in additions to pay from another Government position (5 U.S.C., 5534).
  - (c) military retirees may accept Government positions without a reduction in military retirement pay.
  - (d) federal employee APF retirees may accept NAF employment. However, former NAF employees Portability elections may impact their salary.
  - (e) the DCA prohibitions do not affect the receipt of overtime compensation for work in one position in excess of the hours required.
- b. The DCA applies to foreign nationals employed and paid by NAF in foreign countries.

c. The restrictions of the DCA do not apply to compensation from more than one office for services rendered under emergency conditions relating to health, safety, protection of life or property, or national emergency. Examples of such conditions are fire, earthquake, flood or other disasters, civil disorder, or threat to the national security. Should it become necessary to exercise this exception the site manager will report the following information to CNIC (N94) through their chain of command as soon as possible but not later than three days after the emergency ends.

(1) To what extent is the base or NAF activity isolated?

(2) At an overseas location, was the exception requested for both U.S. and non-U.S. citizen employees?

(3) Why normal staffing methods could not be utilized?

(4) Extent to which off-duty, military personnel were used?

(5) Extent to which dependents were used?

(6) Any other information that would document the need for an exception?

303. Payband for White Collar NAF Employees (NF)

a. Pay Band Background

(1) All AS, PS, and UA positions, previously classified by CNIC (N94) and distributed to the field as "standardized position/job descriptions," have been placed into one of six Pay Bands. There should no longer be any AS, PS or UA positions in CNIC. A summary of the pay band system equivalencies is in table 3-1.

BAND	GS COVERAGE
NF-1	GS 1-3
NF-2	GS 4
NF-3	GS 5-8
NF-4	GS 9-12
NF-5	GS 13-15
NF-6	SES

BAND	GS COVERAGE
CY-I	GS 2-3
CY-II	GS 4-5

Table 3-1

b. Locality Pay. The pay ranges in the pay schedules issued by DOD Wage Services Division (WSD) for NF-3 through NF-5 contain locality pay within CONUS.

(1) Locality pay is treated as basic pay for purposes of retirement and life insurance benefits; premium and overtime pay; and lump sum payments for unused annual leave.

(2) Locality pay applies only in CONUS.

(3) Locality pay does not apply to CT, or NF-1 and NF-2 employees. Adjustments in these rates and pay ranges are made per DOD established prevailing rate rules and pay schedules.

c. Pay Increase for Performance

(1) An employee may be granted a pay increase for performance. Pay increases must be based on merit and not be open to claims of favoritism or pre-selection. Increases should not normally be given during the first 90 days of employment in a new position.

(a) Pay increases exclusive of the annual comparability increase and competitive selections within the advertised salary range of employees who have been on board at least 90 days will not exceed 15 percent per year. The recommending supervisor shall consult with the approving official prior to discussing pay matters with the employee. Should the head of the NAF Activity determine that an increase larger than 15 percent is justified, a written waiver request with justification may be submitted to CNIC (N9).

(b) A pay increase may also be granted upon temporary reassignment to a position in the same pay band but with greater responsibility. The PAR should state that it is a temporary reassignment and not a detail. At the end of the temporary reassignment, the employee's pay may be readjusted back to its previous level at management's discretion. This reduction in pay is not grievable or appealable.

(2) Cash Bonus

(a) Management may decide to give a NAF employee a cash bonus based on performance at any time deemed appropriate.

d. The recommending supervisor shall consult with the approving official prior to discussing either the appraisal or pay matters with the employee.

e. Pay increases and cash bonuses must have justification to support the increase. This justification shall be done on a current performance evaluation or in a memorandum. The justification must contain a requester and approver signature and the same person cannot both request and approve unless that person is the ICO/Region (N9)/Region NGIS. A PAR will be prepared to document the increase.

(1) The justifying performance evaluation or memorandum will be sent to the NAF HR office to implement the change and forward to payroll. The pay adjustment should be effective the first full pay period after the second level supervisory approval date if received in personnel on a timely basis. The remarks column of the form should be used to explain the reason for such increases.

(2) The ICO/Region (N9)/Region NGIS Head shall establish their own administrative and control processes over such matters. Such processes shall have sufficient internal controls to insure the integrity of the process.

f. Annual NF Across-the-Board Adjustments. These adjustments are not mandatory. The ICO/Region (N9)/Region NGIS Head shall approve the payment of the annual across the board increase. Approval shall be a region wide decision. This decision impacts all pay band employees (NF-1 - NF-5). Approved annual increases will be effective for NF-1 and NF-2 on the date that the NAF activity CT schedule is effective. The percentage increase given to NF-1 and NF-2 will be the percentages specified in the pay letter that accompanies the CT pay schedule. Approved annual increases for NF-3 and above will be effective on the date that the increase for APF employees is effective and will be the same percentage as given to APF employees in the area. The pay rate for pay band employees will be listed on the PAR or other electronic SAP substitute for filing in the OPF as an hourly rate and rounded to two decimal places (e.g. \$7.31).

(1) When an annual increase is granted, the current hourly rate will be multiplied by the percentage of increase. This will be rounded to two decimal places and added to the current hourly rate.

(2) SES pay rules apply to NF-6 and the NF-6 annual pay adjustment shall be the same percentage as that granted to corresponding SES employees. Adjustments for NF-6 employees will be effective the beginning of the first full pay period beginning on or after the effective date to the SES pay schedule. Their rate of pay cannot exceed the top of the NF-6 pay band.

g. NF Supervisors of Craft and Trade (CT) Employees. The ICO/Region (N9)/Region NGIS Head may adjust the rate of pay of a NF supervisor to any rate of their pay band that exceeds the highest CT employee being supervised. Before an adjustment may be made, a determination will be made that all of the following apply:

(1) The supervisor's regular responsibilities include supervision over the technical aspects of the work of the CT employee with the highest pay rate.

(2) The supervisor's rate of pay is less than the scheduled rate of the highest paid CT employee being technically supervised.

(3) When comparing the scheduled rate of pay for a NF supervisor, with the rate of pay for a CT employee supervised, the head of the NAF activity will exclude from the CT employee's rate any irregular prevailing rate, such as a retained rate or night shift differential.

h. Pay band employees are not authorized retained/saved grade or pay for involuntary demotions. When a comparable rate of pay is within the lower pay band, then pay shall be set to that level but within the demoted to pay band.

304. CT Pay Administration (NA, NL, NS). This system includes all CT positions and uses the following pay plan codes: NA for non-supervisory positions, NL for leader positions, and NS for supervisory positions. OPM's Operating Manual, Federal Wage System (FWS) NAF augmented by DOD 1400.25-M, SC 1405, appendix 2 contain detailed procedural instructions for the administration and operation of CT pay. Always check these guidelines on pay issues involving CT employees. The OPM manual can be printed at

<http://www.opm.gov>. The rate of pay shall be a step rate on the authorized DOD wage schedule for the area unless the person is on saved pay. CT employees are not authorized quality step increases (QSI).

a. CT employees are authorized retained grade and then retained/saved pay for involuntary demotions when guidance in the OPM operating manual applies.

305. Child Development Pay Band System (CY). CY positions are also pay band positions. The main differences in CY and NF positions are:

a. Across the board increases are mandatory for CY employees and the employees pay must always be within the pay band for their CY grade level.

b. Promotions for CY employees must include a minimum increase of 6 percent or the minimum rate including locality pay associated with the applicable GS grade in the locality to which assigned.

c. The standard position descriptions for 1701 and 1702 positions shall be utilized unless CNIC CYP (N912) approves an exception in writing

d. Noncompetitive pay adjustment actions for CY employees based on a combination of experience and completion of DOD required training will be effective within two pay periods of successful completion and implementation of the training. However the promotion will not occur if there are documented disciplinary or performance issues.

e. All required training modules must be successfully completed within one year of entrance into a caregiver position. Failure to do so may be the basis for termination of employment.

306. Premium Pay (Overtime, Night, Sunday and Holiday)

a. Fair Labor Standards Act (FLSA) Exempt or Nonexempt Determination. The FLSA is applicable in a state of the U.S., District of Columbia (DC), Puerto Rico, U.S. Virgin Islands, Outer Continental Shelf Lands as defined in 43 U.S.C. 1331, American Samoa, Guam, Midway, Atoli, Wake Island, Johnston Island and Palmyra. Premium pay requirements at other locations are in this instruction and DOD 1400.25-M Appendix 4.

b. A position title can only be designated as Exempt or Nonexempt. CNIC has established the positions as follows:

(1) FLSA Nonexempt

- (a) Non-supervisory employees below NF-4.
- (b) Leader employees below NF-4.
- (c) Supervisory employees classified below NF-3.
- (e) All CY employees.
- (e) All NA and NL employees.
- (f) NS employees below the NS-7 level.

(2) FLSA Exempt

- (a) Supervisory employees at the NF-3 level and above.
- (b) NS employees at the NS-7 level and above.
- (c) NF-4 and above employees.
- (d) OF-8 in areas not covered by FLSA will be marked as exempt.

c. Night Shift Differential

(1) Night shift differential shall be paid to CT employees as outlined in Chapter 8 of the OPM Manual for NAF Wage System and DOD 1400.25-M SC 1405 Appendix 4.

(2) Night shift differential is optional for NF and CY employees and may be paid when the ICO/Region (N9)/Region NGIS Head determines that such differential is the prevailing practice in the local wage area, and that such pay is necessary for recruitment and retention purposes. The determination on whether or not it will be paid will be included in the local pay document. When night shift differential is paid to pay band employees, it will be at the rate of ten percent of the employee's basic rate for hours of regularly scheduled (non-overtime) work performed between the hours of 1800 and 0600. For pay band employees, this is paid only for the regular hours worked between 1800 and 0600 and not for the full shift as it is

for CT employees. Payment of night differential for pay band employees continues during short periods of paid leave of eight hours or less, holidays, absence on worker compensation, court leave, military leave and periods of official travel.

d. Sunday Premium Pay.

(1) Sunday premium pay shall be paid to CT employees as outlined in Chapter 8 of the OPM Operating Manual FWS NAF and DOD 1400.25-M SC 1405 Appendix 4.

(2) Sunday premium pay is optional for NF and CY employees, and may be paid to employees who meet the following requirements when the head of the NAF activity determines that it is the prevailing practice in the local wage area, and that such pay is necessary for recruitment and retention purposes. The determination on whether or not it will be paid will be included in the local pay document. If authorized it shall be paid using the following guidelines.

(a) The employee must have a regular work schedule of 40 hours that includes an eight hour period of work, a part of which is on Sunday to be entitled to Sunday premium pay. An employee who works more than eight hours in a single tour of duty on a Sunday does not receive the Sunday premium for hours in excess of eight hours.

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

(c) An employee who has two separate tours of duty on Sunday, (e.g., one tour that begins on Saturday and ends on Sunday and another tour that begins on Sunday and ends on Monday) is entitled to premium pay for Sunday work not to exceed eight hours for each tour of duty.

(d) An employee who does not work during their Sunday tour of duty because of paid leave, excused absence, or use of compensatory time off or credit hours, or because Sunday is a holiday is not entitled to Sunday premium pay.

(e) When authorized, Sunday premium pay will be paid at the rate of 25 percent of basic rate for all hours of a non-overtime tour of duty that is worked.

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

e. Overtime Pay.

(1) The maximum basic administrative workweek for an employee not on an approved Alternative Work Schedule (AWS) is 40 hours. There shall be an advance request and approval in writing for overtime or compensatory time before scheduling, recording or paying a pay band employee to work more than 40 hours.

(2) In order for training or travel time to be considered hours of work for nonexempt employees it must meet the definition of work in the FLSA. Should it not meet the definition, then it is not paid as hours of work.

(3) As a general rule, it is not a good management practice to pay overtime to an employee who is also taking paid leave in the same pay period.

(4) CT Employee Overtime Pay. Overtime pay shall be paid to all CT employees (Exempt and Nonexempt) as outlined in Chapter 8 of the OPM Operating Manual FWS NAF and DOD 1400.25-M SC 1405 Appendix 4 (over eight hours in a day and 40 in a week). Compensatory time off shall not be given to CT employees.

(5) NF and CY Nonexempt Employee Overtime Pay in Areas Covered by FLSA

(a) NF and CY Nonexempt employees shall be paid overtime for all hours worked over 40 in a workweek (authorized or suffered and permitted). A pay band employee must have more than 40 hours of work or duty status as defined by the FLSA before overtime can be paid. Annual leave, sick leave, absence on legal holidays or non-workdays established by executive or administrative order or absence on compensatory time during the basic workweek does not count toward the 40 hours of work or duty status required under the FLSA definition for overtime. The final decision on whether the employee will have 40 hours of FLSA defined work often has to be made at the end of the week because of the possibility of emergency sick leave, etc. When the employee has over 40 hours of FLSA defined work the hours over 40 will be paid as overtime. When the employee does not

have over 40 hours of FLSA defined work then the hours over 40 shall not be paid as overtime pay.

(b) Compensatory time shall not be given to NF and CY nonexempt employees.

(6) NF Exempt Employees in Areas Covered by FLSA and Overseas Pay Band Employees. There is no law or regulation that requires the payment of overtime to NF Exempt or overseas pay band employees. Therefore, the guidance for Exempt CONUS employees will apply to all pay band overseas employees. All overtime or compensatory time shall be requested and approved in advance. The ICO/Region (N9)/Region NGIS Head has the discretion to grant an exempt employee's request to receive compensatory time in lieu of overtime or to direct that an exempt employee work time that meets the FLSA overtime requirement for compensatory time off instead of overtime pay. The amount of compensatory time off that may be granted will be equal to the time spent in requested and approved overtime work. No exempt employee will be permitted to accumulate more than 80 hours of compensatory time. Compensatory time will be used within a reasonable period of time, not to exceed 26 pay periods. When compensatory time is authorized and earned, it will be entered on the time and attendance report. Compensatory time off will normally be used before annual leave is approved unless this would cause the employee to forfeit annual leave. compensatory time not used within 26 pay periods will be forfeited. When an employee with compensatory time credit is separating, the date of separation should be extended to include compensatory time due the employee. The remaining balance of Compensatory time will not normally be paid off at termination. In all cases the maximum compensatory time that may be paid off at separation is 80 hours. ICO/Region (N9)/Region NGIS Head may establish a local policy with regard to Compensatory Time pay off. The doctrine of compensation for hours "suffered and permitted" to be worked does not apply to exempt employees.

f. Holiday Pay

(1) CT Holiday Pay. CT employees shall be paid holiday pay in compliance with DOD 1400.25-M, SC 1405 Appendix 4, and chapter 8 of the OPM Operating Manual FWS NAF.

(2) NF, CY and Overseas Exempt and Nonexempt Holiday Pay

(a) RFT

1. RFT employees are entitled to holiday pay. When the employee is excused from work on a holiday, the employee is paid holiday pay. When the employee works on the holiday, they are paid both holiday pay and premium pay.

(b) RPT and Flexible Employees

1. Holiday pay is optional for regularly scheduled RPT and flexible pay band employees and may be paid when the head of the NAF activity determines that it is the prevailing practice in the local wage area, and that such pay is necessary for recruitment and retention purposes. The determination on whether or not it will be paid will be included in the local pay document. The determination on holiday pay must apply to all employees of the same appointment type (RPT/flexible employees) within the NAF activity. When the determination is to pay holiday pay, then when an employee's scheduled work day falls on a holiday and the employee is excused from work for the holiday, the employee is paid holiday pay. When the employee works on the holiday, the employee is paid both holiday pay and holiday premium pay. The employee is not entitled to holiday pay or holiday premium pay if the holiday does not fall on one of their regularly scheduled workdays.

2. An unscheduled on call flexible employee has no entitlement to holiday pay or holiday premium pay. When the employee works on a holiday, they are paid regular pay.

(c) When a legal holiday falls on the non-workday of an employee who is authorized holiday pay, the employee will receive an in-lieu of holiday. The in-lieu of day to be treated as the holiday will be the day of the basic workweek that immediately precedes or immediately follows the observance of the legal holiday, as determined by the head of the employing NAF activity. To allow for continuity of operations, managers may designate alternative days as the holiday for individual employees when strict application of the -day preceding or day succeeding|| rule would result in disruption to the NAF activity.

1. The head of the NAF activity may elect to give NF-3 and above employees who are authorized holiday pay/premium and who worked on the holiday another day off instead of paying holiday premium pay for the holiday worked. When possible, the day off should give the employee a three-day weekend.

(d) When an employee eligible for holiday pay has a workday or tour of duty on a holiday (or the day that becomes their holiday) covering portions of two calendar days, they will be granted holiday pay for the workday that commences on the holiday (or the day that becomes the employee's holiday). When required to work on that day, they will receive double time (holiday pay and holiday premium pay). When the regularly scheduled hours include a workday which begins on the day before the holiday and extends into the holiday, they will be required to be on duty for that workday unless leave for that workday is approved. In order to receive holiday pay, an eligible employee must be in a pay status the last scheduled workday before the holiday or the next scheduled workday after the holiday. Leave without pay (LWOP) is not a pay status.

307. Severance Pay

a. Severance pay shall be paid to regular employees as indicated in DOD 1401.1-M and DOD 1400.25-M SC 1405, Appendix 5. One year of continuous regular service with one or more DOD NAF Components is required for each week of severance pay. The maximum is four weeks of pay for four years of service. This pay will be based upon the number of regularly scheduled hours during a week and at the rate received immediately before separation. The ICO/Region (N9)/Region NGIS Head may increase the maximum amount of severance within the range of four to eight weeks for up to eight years of service. The NAF activity shall pay all severance pay with local funds.

b. An employee who was separated because of misconduct, unsatisfactory performance, delinquency, disqualification, separation during a probationary period or from a limited tenure position, or any reason other than as a result of a BBA is not eligible for severance pay.

c. An employee who is drawing disability pay is not eligible for severance pay.

d. In accordance with the authority delegated in DOD 1400.25-M, SC 1405 AP 5.2.1.3, CNIC NAF employees who are changed from regular to flexible under a BBA may be given authorized severance pay without resigning.

308. Erroneous Overpayment. When an employee is erroneously overpaid due to administrative error, other than position misclassification, restitution will be made to the NAF activity. The employee will be notified in writing by the head of the

function requiring repayment. The employee must reimburse the NAF activity in a timely manner. Repayment may be made by short term payroll deductions, a onetime payroll deduction, or a direct cash reimbursement. In cases where the error was not intentionally initiated by the employee, and was outside the employee's influence, cognizant ICO/Region (N9)/Region NGIS Head may waive repayment up to \$500 per incident for travel related over-compensations, and up to \$1,000 per incident for other types. Waivers for repayments in excess of these limits may be requested from CNIC (N9) through the region with proper justification. Corrective pay calculations involving erroneous HR actions other than FLSA issues will correct all errors within the last six years. The statute of limitations for FLSA claims is two years except in cases of willful violation where the statute of limitation is three years.

309. Mixed Job Pay. A mixed job involves performance on a regular and recurring basis of duties in two or more occupations at the same or different grade levels with the mixed duties in the same PD. A mixed job should be graded to the level of the duties that involve the highest skill requirements of the job and are a regular and recurring part of the job provided the duty is a major duty occupying at least 25 percent of the time. Every effort should be made not to mix pay band and CT duties into the same PD. When this must be done, then the position is coded and graded to the type of position that provides the employee with the highest rate of pay per hour.

a. A mixed job description is not required for an on-call flexible employee who may be called upon to occasionally replace regularly scheduled employees in any position for which the flexible employee is qualified. These details should be temporary in nature not to exceed 120 days.

b. A NAF employee shall not be paid a separate rate of pay for work performed in two or more different occupations on a regular and recurring basis in the same NAF activity. The only exception to this rule is Flexible employees who normally work less than 40 hours per week may be given more than one appointment to multiple flexible positions up to a maximum of three positions. These appointments will be to the same pay plan i.e., pay band to pay band or CT to CT. In the remarks section of the PAR each multiple position's pay plan, series, grade, rate of pay and the scheduled hours of work a week will be listed. Overtime rules apply to the combined total hours in a day and a week depending upon the type of position and overtime will be paid based upon the highest pay rate worked.

310. Providing Employee's Meals

a. The value of any meals provided to food service employees on the employer's premises, free or subsidized at less than the regular menu price, that is required to be taken during, immediately before, or immediately after the employee's working hours, is not to be included in the employee's wages, and is not subject to Federal income tax or FICA by either the employee or the employer.

b. Any meal, including sandwiches, that the employer furnishes for a charge, and the employee may be, but is not required to purchase, is not considered to be for the convenience of the employer and is, therefore, subject to taxation. The difference between the cost incurred in furnishing the meal (value), less the amount charged (employee's price) for the meal, is wages for the purposes of Federal withholding and FICA.

311. Recruiting Bonuses, Relocation Bonuses, and Retention Allowances. Recruiting and relocation bonuses, and retention allowance, may be authorized for RFT employees as tools to assist managers in building and maintaining a quality workforce. These bonuses and allowances are designed to offset unique problems where there is competition for employees with specialized skills in highly compensated private sector labor markets. They are not a substitute for Incentive Awards, pay adjustments, or foreign and non-foreign area allowances.

a. The broadness of the pay bands and the maximum for cash awards provide greater flexibility than for APF positions. Consideration should only be requested for exceptional cases and after full use of pay and bonus capabilities has been exhausted. Written approval of CNIC (N9) shall be obtained before payment may be made. Approval will be given in those rare cases where the documented need and potential benefits to the Navy are exceptional.

b. Recruiting and relocation bonuses and retention allowances are not considered part of the basic pay. Approvals expire after one year and must be re-justified and approved in writing every year.

c. Any employee who receives an allowance/bonus shall sign a service agreement. If the agreed-upon service period is not

completed, the portion of the bonus attributable to the uncompleted period must be repaid.

312. Taxes

a. A Form W-4 shall be obtained and Federal income tax must be withheld from the compensation of civilian employees in conformance with IRS code.

b. A W-4 shall be obtained and deductions for state, county or municipal income tax will be made for wages, cash bonuses, and otherwise applicable compensation.

c. The FICA tax on wages and cash bonuses will be deducted as required by the applicable IRS Code.

d. Federal law authorizes a tax exemption for military personnel serving in a war zone. The law does not authorize a tax exemption for civilians. Therefore NAF employees in a war zone are subject to taxes.

313. Tips and Service Charges

a. The IRS regulations establish procedures and requirements that must be understood and followed by both the employee and the employer in the administration of tips.

b. The word "tips" and "gratuity" are synonymous and are defined as an amount of money that a patron voluntarily gives to an employee. This money may be in the form of cash or may be added to a credit card in favor of an employee. This does not include the amount of the service charge that management adds to a contract for administration purposes. Tips must be disbursed to the employee(s) concerned and may not be retained by management.

c. Under IRS regulations, any individual who receives more than \$20 per month in tips must report the amount of such tips to their employer, since these tips are subject to payment of Federal income tax and the employee share of FICA. The IRS requires that the employee report tips received on at least a monthly basis, but more frequently if management desires, in order to coincide with a pay system. IRS Form 4070 or any similar local form may be used for reporting purposes.

d. Service Charge. A service charge is a mandatory charge added to a patron's bill or party contract. It is not a tip.

At management's option, a service charge may be disbursed to employees. When a service charge is disbursed, it is treated as additional gross wages to the employee and is subject to tax. It shall not be counted as tips received by the employee.

e. Voluntary tip-splitting arrangements or pooling of tips is authorized. Management personnel and personnel assigned administrative duties are prohibited from accepting tips in any form, participating in receipt of distributed service charges or participating in tip-splitting or tip pooling arrangements.

#### 314. Other Pay Provisions

a. A non-NAF employee is not entitled to pay for any period exclusively devoted to applying for employment, pre-employment interviews and other pre-selection processes.

b. Pay for the date of separation will cover only the time the employee is in a duty or paid leave status. The employee shall be paid for time spent before separation in complying with NAF activity clearance requirements.

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

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

e. Allowances for foreign overseas locations are covered in chapter 10.

f. Hazard and Environmental Differentials. Payment of such differentials for pay band employees will be made in accordance with DOD requirements and for CT employees in accordance with OPM Operating Manual FWS-NAF.

g. Imminent Danger Pay Allowance. Under circumstances defined by the Secretary of State, a danger pay allowance may be granted to civilian employees. The amount of danger pay shall be the same flat rate amount paid to military personnel. The Department of State Standardized Regulations (DSSR) provides information on the locations where danger pay is authorized.

#### 315. Back Pay Computation

a. When an appropriate authority, such as an administrative law judge, directs in writing the correction or cancellation of an HR action, the pay, allowances and differentials that the employee would have received if the HR action had not occurred will be computed and paid. CNIC and employee contributions to a retirement plan are not covered or included. Leave that would otherwise have accrued had will be restored or paid if circumstances do not allow for restoration.

(1) In order to make the computation the following information shall be requested:

(a) The individual will be given a written request to provide information concerning any income earned during the period, any periods of incapacitation during the period and any requests for leave that they wish to submit.

(b) The individual's supervisor will be given a written request to identify any overtime hours that the employee would have worked if they had been in a pay status.

(c) General pay increases and step increases and changes in leave earning category that the individual would have received during the absence will be determined and included in the computation.

(2) The computation of the amount of back pay will exclude the following:

(a) Any period that the employee was not able to perform the duties of the position because of an incapacitating illness or injury.

(b) Any period during which the employee was unavailable for work for reasons other than those related to or caused by, the unjustified or unwarranted HR action.

(3) In computing the back pay award

(a) sick or annual leave available to the individual and requested with appropriate justification for use will be granted.

(b) deduct earnings by the employee from other employment during the period covered by the corrected or canceled HR action. Such other employment will include only

that employment engaged in by the employee to take the place of employment from that which the employee was separated or suspended by the unjustified or unwarranted HR action. Only pay in excess of the pay that the employee had been receiving from an additional or moonlight job held prior to the unjustified or unwarranted HR action will be deducted. The rate of moonlight job pay (Federal or non-Federal) the employee was receiving prior to the action will be excluded.

b. Any annual leave that is restored to an employee that is in excess of the normal maximum leave accumulation will be credited to a separate leave account and must be utilized within two years. The gross lump sum payment for annual leave that the employee received will be deducted from the back pay.

c. Any severance pay given will be deducted from the back pay.

d. Retirement refunds will be deducted from the back pay and returned to the retirement fund. Erroneous retirement annuity payments will also be deducted from back pay.

e. Medical, life insurance and other benefit premiums will be deducted if the employee was enrolled when the action occurred and any claims the employee accrued during the period may be submitted for consideration of payment according to the plan's benefit schedule.

f. Interest will be paid as appropriate under back pay guidelines.

316. Movements between Pay Systems. The following applies when an employee is being moved between CT and pay band pay systems.

a. Pay will be set per the requirement of the gaining pay system.

(1) Moving to a CT Position from a Pay Band Position.  
When moving to a CT position, the representative rate for a NF or CY position is the pay band employee's current rate of pay. If the pay band employee's current rate of pay is more than step 2 of the employee's new CT position it is processed as a demotion. If it is less than step 2 of the employee's new CT position it is processed as a promotion. The representative rate for CT positions is step 2 of the employee's grade.

(2) Moving to a Pay Band Position from a CT Position.

When an employee is moving to a NF or CY position, the mid-point of the pay band level will be considered the representative rate. If the mid-point of the pay band of the employee's new NF or CY position is more than step 2 of the CT position occupied it is a promotion. If the mid-point of the new NF or CY position the pay band is less than step 2 of the employee's current CT position, then it is a demotion.

317. Designation of Beneficiary for Unpaid Compensation

a. Each NAF employee must complete a Designation of Beneficiary and Unpaid Compensation Form. The employee shall update this form as needed. It is recommended that an annual reminder be sent to employees concerning this. Employees who designate minors as beneficiaries should be reminded that this designation might not be complied with if they have not made the legal arrangements required by applicable State law.

b. The original Designation of Beneficiary Form will be filed on the right side of the employee's OPF, and a copy will be given to the employee. The back of the form provides instructions for completion. When designating more than one beneficiary, the percentage to be paid to each must be specified on the form, not to exceed 100 percent in total.

318. Eligibility to Sign OF-8 as Classifier

a. Only NAF or APF trained and certified classification specialists shall classify non-standardized PDs issued by CNIC. The requirements for NAF employees to become a CNIC NAF certified classification specialist are on <http://www.mwr.navy.mil>. In the absence of a certified classifier, PDs shall be sent to CNIC (N94) for classification.

(1) Supervisors will review duty assignments on a continuous basis to determine whether officially classified PDs are current and shall promptly initiate required changes.

(2) CNIC (N94) has developed standardized PDs. These standard PDs are available at <http://www.mwr.navy.mil> and shall be used if at all possible. In the absence of a certified classifier, the head of the NAF activity may modify these PDs as long as the modifications do not cause the duties of the position to fall into a different pay band. The head of the NAF activity is authorized to sign the OF-8 as the classification authority on these modified standard PDs only.

(3) CNIC (N94) is the only classification authority for NF-5 and above positions.

(4) See DOD 1400.25-M SC 1405 Appendix 1 for the requirements for NF-6 positions.

319. Classification Appeals, Complaints and Grievances

a. General. Any NAF employee has the right to file a position classification appeal concerning their own position.

b. CT Employees

(1) PD Accuracy. Dissatisfaction with the accuracy of the PD shall be resolved locally through discussion and review with the supervisor and if necessary the grievance procedure. PD accuracy must be resolved before a classification appeal can be initiated.

(2) Classification Appeals. A CT employee may appeal the grade, title, series or pay category of the employee's assigned position at any time. The classification or job grading standards for the job, or other matters such as the accuracy of the PD, the rate of pay, or the propriety of a wage schedule rate may not be appealed.

(a) A CT employee who is dissatisfied with their grade, job title, pay plan, job series, job title or grade should submit a written complaint to the head of the NAF activity. The complaint should specify the employee's concerns and corrective action desired. The head of the NAF activity will answer the complaint in writing within 15 calendar days of receipt.

(b) If the employee is not satisfied with the complaint decision, a written classification appeal will be sent through the head of the NAF activity to CNIC (N94) for final review and adjudication.

(c) CNIC (N94) decisions on classification appeals will normally be completed within 60 days of the date the employee filed the appeal. CNIC (N94) will base its decisions on the record. The decisions will include an analysis of the employee's job, compared with guidance on classification published by OPM, DOD NAF HR policy office, or CNIC (N94) for CT positions. If the decision sustains the employee's appeal and corrective action is necessary, the effective date of change in

the grade of the job will be no later than the first day of the first pay period, beginning after the 60th day from the date the appeal was filed. If the request is not sustained, the employee will be advised that they have the right to appeal to the Office of Personnel Management (OPM). (See OPM's Operating Manual NAF FWS, SC S7-7, for additional information) (available to order at website <http://www.opm.gov/classapp//index.asp> and can be reviewed at <http://www.opm.gov/oca/wage/APPFUND.htm>.)

(d) A CT employee may file an appeal to OPM if the employee is dissatisfied with CNIC (N94) decision. The appeal must be filed within 15 days of the date of receipt of CNIC (N94) decision. An appeal shall not be sent to OPM until an appeal has been decided by CNIC (N94).

c. NF Pay Band Employees

(1) PD Accuracy. Dissatisfaction with the accuracy of the PD shall be resolved locally through discussion and review with the supervisor and if necessary the grievance procedure. PD accuracy must be resolved before a classification appeal can be initiated.

(2) A NF pay band employee may grieve the assignment of the assigned position to a particular band.

(3) A NF employee may appeal the title, series or pay band of a position description classified below CNIC (N94) to CNIC (N94). CNIC (N94) is the final level of appeal for NAF positions. There are no appeal rights for positions initially classified by CNIC (N94).

d. CY Pay Band Employees. A CY employee may grieve their assignment to a standard PD when they believe they are required to perform the duties of, and have met the qualifications requirements for a higher level standard PD. Employees may not grieve any other classification issues unless they are not in compliance with DOD 1400.25-M, SC 1405, Appendix 1.

e. Classification Related Grievances. Either the negotiated grievance procedure or the administrative grievance procedure will be used as appropriate. Per 5 U.S.C. 7121, the negotiated grievance procedure may be used only if the classification results in a pay or pay band reduction. Bargaining unit employees may use the administrative grievance procedure for classification complaints regarding actions that do not result in a reduction in pay or pay band. While the

final step in this administrative grievance procedure ends with the ICO/Region (N9)/Region NGIS Head, classification actions that involve classifications issued by CNIC (N941) shall be reviewed by CNIC (N941) before issuance of the final grievance decision.

f. Content of Classification Appeals. An employee's classification appeal, complaint or grievance will be in writing and will clearly state the reasons the employee believes their job is erroneously classified or assigned to the wrong pay band. The appeal will include

(1) the appealing employee's full name and mailing address.

(2) the location and organizational designation of employment.

(3) the current title, series, and grade/pay band.

(4) the requested title, series, and grade/pay band.

(5) a statement of facts that the employee believes may affect the classification of the position.

(6) a statement that the employee agrees the PD accurately reflects their current duties and responsibilities.

(7) The employee will furnish any additional facts promptly that may be requested by the appropriate authority.

g. Time Limit for Filing Classification Appeal. An employee may file an initial appeal at any time. Appeals to OPM shall be within 15 days of receipt of the CNIC (N94) decision. When the appeal involves a reduction in grade, or loss of pay, it must be filed within 15 calendar days of the effective date to establish and maintain entitlement to retroactive corrective action. This time limit may be extended if the employee can show that they were not notified of the time limit, were not aware of it, or were prevented by circumstances beyond their control from filing an application within the prescribed time limit.

h. Cancellation of Appeal. An employee's application for review or appeal will be canceled immediately when

(1) the employee requests, in writing, the termination of their application.

(2) 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.

(3) an employee fails to pursue or furnish required information promptly.

i. Processing Appeal Decisions

(1) When a classification action results in a change in grade or in pay, the head of the NAF activity will notify the affected employee promptly, in writing, of the decision and the effective date. The normal effective date of a change in pay, because of a grading or re-grading of a position is the date the action is approved in the agency, or a later date specifically stated. 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 decision that results in a change to a lower grade, or loss in pay. The notice will advise the employee about any further right for review. Additionally the notice will specify that to be entitled to the 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.

(2) Employees have the right to be represented and advised by a representative of their own choosing and to take a reasonable amount of official time to present the application. The employee and the employee's representative will be free from restraint, interference, coercion, discrimination, or reprisal, because of their participation in the review system.

(3) The filing of a job grading appeal does not negate any other appeal, or grievance rights, which may be available under applicable laws, rules, regulations or negotiated agreements.

j Position Classification Appeals Review File. The head of the NAF activity is responsible for maintaining a position classification review file that will constitute the review record. This record may not contain any information that is not made available to the employee. The review file will include

(1) an individual PD that certifies that the duties are accurate. If this cannot be accomplished, documentation of disputed duties and responsibilities will 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.

(5) a copy of the PAR implementing any changes in pay band, grade or rate of pay received as a result of the appeal.

**CHAPTER 4**  
**ATTENDANCE AND LEAVE**

401. Attendance and Leave Policy. The ICO/Region (N9)/Region NGIS Head will establish uniform and equitable work schedules, work hours, and attendance requirements, to conform to applicable executive orders, and DOD and DON directives.

402. Schedule of Work Attendance. Managers of activities employing NAF personnel are authorized to establish and change the tours of duty of such employees per this instruction.

a. Establishment of Tours of Duty

(1) When possible, tours of duty for all employees will be established for the same days of each week and for the same hours each day. To the extent possible, they will be established on consecutive days of the administrative workweek. They will normally not exceed ten hours, and may extend over two calendar days.

(2) Tours of duty for RFT and RPT employees will be scheduled and posted at least one week in advance and will cover a period of at least one administrative workweek. Exception may be made to this requirement when unusual circumstances make advance scheduling impossible.

(3) Management has the right to vary tours of duty and to change an employee's scheduled hours of duty to carry out its missions. For long-term non-emergency situations one pay period notice should be given.

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

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

(6) Special Considerations in Establishing Work Schedules. The following requirements will be observed:

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

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

(c) Rest Periods. Short rest periods during the daily tour of duty will be permitted when, at the discretion of the NAF activity manager, such periods are beneficial or necessary to the NAF activity. Rest periods are considered as hours of work. The policy adopted by each manager will be established in writing and made known to all employees. The criteria for establishing rest periods are as follows:

1. Protection of the employee's health by relief from hazardous work.

2. Relief of fatigue caused by continuous physical exertion or work performed in confined spaces, which limits personal activities.

3. Increased efficiency or production would result.

4. The rest period will not be a continuation of the lunch period.

(d) Meal Periods. Employees normally should not be required to work more than six consecutive hours without allowance for a meal period. An exception to the meal period requirement is for positions at isolated work sites where it is not practical to provide a replacement for the employee during the meal period. For example, in a one-person operation in a small snack bar, open from 1600-2300, where no one is available for relief, management could eliminate the meal period. The employee may be permitted to eat at the work location while on the job and will be paid for all time on duty during the shift. Meal period time will not be considered or paid as time worked, except for the purpose of determining entitlement to night shift differential pay for CT employees. A NAF activity will not require the employee to perform work during the meal period.

b. Recording Time and Attendance

(1) Requirements. A system for scheduling and recording the time and attendance of each employee will be established in every NAF activity. The system must be able to document the employee's work schedule and attendance. Supervisors are responsible for the timely and accurate preparation, certification and submission of time and attendance records of their assigned employees. The ICO/Region (N9)/Region NGIS Head will ensure that sufficient internal controls are in place to ensure that time and attendance is being reported accurately. Supervisors should ensure by personal observation or other internal controls that employees are present during their reported working time and that exceptions to the employee's normal tour of duty are posted timely and accurately.

(2) Recording Time. Fractions of an hour worked are creditable in tenths of an hour increments. Management should monitor employee time recording carefully to prevent unplanned overtime due to variances in time recording. Employees who report any time after the start of the shift may be considered tardy based upon the timekeeping rules of the unit and the supervisors time and leave authority.

(a) Tardy (Lateness). Employees reporting to work late may be deemed tardy. When an employee is tardy one of the following actions shall be taken:

1. The supervisor may approve leave.
2. The supervisor may charge the employee absent without leave (AWOL) if the supervisor does not approve leave. Disciplinary action may be taken for unexcused lateness charged as AWOL.
3. The supervisor may excuse up to 59 minutes of lateness on occasion when circumstances warrant.

(b) Credit Hours. NAF employees are not eligible to accumulate credit hours as defined in 5 U.S.C. 6121-6126.

(3) Use of Time Clocks. Activities that use time clocks to record time worked must set equitable rounding rules and must inform the employees of the rules. Rounding procedures shall be used in such a manner that they will not over a period of time, fail to compensate the nonexempt employee for all the time they

have actually worked. The supervisor may correct employee erroneous punches. When erroneous punches are corrected, the supervisor shall initial the change and be able to prove that a nonexempt employee was not performing any work before or after the supervisor's recorded time. Employees who continually fail to punch in or out properly should be counseled, and disciplined if appropriate, per the provisions of this instruction.

c. Leave Request and Approval/Disapproval. The authorized supervisor will approve and schedule leave. Whenever possible, annual leave should be at the convenience of the employee, but mission requirements shall take precedence.

(1) All leave including medical appointments should normally be requested and approved/disapproved as far in advance of usage as possible. Employees will give leave requests to the immediate supervisor.

(a) Emergency sick or annual leave shall be requested from the supervisor as soon as possible prior to the scheduled starting time for the shift but not later than the end of the first hour of the work shift. In suspected abuse of leave situations, supervisors may establish stricter guidelines in a leave requirement letter.

(b) Employees are encouraged to take an annual vacation.

(c) An equitable method will be utilized for determining which employee(s) will receive leave especially during traditional holiday periods.

(2) A supervisor has the following options to deal with a leave request:

(a) Approve the request and inform the employee of and timekeeper of the approval.

(b) Disapprove the request and inform the employee and timekeeper of the disapproval.

(c) Inform the employee additional information is needed before a decision can be made. The employee should be given a deadline to provide the information.

(d) When an employee is absent and leave has not been approved it is appropriate that the time be recorded as

AWOL. Pay is withheld for all time charged to AWOL. Time charged to AWOL may later be changed to an approved leave category when acceptable supporting evidence is presented within the prescribed time or when the approving official determines that circumstances are such that the absence has been improperly charged as AWOL. Approved leave may not be changed to AWOL after approval. Disciplinary action may be taken as appropriate for AWOL.

(3) Denial of a leave request or cancellation of approved leave normally needs to be based on the necessity for the employee's services. The employee may grieve the denial or cancellation of approved leave. Leave must not be denied or canceled for arbitrary or capricious reasons. Denial or cancellation of leave is not disciplinary in character and must not be used as a punitive measure. When leave has been requested, approved and used by the employee, retroactive substitution of one category of leave is normally not appropriate.

The primary exceptions are:

(a) when an employee is on annual leave and becomes sick and the employee requests the change and provides appropriate supporting documentation.

(b) when an employee is under a leave requirement letter and management is waiting for supporting documentation.

#### 403. Leave Donation Program

a. Program Approval. The Region N9 Head may establish a leave donation program in writing that permits Regular CNIC NAF employees to donate annual leave to other Regular CNIC NAF employees for medical or family emergencies.

b. Required criteria. The program for APF employees should be used as a guideline within the following parameters:

(1) Voluntary participation is limited to current RFT or RPT NAF employees.

(2) The transfer of annual leave should be among CNIC NAF donors within the recipient's employing NAF activity. Transfer of annual leave from CNIC NAF employees outside the employing NAF activity may be approved on a case by case basis by the Region N9 Head if the transfer of funds between the NAF Activities can be arranged.

(3) The approval and use of transferred annual leave will be subject to the conditions and requirements imposed by this instruction, and local command regulations pertaining to annual leave.

(4) Approved leave recipients shall provide medical documentation of a medical emergency prior to being given donated leave. Pregnancy without medical complications is not a medical emergency. Employees who have been under sick leave abuse restrictions in the past year shall not be allowed to use this program.

(5) The leave donated is taken from the annual leave account of the donor. It is then converted to NAF dollars based upon the salary rate of the donating employee and is transferred to the using employee to use as sick leave. The number of hours received is based upon the salary rate of the receiving employee. Donated leave should only be credited to the user's account, as it will be used. Unused donated leave will be returned to the donor.

#### 404. Annual Leave for Regular Employees

##### a. Creditable Service for Annual Leave Accrual

(1) All DOD NAF service as a regular employee, regardless of employer is creditable. RPT employees get one day of service credit for each day worked. Elapsed calendar time is the maximum calendar time that can be credited. To convert the days to months and years (30 days equal one month and 260 days equal one year.

(2) Non-retired military time is creditable as long as it involved over 180 days of honorable active duty.

(3) To verify the amount of retired military service that is creditable, submit the retired member's DD 214, Certificate of Release or Discharge from Active Duty and SF 813 (08/1994), Verification of a Military Retiree's Service in Non-wartime Campaigns or Expeditions to the address on the form.

(4) The crediting of continuous flexible service of employees who converted to RFT or RPT status is not authorized.

(5) Prior service as an APF employee is creditable only if the employee has moved from a DOD APF position to a NAF position with a break in service of three days or less, on or

after 1 January 1987. When the break was more than three days, the service is not creditable.

(6) Leave SCDs will be adjusted to exclude periods of six months or more total of LWOP in a calendar year. LWOP while on workers' compensation is excluded from this. The SCD will be reduced on a calendar day for calendar day basis. The periods of LWOP that caused the reduction will be listed in the remarks of the PAR that adjusts the SCD.

(7) Credit for service used in calculating APF or NAF retirements is not used to set SCD.

b. Step by step procedures on how to calculate SCDs can be found in the OPM publication "Processing Personnel Actions" at <http://apps.opm.gov/publication/pages/default.htm>. Remember to verify that the time being counted is acceptable as NAF time as there are some differences in acceptable time between NAF and APF.

c. Limits on Using/Accruing Annual Leave

(1) RFT employees shall not be authorized annual leave during the first 90 days of employment in a leave earning employment category. After 90 days employment annual leave may be taken to cover only the amount of hours they would normally work during the period for which leave is requested. Normally, this will not exceed eight hours per day, or 40 hours per week. Employees reinstated within six months of termination from a NAF activity are not required to serve another 90 day qualifying period to use annual leave.

(2) RPT employees may take leave to cover only the actual hours that they normally work per day, and actual scheduled hours per week. For example, if an employee with 40 hours of accrued leave, who normally works four hours per day, Monday through Friday, takes the week off, they would be entitled to a maximum of 20 hours annual leave.

(3) Annual leave will 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. Leave is not available for use until after the pay period it was earned.

(4) Employees receiving workers' compensation benefits under the Longshore and Harbor Workers' Compensation Act (LWHCA)

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and employees on military furlough are carried on the rolls of

the employing NAF activity in a non-pay inactive status and do not accrue leave.

(5) Annual leave in excess of the maximum accumulation authorized will be lost at the end of the leave year.

(a) CONUS employees may retain 240 hours.

(b) OVERSEAS employees may retain 360 hours and may continue to retain up to 360 hours upon return to CONUS. However after return to CONUS, the maximum carry over is the employees' leave balance at transfer not to exceed 360 hours.

Any reduction of leave balance would reduce the leave retention ceiling until the balance reaches 240.

(c) The maximum accumulations may be exceeded if the Region N9 Head determines that an exigency as defined in CFR Section 630.305 existed and the employee is authorized to carryover annual leave that could not be used due to the exigency. Authorization to carry over excess leave must detail the exigency be in writing and be submitted to CNIC N941. The carryover leave must be used within two years from the approval of carry over.

d. Prohibition on Advance Leave. Leave may not be granted until after the completion of the pay period in which it is earned. Advance annual leave is prohibited. In foreign areas, employees granted home or emergency leave under the provisions of DOD 1400.25-M 1406.2.2.7, and those in U.S. territories and possessions may, on departure, be paid in advance for accrued leave to be taken during that period.

e. Payment for Annual Leave

(1) Lump sum annual leave shall only be paid to the employee after the employee separates NAF employment with CNIC or are transferred to a position and/or status that is ineligible to accrue leave. There must be a three day break in any government civilian service before leave can be paid off. Annual leave shall not be paid off when the employee changes NAF funds. Employees shall not be paid for any part of their leave balance at any time while employed as a regular employee within CNIC.

(a) No part of annual leave may be paid off when an employee changes from NAF to Civil Service (GS or WG). The

leave transfers to the employee in the Civil Service position and there is no transfer of funds between NAF and Civil Service.

(b) When a NAF employee moves to another DOD NAF Component (ie. NEXCOM, USMC, USAF, USA, AAFES), the employee is usually paid for unused annual leave. The employee may elect to transfer this unused leave if both the losing and gaining NAF Component agree to the request. When the annual leave is transferred, the losing NAF Component transfers the amount of money to the gaining NAF Component that the employee would have received for their annual leave pay off.

(2) An employee who has not completed 90 days as a RFT or RPT employee will be not be paid for their accumulated annual leave account.

(3) When an employee is on a temporary promotion and the NAF HR office has not terminated the temporary promotion prior to the employee's separation date, the payoff may be at the rate of the temporary promotion through the not to exceed date of the temporary promotion. After the not to exceed date, the rate will revert back to the employee's permanent rate of pay.

405. Annual Leave for Flexible Employees. CNIC flexible employees are not authorized to earn or use annual leave.

406. Sick Leave for Regular Employees

a. There is no minimum qualifying period for the crediting or use of sick leave. All RFT and RPT employees who have sick leave to their credit may be granted such leave for legitimate medical reasons. Employees on furlough or LWOP are not eligible to be paid for sick leave. Sick leave is a privilege and will be approved only when an employee cannot perform assigned duties due to legitimate medical reasons. Acceptable reasons for using sick leave include

(1) receiving medical, dental, or optical examination or treatment.

(2) being incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.

(3) as determined by the health authorities having jurisdiction or by a health care provider, employees would jeopardize the health of others by their presence on the job because of exposure to a communicable disease.

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(4) Family and Medical Leave Act (FMLA). NAF employees are covered by Pub. L. 103-3 (1993). The Act entitles certain employees to 12 administrative workweeks of LWOP (or they may use their accrued annual or sick leave instead) during any 12-month period for one or more of the following reasons: the birth of a son or daughter and care of the newborn; the placement of a son or daughter with the employee for adoption or foster care; the care of a spouse, son, daughter or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or a serious health condition of the employee that makes the employee unable to carry out the essential function of his or her position. In pregnancy situations Federal Employees Family Friendly Leave Act (FEFFLA) does not apply unless medical complications are involved. The employee must make a written request for FEFFLA leave and the appropriate supporting documentation shall be attached to the request.

b. Prohibition of Advance Sick Leave. Advance sick leave is not authorized. The earning pay period must be completed and the sick leave credited to the employee before it can be used.

c. Sick Leave Credit/Re-credit

(1) Sick leave credits for NAF employees shall be transferred between any DOD NAF Component provided the employee:

(a) did not receive credit in retirement from the losing NAF Component.

(b) all accumulated sick leave shall be transferred by the losing NAF Component to the gaining NAF Component without a transfer of funds. The gaining NAF activity will assume the financial obligation.

(d) is rehired into a regular position in a CNIC NAF activity or who is converted from regular to flexible status and who later returns to a regular position in a CNIC NAF activity is entitled to a re-credit of the unused CNIC NAF sick leave.

(2) Unused sick leave earned as an APF employee will not be re-credited if employed in a NAF activity following a break in service of more than three days.

d. Requirement for Medical Certificate for Illness

(1) Absence of More than Three Days. When an employee

is absent from work due to illness or injury or one of the other acceptable sick leave uses for more than three consecutive work-days, the employee may be required to furnish the supervisor with a doctor's certificate or other acceptable documentation that substantiates the use of sick leave, and certifies that the employee is unable to work. In periods of extended illness, management may require the employee to provide updated medical certification on a bi-weekly basis. If there is doubt as to the employee's medical ability to perform the duties of the position after being off for illness or injury, the supervisor may require a doctor's certification that the employee has been medically released to work.

(2) When Sick Leave Abuse is Suspected. When a supervisor believes that an employee is abusing sick leave, the supervisor may deny sick leave requests, or require a medical certificate. The supervisor may also request in writing a medical certificate for each absence that is claimed as sick leave. Supervisors may also require documentation on the expected specific duration of the illness if they have reason to doubt the validity of the request. Abuse of sick leave privileges is cause for disciplinary action including possible termination as absence from work without adequate excuse. When there is evidence of sick leave abuse the supervisor should give the employee a leave letter of requirement including specific instructions on what is required to request and receive leave.

e. When Sick Leave is Exhausted. When sick leave is exhausted, the employee may use annual leave. Should the period of illness extend beyond the limits of sick and annual leave, the supervisor may elect to approve LWOP. The approval of LWOP is a management prerogative after the employee has been given their 12 weeks of LWOP under the FMLA based upon work needs and requirements. If LWOP is disapproved and the employee is not able to return to work the employee may be terminated due to medical disability extending beyond sick leave.

407. Sick Leave for Flexible Employees. CNIC Flexible employees are not authorized to earn or use sick leave.

408. Absence for Maternity or Paternity Reasons

a. Leave for Maternity Reasons. RFT or RPT female employees may request sick leave, annual leave, or LWOP when incapacitation is related to pregnancy and medical authority has properly established confinement. An absence covering pregnancy and confinement will be treated as any other medically certified

temporary incapacitation. Maternity absence that does not involve medical complications does not qualify as a medical emergency under the leave donation program. Sick leave is only appropriate for incapacitation of the mother or caring for a sick child.

b. Leave for Paternity Reasons. RFT or RPT male employees may request annual leave or LWOP for purposes of assisting, or caring for their children, or for the mother of the newborn child. Sick leave may be used for the time periods that the mother is incapacitated as established by medical authority, for maternity reasons.

409. Court Leave Pay Offset. Regular employees on court leave will receive their regular pay for such time, or will retain the court fees received from the court; whichever is the greater amount. If the court fees are the lesser amounts, such fees, exclusive of transportation fees when separately identified or otherwise identifiable will be turned over to the employing NAF activity. When a State statute provides for reimbursement of expense, or an expense allowance rather than a jury fee, employees will receive their regular pay and the money paid by the court.

410. Funeral Leave. Administrative leave may be granted to regular NAF employees, not to exceed three consecutive workdays, for death in the immediate family including spouse, parent, child, brother, sister, parent of spouse, grandparents (in loco parentis) or other close relative who is part of an employee's immediate household. In the event of death of other close relatives the supervisor may approve time off that is charged to annual leave or LWOP.

411. Disruption of Normal Operations

a. Local Authority. When normal operations of a NAF activity, or a specific element of the NAF activity, are interrupted by events beyond the control of management or employees, heads of NAF Activities may excuse all employees scheduled to work, with pay, for up to three workdays. Management has the discretion to identify the specific individuals (including unscheduled flexible employees) who will be granted time off, and those who will be required to come to work. If it is an emergency that also impacts civil service employees on the installation, the NAF Activities shall follow the same policy for NAF employees as the installation uses for civil service employees.

(1) When an unexpected emergency occurs during the work day such as a fire or equipment breakdown that forces all or part of the NAF activity to close, the non-emergency employees on duty may be excused (placed on administrative leave) for the remainder of the shift if they cannot be gainfully employed in another part of the NAF activity.

(2) Inclement Weather which Forces Closure of All, or Part of the Base, on Which the NAF Activity is Located. In this event, NAF employers will follow the same rules as applied to APF employees on the base.

(3) In arriving at a decision to close all or part of a NAF activity, managers will provide for liberal use of annual leave and LWOP, if the employee requests LWOP in lieu of annual leave and if circumstances continue to prevent employees from returning to work at the end of three work days.

(4) Under emergency conditions, e.g. breakdown of equipment or other emergency conditions requiring suspension of operations, or an unanticipated reduction in business, a minimum of 24 hours notice will be given to regular employees before paid work hours are terminated.

b. Requiring Employees to Take Annual Leave. There are certain situations in which management may direct the taking of annual leave or LWOP, if the employee requests LWOP in lieu of annual leave, such as holiday close-downs and brief periods of work interruptions. Such situations require advance notice, as described below. The head of the NAF activity should ensure that newly hired employees are notified of the anticipated shutdowns so they may plan the use of their annual leave accordingly. An employee may not be placed on forced annual leave in disciplinary type situations.

(1) In cases of interrupted or suspended operations, employees who cannot be assigned to other work will be required to use annual leave or LWOP, if the employee requests LWOP in lieu of annual leave. Twenty four hours of advance notice to employees shall be given before any employee is forced to take annual leave or LWOP in cases of interrupted or suspended operations.

(2) When 24 hours notice immediately preceding shift is possible, all employees who were scheduled to work the shift and who cannot be assigned to other work shall be excused and paid for their scheduled work hours (not to exceed eight hours) and

will then be placed on enforced annual leave or LWOP, if the employee requests LWOP in lieu of annual leave, for subsequent continuous absence required beyond eight hours, provided 24-hours advance notice can be given.

(a) The foregoing applies only to conditions that cannot reasonably be foreseen, e.g., power or equipment failure, weather conditions affecting only certain kinds or work but not the NAF activity as a whole, etc.

412. LWOP

a. Routine Circumstances. LWOP may be granted an employee who is receiving benefits under the Longshore and Harbor Workers' Compensation Act (LHWCA), or for military service, for disability, or for other reasons acceptable to and approved by the head of the NAF activity. Upon request, LWOP may be granted instead of annual or sick leave to a RFT or RPT employee. There is no requirement for an employee to use all accrued sick or annual leave before using LWOP. Normally, such leave will not be granted for a period exceeding one year.

b. Leave for Spouse and other Dependent NAF Employees upon Transfer of Military/Federal Civilian Sponsor. To assist employees in the transition process, LWOP shall be granted to RFT and RPT NAF employees who are transferring with their military or civilian Federal (APF or NAF) sponsor. LWOP may also be granted to other employees who are transferring, and requested LWOP before their separation. Such LWOP may only be granted to eligible employees whose performance is rated satisfactory or better. Employees must make a written request for the LWOP. They will also be required to complete part E, block 2, of a SF-52 listing a termination date effective the first day after completion of the first 90 days of LWOP. Upon written request of the employee extensions will be approved in 90-day increments not to exceed one year.

**CHAPTER 5**  
**LABOR MANAGEMENT AND EMPLOYEE RELATIONS**

501. Labor-Management Relations Policy. The Federal Service Labor-Management Relations Statutes, 5 U.S.C. 7101 et seq., and 5 U.S.C. 7103 (a) (2) and (3) apply to both APF and NAF (see DOD 1400.25-M, chapter 711). Increased costs resulting from any NAF activity's collective bargaining agreement will not be voluntarily shared by other NAF activities. The authority to deal with the Federal Labor Relations Authority (FLRA) and other third parties on union issues is delegated to the APF Human Resource Service Centers (HRSCs). Therefore union issues should be directed to the HRSCs and CNIC (N94) simultaneously.

a. Events Requiring Higher Level Notification/Approval. The following labor relations events require immediate simultaneous facsimile notification to DOD Civilian Personnel Management Service (CPMS), Deputy Assistant Secretary of the Navy (DASN) (CP/EEO), the servicing APF HRSC and CNIC (N94).

(1) Any indication that a labor organization is going to attempt to organize all or part of your work force.

(2) FLRA Region Director Decision and orders on new, revised or terminated bargaining units.

(3) When a determination needs to be made concerning whether or not an issue is negotiable.

(4) Upon receipt of a notification of the filing of an Unfair Labor Practice (ULP) charge and also the FLRA findings on the charge.

(5) Prohibited activities by a recognized union such as a strike or work slowdown.

(6) When impasse results during negotiation.

b. Upon completion of negotiation on a negotiated agreement, the agreement must be approved by the DOD CPMS within 30 days of the date the agreement is signed. Negotiated agreements should be sent via an express mail service to CNIC (N94) and also to CPMS as soon as they are nearing completion. The NAF activity should then send the agreement as soon as it is signed locally to the same places.

c. Addresses and Phone Numbers

(1) Include name, telephone number and fax number as well as the NAF activity Federal Express (FedEx) address on all submissions. Include the name(s) address and local number for the Union Officials involved.

(2) The address and phone number for CPMS is

Civilian Personnel Management Service (CPMS)  
Labor and Employee Relations Division  
1400 Key Blvd., Suite 500  
Arlington, VA 22209-5144

Phone (Comm.) (703) 696-6301/DSN 426  
Fax (Comm.) (703) 696-4588/DSN 426

(3) The address and phone number for CNIC (N94) is

(Mail) CNIC Millington Detachment (N94)  
5720 Integrity Drive  
Millington, TN 38054

(FedEx) CNIC Millington Detachment (N94)  
7736 Kitty Hawk Drive, Bldg 457  
Millington, TN 38054

Phone (Comm.) (901) 874-6704/DSN 882  
Fax (Comm.) (901) 874-6844/DSN 882

d. Employee Rights. 5 U.S.C. 7102 gives each employee a right to form, join or assist any labor organization or to refrain from any such NAF activity, freely and without fear of penalty or reprisal and each employee is protected in the exercise of these rights. Except as otherwise provided by law, such rights include the right:

(1) to act for a labor organization in the capacity of a representative and the right in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or any other appropriate authorities.

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen of employees under 5 U.S.C., chapter 71.

(3) the case law interpreting 5 U.S.C. 7102 indicates that restrictions on an employee's right in this area must be narrowly tailored. Therefore if NAF management feels that an employee is taking an action that is a conflict of interest with their union rights under 5 U.S.C., 7102, NAF management will consult with their legal office before ordering a NAF employee to refrain from acting on behalf of a union.

e. Management Neutrality. Supervisors and management officials will maintain a position of neutrality with regard to membership or non-membership of subordinates in a labor organization.

f. Strike Prohibition. Federal employees are prohibited from participating or assisting in a strike, work stoppage, or slowdown. They are also prohibited from picketing a NAF activity in a labor management dispute if such picketing interferes with the operation. Employees engaging in such illegal NAF activity are subject to disciplinary action.

g. Exclusions. Labor-management policies and procedures do not extended to aliens or non-citizens of the U.S. that occupy a position outside of the U.S. They are not extended to supervisors or management officials or any person who participates in a strike in violation of the law. Relationships with labor organizations of non-U.S. citizen employees will be consistent with pertinent inter-government agreements, or local practices and customs.

h. Appropriate Unit. The FLRA will determine the appropriateness of any NAF unit. It will determine those employees to be included in the appropriate unit on a basis that will ensure a clear and identifiable community of interest among the employees concerned. A unit will be designed to promote effective dealings and efficiency of CNIC NAF operations. A unit will not be established solely on the basis of the extent to which employees in the proposed unit have organized. NAF and APF employees shall not be in the same bargaining unit.

i. Payroll Withholding of Labor Organization Dues. Once exclusive recognition is granted, the NAF activity and the labor organization may enter into an agreement whereby members of the organization who are employees in the unit may authorize the payment of their dues to the organization through a payroll deduction. Employees who are members of the labor organization but who are not included in the unit cannot participate in the plan for payroll withholding of dues. Arrangements with respect

to voluntary allotment of payment of labor organization dues will conform to 5 U.S.C. 7115.

502. Standards of Conduct

a. The following documents contain the detailed rules, regulations, policy, guidance and information regarding standards of conduct, government ethics, and fraud, waste, and abuse prevention and reporting, that apply to all Navy employees.

(1) DOD 5500.7-R.

(2) SECNAVINST 5370.7C.

(3) SECNAVINST 5430.92B.

(4) Additional information on ethics laws, training materials and current ethics issues can be found on the DOD Standards of Conduct web site at <http://rf-web.tamu.edu/security/SECGUIDE/Ethics/Intro.htm>. This site also houses an ethics presentation with explanatory script. Managers and supervisors are encouraged to view this presentation with their employees.

b. Responsibilities. All supervisors and their superiors will continually monitor enforcement and compliance of these programs and policies. However, it is the responsibility of every employee to personally comply with the rules of ethical conduct.

(1) Heads of NAF Activities will provide all assigned NAF and APF employees training on the standards of conduct upon entry on duty and as needed. Training will be provided to those employees who have to file a statement of financial interests on an annual basis.

(2) In order to maintain the public's confidence in our institutional and individual integrity, all DON personnel will read, be familiar with and comply with DOD 5500.7-R. Employees will avoid any action, whether or not specifically prohibited by the rules of conduct, which might result in, or reasonably be expected to create an appearance of violation of the Joint Ethics Regulations (JER). Employees are public servants and their actions must not violate any of the following:

(a) Public service is a public trust requiring

employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(b) Employees shall not accept or engage in outside employment or activities, including seeking or negotiating for employment that conflicts with official Government duties or which may discredit the Navy.

(c) Employees shall not take or use Government property or services for other than officially approved purposes. All NAF employees have a duty to protect and conserve Federal property, including equipment supplies and other property entrusted to or issued to them. They cannot directly or indirectly use or allow the use of government property for other than official approved activities (this includes property leased to the government).

(d) Employees shall not give gifts to superiors or accept them from subordinates when it is not appropriate to do so.

(e) Employees shall use assigned Government equipment including computers for official business only. This includes only sending and receiving e-mails involving official Government business and not accessing any improper web sites.

(f) Employees shall disclose fraud, waste, and abuse when they first become aware of the practice.

(g) The head of the NAF activity shall establish internal controls that provide and maintain clear procedures to control the consumption of alcoholic beverages and entertainment programs in CNIC activities. These standards should promote responsible alcoholic beverage service and provide a safe and wholesome atmosphere for all patrons using these facilities.

1. Employees are not permitted to consume alcoholic beverages during working hours and managers shall not drink on or off duty in facilities that they manage.

2. Violation of alcoholic beverage control or entertainment standards (even as a first offense) by managers, or staff members, is grounds for termination.

3. Under current DON regulations, employees are encouraged to seek the advice of agency ethics officials. These requests will first be directed to the local installation ethics

office. Disciplinary action for violation of regulatory standards will not be taken against an employee who relies on such advice.

4. All CNIC employees shall support these standards.

c. Fiduciary Responsibility. There is an individual fiduciary responsibility for properly using NAF resources and preventing waste, loss, or unauthorized use. This responsibility extends to all DOD personnel, including members of the armed forces and civilian employees paid with either APF or NAF. Under 10 U.S.C. 2783, personnel who violate NAF regulations in management of funds are subject to the same penalties under Federal laws that govern the misuse of APF. Violations by personnel subject to the UCMJ are punishable under section 892, article 92.

d. No person will be employed or continue to be employed in a NAF activity who advocates the overthrow of the U.S. Government; is a member of an organization that advocates the overthrow of the U.S. Government; or participates in any strike against the U.S. Government, including all instrumentalities of the U.S. Government.

#### 503. Dress and Appearance

a. Employees are expected to comply with reasonable dress and grooming standards.

b. Civilian dress and appearance shall contribute to a productive and non-disruptive work environment.

c. Employees who wear standard uniforms may be expected to comply with grooming and appearance standards that are more stringent than those required of other employees. These standards shall be in line with job requirements, and similar to standards employed by other Federal, State or municipal governments.

#### 504. Disciplinary and Adverse Action Policy

a. Heads of NAF Activities will establish and utilize consistent procedures for effecting disciplinary actions.

(1) Disciplinary actions are categorized as basic or severe.

(2) Disciplinary actions do not include BBAs, letters of caution, performance counseling memorandums, letters of requirement for leave abuse actions, reductions in grade or pay taken as a result of termination of temporary promotion or temporary increase in responsibility, a change to lower grade or pay band/level of an employee when the employee initiated the request, a reduction in pay due to application of a revised prevailing rate schedule when there is no change to the position, a reduction in scheduled hours of work that does not change the employment category, and actions taken as a result of an employee being medically unable to work.

b. Servicing NAF HR offices are responsible for providing information regarding this instruction to the employees and managers of activities/regions they serve.

c. Managers and supervisors are responsible for:

(1) Communicating requirements and expectations regarding standards of conduct and performance to employees.

(2) Setting a good example by own personal conduct.

(3) Monitoring employee conduct and taking or initiating appropriate corrective action as required.

(4) Referring employees to the Employee Assistance Program (EAP), as required.

(5) Consulting with the NAF HR office on disciplinary actions prior to issuing any proposal or decision disciplinary letters.

d. Employees are responsible for:

(1) Conducting themselves, both on and off duty, in a manner that will ensure that their conduct does not reflect adversely on the DON or government.

(2) Complying with the standards of conduct and JER.

(3) Following on-the-job work rules, including reporting for work on time and in a condition that will permit safe and reliable performance of assigned duties.

(4) Performing their job duties at an acceptable level and in a safe and reliable manner.

e. Authority to take Basic or Severe Disciplinary Actions

(1) The employee's immediate supervisor or any supervisor in the employee's chain of command may sign, issue and take basic disciplinary actions against their employees. Individuals officially assigned/designated as acting for the supervisor in the supervisor's absence have the same authority.

(2) Any supervisor in the employee's chain of command may sign and issue severe disciplinary action proposal letters.

(3) Severe disciplinary action decision letters, termination letters for probationary employees and termination letters for flexible employees shall be signed by site manager or any supervisor in the employee's chain of command above these positions. These same individuals may also sign both the proposal and decision letter to an employee.

f. Delivery of Proposal and Decision Letters

(1) A management official may hand deliver the letter in a private location if the employee is on duty. The employee should sign the management copy to acknowledge receipt. The signature is not indicating any agreement or disagreement with the contents. Should the employee refuse to sign for the letter, write "employee refused to sign" and the delivering person will sign and date below the annotation.

(2) If an employee is not on duty, it may be hand delivered to the home address by two management officials or it may be mailed regular mail. When it is mailed, two employees should certify that it was placed in the envelope and it should be taken to a mail facility and not just placed in an in office distribution box. For regular mail, it may be assumed delivery occurred in five calendar days after mailing if it is not returned.

g. Official Disciplinary Action Records. An official record will be established in the NAF HR office for each disciplinary action effected. This official record will be maintained separate from the OPF for a period of at least four years from the date of the action. The record will consist of

(1) a copy of the notice of proposed disciplinary action.

(2) a copy of the appellant's written response, if any, to the notice of proposed action.

(3) a summary of the appellant's oral response, if any, to the notice of proposed action.

(4) a copy of the written decision of disciplinary action.

(5) a copy of the official document effecting the disciplinary action.

(6) all evidence relied upon in support of the disciplinary action.

(7) all appeals/grievances, hearing transcripts, investigative/fact-finding files, etc. involved in the appeals or grievance related to the action.

(8) the appellant's petition of appeal.

(9) The transcript of the hearing if one was requested.

(10) The hearing officer's recommendation.

(11) The appellants second level appeal, if any.

h. Offenses will be a matter of official record for two years (reckoning period) from the date of receipt of disciplinary action by the employee.

i. Medical Examinations (Fitness for Duty). After reviewing medical documentation supplied by the employee or with justifiable reason the NAF activity may require a medical examination or, at its option, offer a fitness for duty medical examination following the procedures in 5 CFR 339 (5 CFR 752.404 (c)(3)).

j. Emergency Suspensions

(1) An employee may be placed on emergency suspension without pay, pending disciplinary action, when retention of the employee might result in damage to or loss of property or funds, might be injurious to the employee or others, might be detrimental to the interests of the NAF activity, or when there

are justifiable reasons to believe that the employee is guilty of a crime for which a prison sentence may be imposed. In such cases, the employee will be provided at least 24-hours advance notice of the emergency suspension. The employee may be removed from the work place immediately but shall be paid during the 24-hour notice period for normally scheduled work hours during this period. If the final disciplinary action taken on an employee on emergency suspension is less than removal, the employee will be paid for the time so suspended less any loss of pay required by the disciplinary action.

(2) An emergency suspension without pay, which extends for 30 calendar days or less, may be grieved; one which extends for more than 30 calendar days may be appealed. A grievance or appeal may only be filed at the termination of the emergency suspension. If after investigation it is determined that the employee will be terminated the employee does not have to be retained in a pay status for the termination period if the employee has already been on emergency suspension for at least 14 days.

(3) The emergency suspension process is as follows:

(a) An event has occurred that warrants an emergency suspension. Give the employee a 24-hour advance written notice.

(b) The investigation is complete and disciplinary action is warranted.

1. If it is termination, then follow the proposal and decision process for termination. The employee will be returned to a pay status for the 14 day notice period.

2. If it is a suspension for less than 30 days, issue the employee a decision letter. If it is a suspension for more than 30 days issue a proposal and subsequently a decision letter. If the employee has not been off the number of days of the suspension, let the suspension continue. If the employee has been off more than the days of the suspension, issue a decision letter for the days of the suspension and pay the employee for the other days. Use this same process for a reprimand.

(c) If there is no basis for disciplinary action, issue the employee a written decision of this and pay them for the days they were on emergency suspension.

k. Non-Disciplinary Involuntary Separations. Not all involuntary separations are for disciplinary reasons. An employee may have to be separated because of long term disability (includes medical authority designation of long term unavailability for work as well as medical availability that extends beyond accrued sick and annual leave and use of authorized FMLA leave), being on extended workers' compensation, (usually more than one year), separations at the completion of transportation agreements for overseas tours, etc.

These separations do not adversely reflect on the employee's performance or conduct. If these type separations become necessary after the employee has received their FMLA entitlements if any, they will be processed using the severe disciplinary action procedures and employees will be given the same appeal rights as those available in severe disciplinary actions separations.

**505. Basic Disciplinary Actions. Basic disciplinary actions are:**

a. Oral Admonishment. To be most effective, an oral admonishment should be conducted by management and in private, as promptly as possible in such a manner that it doesn't cause undue embarrassment to the employee. The employee should be advised of what they did wrong, when it occurred, the circumstances surrounding the incident, and the expectations that management has relative to the incident and future related conduct. Finally, the employee should be informed that repeated occurrences of misconduct could lead to more severe disciplinary action. The employee should be encouraged to enter into a dialogue with the supervisor and to discuss their side of the issue. Upon completing the admonishment, the supervisor will make a memo for the record of the incident and discussion. The supervisor retains such memos for a period of two years from the date of the admonishment. Such memos may be used as a basis for taking stronger disciplinary action should future infractions or conduct warrant such actions during the two-year reckoning period. Supervisory memos relating to oral admonishment will not be placed in the OPF.

b. Letters of Written Reprimand. A letter of reprimand is a written communication from a supervisor or manager to an employee that identifies misconduct. The reprimand cites the incident in sufficient detail for the employee to fully understand the action for which they are being censored. A proposal letter does not precede letters of reprimand. The initial and only letter issued is the letter of decision to

reprimand. A reprimand also contains a statement that it will be placed in the employee's OPF for a two-year period from the date of receipt of the letter. It will also state that during that time it may be used as a basis for taking stronger disciplinary action should future infractions or conduct warrant such actions.

**c. Suspensions of 30 calendar days or less.** Suspension should be limited to regular employees in that it generally does not make sense to suspend flexible employees as they are not required to have a full time schedule. If a flexible employee is guilty of an action deserving suspension they should be terminated. A suspension places an employee in a non-pay status and should be used when a supervisor determines that a serious or repeated offense has occurred. Suspensions of 30 days or less are not preceded by a "proposal to suspend letter." The first and only letter issued is the letter of decision to suspend.

**d. Processing Written Reprimands and Suspensions of 30 calendar days or less (Basic Disciplinary Actions) for Regular Employees.** Any supervisor in the employee's chain of command may issue the employee a decision letter with the following provisions:

(1) Letters of written reprimand do not require any advance notice.

(2) Letters of suspension will state the beginning and ending date of the suspension. The starting date will not be any earlier than seven calendar days from the date that the employee receives the decision letter. This provides time to learn if the employee is grieving the action and the basis of the grievance. Management has the prerogative to issue a corrected decision letter to delay the suspension until the grievance has been investigated and resolved. The suspension dates shall be consecutive calendar days and the employee may not take leave or receive any form of pay during the suspension.

(3) Suspensions require the preparation of a SF-52 and a PAR. The PAR shall be a permanent record in the OPF.

(4) List the specific charges and specifications upon which the action is based. This must contain sufficient detail (pertinent facts, e.g., time(s) dates, etc.,) upon which the employee may know the action(s) for which they are being disciplined and have enough information to base a challenge to

the action.

(5) Indicate whom to contact to review the information upon which the charge(s) are based.

(6) List any other basic disciplinary action taken against the employee within the last two years.

(7) Provide grievance rights. Grievances will be processed per the procedures in chapter nine or the negotiated agreement if applicable.

(8) Indicate that additional inappropriate conduct may result in more severe disciplinary action that may include termination.

(9) All categories of employees may grieve basic disciplinary actions.

506. Severe Disciplinary Actions. These include the following actions against regular employees based upon conduct or behavior:

- a. Suspensions for over 30 calendar days.
- b. Demotions for cause, (i.e. reducing from a higher to a lower grade or pay band).
- c. Reductions in base pay for cause (not a BBA based pay reduction).
- d. Involuntary separations for cause including separations for performance of regular employees after failure to improve performance to a satisfactory level while under a letter of caution.

c. Processing Severe Disciplinary Actions for Regular Non-probationary Employees

(1) A proposal letter must be given to the employee at least 14 calendar days in advance of the proposed effective date. The employee must continue to be scheduled for work and remain in a pay status unless the employee requests leave is AWOL or is on emergency suspension during the notice period. The employee may be assigned to another work area or directed to stay at home with pay. The proposal letter will:

(a) specify the proposed action, e.g., termination, demotion, suspension for more than 30 calendar days.

(b) state specifically and in detail the reasons supporting the proposed action, including names, dates, times and places. These must be in sufficient detail to permit the employee to understand the events involved and to be able to present a defense.

(c) indicate the right to review the information upon which the charges and specifications are based and whom to contact to review this information. Permission needs to be obtained from the investigating organization to use the necessary portions of the investigation report as a basis of a charge or a specification. Arrests or indictments alone cannot be the supporting documentation for charges until the employee has pled guilty or been convicted in a court of law.

(d) list any other disciplinary action taken against the employee within the last two years.

(e) give the right to provide written rebuttal to the charge(s) and specification(s) within seven calendar days of receipt of the proposed action to the official who is to decide the proposed action. The employee shall be informed that use of official time, without charge to leave or loss of pay, is permitted if in a duty status for preparation of the reply. A location or address to which the rebuttal is to be delivered should be included. The employee's response must be in writing and must identify the relief being sought.

(f) should the employee resign before the decision letter is issued the remarks section of the PAR will state "Employee resigned after being issued a proposed severe disciplinary action letter." This statement shall not be used when the resignation was the part of a settlement agreement between the employee and the head of the NAF activity or some other official authorized to execute a settlement.

(2) After the 14 day advance notice period has passed, the written decision:

(a) shall be delivered to the employee in advance of the effective date of the discipline.

(b) shall indicate that all pertinent material including all information provided by the employee has been

reviewed and fully considered.

(c) shall identify which charge(s) and specification(s) in the original letter of proposal were sustained or not sustained, after consideration of the employee's rebuttal. The rationale for the decision will also be included.

(d) shall state the specific penalty and the effective date of the action.

(e) shall provide the right to appeal the decision in writing, to the next level of management above the person who signed the decision letter, within seven calendar days of receipt of the decision letter.

(f) shall inform the employee of the right to request a formal hearing of this appeal. Should an appeal be requested it shall be granted. The address to which the appeal is to be sent should be included.

(g) shall indicate the right of the employee to be represented by an individual of their choosing during the appeal process subject to the willingness of the individual to serve.

1. Should an employee of the NAF activity be selected as the representative, the head of the NAF activity will determine if there is a conflict of interest issue, and if the employee is available given the needs of the organization.

2. Any fees charged by the employee's representative are the responsibility of the employee. (The employee and their representative will be given a reasonable amount of official time, if requested in writing, to prepare for the hearing.)

(h) shall indicate who will contact the employee to finalize all actions involved in processing the termination.

(i) shall not increase the proposed penalty stated in the proposal letter. The penalty may be less but not more than the proposed penalty.

(3) The standard of proof in all severe disciplinary actions and appeals shall be substantive evidence that is defined as such relevant evidence as a reasonable mind might accept to support a conclusion.

(4) The SF-52 and PAR are prepared and processed after the decision letter has been issued. An employee is not kept on the rolls of the NAF activity for purposes of appeal.

507. Severe Disciplinary Action Appeal Process

a. Severe Disciplinary Action Appeal is the two step process available to regular non-probationary CNIC NAF employees to challenge severe disciplinary actions. NAF employees may not appeal to the Merit Systems Protection Board. Should an employee file an EEO complaint on the disciplinary action, the disciplinary action appeal processing must be delayed until the EEO complaint is resolved. The employee must be informed of any delay in writing.

b. The first step of appeal is through the manager that signed the decision letter being appealed to the next level of management. This is the level that will hold a hearing if requested by the employee in the appeal.

(1) The Hearing. The employee will receive a hearing if requested during the step one appeal. The hearing is used to obtain, verify and consider the facts upon which the severe disciplinary action was taken as well as the reasons the employee feels that the decision should be reversed. A hearing officer will be appointed by the deciding official. A verbatim record of the hearing will be obtained, including the recommendation(s), findings of fact and opinions of the hearing officer, which will be in writing and attached to the record of hearing. The employee or their representative will be given the opportunity to submit evidence and the testimony of witnesses, cross-examine witnesses, and present appropriate affidavits and depositions. The hearing officer must make a written recommendation to the step one deciding official but the deciding official does not have to accept the recommendation. There will be only one formal hearing and the hearing shall be held at the step one appeal level.

c. The second step of this appeal process is through the management level that signed the first step appeal decision to CNIC (N9). The decision of CNIC (N9) is the final Navy decision on the appeal.

d. Step One Appeal Decision

(1) Based upon the record of the hearing, the recommendations of the hearing officer and other pertinent data from the discipline file, the step one deciding official makes the first level appeal decision. The decision must be in writing and should normally be provided to the appellant within 45 days of receipt of the hearing officer's report. If no hearing was requested or held the deciding official should make every effort to provide the appellant with the first level of appeal decision within 45 days of receipt of the appeal.

(2) If the employee does not request a hearing, the deciding official may conduct a "fact finding" relative to the appeal in any manner deemed appropriate, e.g., appointment of a fact finder or investigator, or on the basis of the case as presented.

(3) The decision letter will provide the rationale and further specify the employee's right of appeal to CNIC (N9) within 14 calendar days of the receipt of the written appeal decision, and how and where such an appeal must be filed. The employee has the right to go to step two of the appeal process even if the step one process reduces the discipline to a basic disciplinary action. All appeals must be sent via the step one deciding official to CNIC (N9), and must be postmarked within 14 days of the step one decision.

(4) The step one appeal responsibilities may not be delegated to a lower level of management.

e. Step Two Appeal to CNIC (N9). CNIC (N9) will contact the NAF activity HR office to submit pertinent information including the full appeal file including hearing transcript via an express mail service. The appeal file shall include all documents considered in the action and first step appeal. The CNIC decision will be based upon a review of the appeal file and any other related documents. There will not be a hearing at step two. CNIC (N9) will make every effort to issue a decision within 60 days of receipt of the employee's appeal. Failure to meet this time limit does not automatically give the appellant the requested relief. The CNIC (N9) decision is the final Navy decision and there is no further appeal.

#### 508. Unsatisfactory Performance Situations

a. When a regular, non-probationary employee's performance is considered to be unsatisfactory, the following will apply:

(1) A letter of caution must be issued to the employee that reflects written determinations and documentation by management about the unsatisfactory performance of the employee. Such letters represent non-disciplinary, non-adverse action and are neither grievable nor appealable. A letter of caution will not be included in the employee's OPF unless it is subsequently used as a basis for performance related employment action.

(2) Should the determination of unsatisfactory performance occur while preparing the annual performance evaluation, the annual rating will be delayed until the letter of caution has been issued and the specified remedial period has been completed.

(3) Each letter of caution, based on performance, must

(a) state the employee's performance shortcomings.

(b) state specifically the performance levels that must be met, or corrections made, in order to achieve a satisfactory level.

(c) set a definite remedial period of reasonable duration of 30 days or more. This time frame depends upon such factors as the nature of deficiencies, type of position, etc. It should not appear that management is hurrying the process. Instead, a reasonable amount of time, relative to the type of position involved, and correction/improvements that must be made, needs to be considered in establishing such time frame. During this time, the employee must demonstrate at least satisfactory performance. The remedial period may be extended if appropriate but it may not be terminated early.

(d) state that reasonable assistance will be offered by the employee's supervisor. The type of assistance to be given should be listed.

(e) state that improvement must be sustained.

(f) state that failure to improve may result in demotion, removal or reassignment.

(4) If upon completion of the remedial period, the employee's performance meets the requirements for satisfactory or higher performance as stated in the letter of caution, the employee will be issued a performance evaluation reflecting this level of performance.

(a) The employee will also be notified in writing that similar deficiencies in performance occurring within the next year may result in an adverse action based upon unsatisfactory performance. If this occurs, the action may be completed without the issuance of another letter of caution, or establishment of another trial period.

(b) Issue a severe disciplinary action decision letter with at least 14-days before the effective date of the action for any further unsatisfactory performance within one year. The decision will reference the letter of caution and other records as well as citing the specific performance problems that have reoccurred.

(5) If, upon completion of the remedial period, the employee's performance is still deemed as "unsatisfactory, then demotion, removal, or reassignment action shall be taken.

(a) Reassignment should only be to a position that management has some assurance that the employee can perform satisfactorily. When management decides to reassign the employee, (i.e., place them in another position within the same pay band or grade without loss of pay), such reassignments are made at management's discretion by use of a management initiated SF 52. In such instances, the employee does not have the right to grieve or appeal the reassignment action.

(b) The letter of caution, which must be given for at least 30 calendar days before final reevaluation of the employee's performance, meets the 30-day minimum notice of separation for performance action. The letter of caution replaces the proposal letter for a severe disciplinary action.

(c) Management will issue a final decision letter at the completion of the remedial period when the unsatisfactory performance evaluation is issued. The letter of decision will include a statement justifying the final unsatisfactory rating and identifying the performance requirements listed in the letter of caution that the employee failed to meet and what action was taken to assist the employee in improving. The decision letter will also inform the employee of the specific corrective action to be taken, of the effective date of the action, and of the appeal rights. Severance pay is not authorized under such conditions. The head of the NAF activity will sign final decision letters concerning "unsatisfactory" employee performance.

b. Probationary and flexible employees may be terminated for performance reasons without the issuance of a letter of caution.

509. Processing Disciplinary Actions for Flexible Employees

a. The termination of a flexible employee at the completion of a work assignment, at the end of a NTE appointment or for any reason that will not place adverse information on the employee's record is not considered to be a disciplinary action and is not grievable.

b. DOD 1401.1-M states that a disciplinary action is a personnel action affecting a regular employee. Therefore other than EEO, there are no formal appeal or grievance procedures available to flexible employee on severe disciplinary actions. There should be documentation at the local level of the reason(s) for the action and the employee should be informed in advance of taking the action of the area(s) of concern.

c. Flexible employees will be given at least one-day advance written notice on severe disciplinary actions.

d. The disciplinary action process for flexible employees does not require a proposal letter followed by a decision letter. One letter is issued that identifies the action management has decided to take relative to the conduct or performance that led to the disciplinary action.

e. Since a proposed notice is not used, management must assure that it has gathered or collected all necessary data in support of the action. The decision letter is a notice of finding and decision. As a minimum these letters must include

- (1) the action to be effected, i.e., termination.
- (2) the conduct/performance that led to the decision.
- (3) rationale behind the decision.
- (4) at least one-day advance notice.
- (5) instruction on who to contact to review all evidence relied upon to support the charge.
- (6) specify grievance rights if the action is a basic

disciplinary action. Flexible employees can grieve basic disciplinary actions to the head of the NAF activity and then to the next level of management within seven days of the effective date of the action. They cannot grieve or appeal termination actions.

(7) the step two grievance decision is the final Navy decision on flexible employee grievances.

510. Processing Terminations of Regular Probationary Employees

a. The process for terminating probationary regular employees does not require a proposal letter. The head of the NAF activity must issue the probationary employee a decision letter. Since a proposed notice is not used, management must assure that it has gathered or collected all necessary data in support of the action. A decision letter, as such, is a notice of finding and decision. The termination letter should provide at least one-day advance notice. However, if necessary it can be issued and effective as early as the close of business on the last day of the probationary period as long as the probationary employee receives the decision letter that day. Additional advance notice may be given if desired and there is sufficient time remaining in the probationary period. The employee must receive the decision letter before the probationary period ends.

b. As a minimum, these letters must include

(1) the action being taken.

(2) the reason for the decision. When the reason is performance related, the employee should have been counseled one or more times concerning the deficiency prior to the termination.

(3) the opportunity to review all evidence relied upon to support the action. This evidence may only be counseling notes. The letter should specify the individual to contact to review the information.

(4) the person who will contact them about processing out on the last duty day.

(5) the effective date of the termination.

(6) Probationary employees do not have any grievance or appeal rights other than EEO.

511. Offenses and Recommended Remedies

a. Instructions for use of the Table

(1) The table is a guide. Discipline is corrective in nature and is expected to be progressive for subsequent offenses, and normally falls within the range shown in this figure. Mitigating or aggravating factors can justify a remedy outside the range. For example, remedies greater than those shown can be appropriate when the facts of an aggravated offense, frequent infractions, or simultaneous multiple offenses are established.

(2) Consistent with CNIC policy the table generally provides for a range of remedies (e.g., Reprimand to Removal) to provide management with flexibility in correcting conduct deficiencies. Selection of a reasonable remedy from such a broad range should be made with good judgment.

(3) Some of the offenses listed in this schedule combine several offenses in one statement connected by the word -or.||

Use only the portion of the statement of offense that accurately describes the employee's conduct; leave out all parts that do

not apply. In choosing a charge, it may be better to describe the offense, rather than select a charge from the schedule that does not accurately describe the offense, and then to refer to similar offenses in the schedule when selecting the remedy.

(4) The table does not cover every possible offense. When specifying an offense not listed in the table, be careful when using terms such as -theft|| or -fraud,|| which require establishing the element of intent and should only be used when the element of intent can be proven. Management officials should contact their servicing NAF HR office for assistance in framing appropriate charges.

(5) Due to the nature of their positions, offenses by supervisors or managers may warrant more severe remedies than the same offense committed by a non-supervisory employee.

(6) All disciplinary action cases, whether based on off-duty or on-duty misconduct, require establishment of a nexus or link between the conduct and its effect upon the efficiency of the service. Nexus is normally assumed when the misconduct is sustained in on-duty misconduct cases. In taking adverse

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actions for off-duty misconduct, the deciding official must

show, by preponderant evidence, that the disciplinary action will promote the efficiency of the service by establishing a nexus between the off-duty misconduct and the employee's or NAF activity's performance. The NAF activity should not rely on a presumption of nexus but should make its strongest possible argument and introduce evidence showing the relationship between the misconduct and the employee's or NAF activity's performance.

(7) Other statutory and regulatory offenses. For information concerning other offenses for which employees may be disciplined by removal, fine or imprisonment, including offenses which require minimum mandatory remedies (such as misuse of government vehicles, Hatch Act violations, and giving gifts to superiors), see 5 CFR 734, 735, and 2635, and DOD 5500.7-R.

(8) An alcoholic employee who engages in misconduct need not be offered a choice between treatment and discharge.

(a) To be considered a request for reasonable accommodation, the employee must request accommodation before committing the misconduct that violates one of the agency's qualification standards for employment or job performance and behavior under which the agency uniformly imposes discipline.

(b) There are certain acts of misconduct which when committed by an employee who is an alcoholic or drug addict, take that employee outside the scope of the protecting legislation because the misconduct renders that person not a -qualified|| individual with disabilities. Egregious or notorious misconduct that hampers an employee's ability to perform his or her duties or to represent the agency, or which strikes at the core of the job or the agency's mission, can, standing alone, disqualify a Federal employee from his or her position.

(c) Table 5-1 follows:

**TABLE OF OFFENSES AND RECOMMENDED REMEDIES**

<b>OFFENSES</b>	<b>RANGE OF REMEDIES</b>		
<b>ALCOHOL ABUSE</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Unauthorized possession, sale or transfer of alcohol on duty or on a military ship, aircraft, submarine, NAF activity, or command	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Use of, or being under the influence of alcohol on duty or on a military ship, aircraft, submarine, NAF activity or command	14-day suspension to removal	30-day suspension to removal	Removal
<b>ATTENDANCE</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Excessive unauthorized absence (more than 3 consecutive workdays)	Reprimand to removal	10-day suspension to removal	Removal
Leaving job to which assigned or leaving DON premises at any working time without proper authorization	Reprimand to 5-day suspension	Reprimand to 10-day Suspension	Reprimand to removal

Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Unexcused tardiness	Reprimand	Reprimand to 5-day suspension	Reprimand To removal
<b>DISCRIMINATION</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Discrimination against an employee or applicant based on race, color, religion, sex, disability, national origin, or age, or any reprisal or retaliation action against a complainant, representative, witness, or other person involved in the EEO complaint process	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Discrimination based on sexual orientation	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Sexual harassment	Reprimand To removal	14-day suspension to removal	30-day suspension to removal

<b>DRUG ABUSE</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Unlawful use, being under the influence, or possession of drugs or drug paraphernalia	14-day suspension to removal	Removal	
Unlawful use, being under the influence, or possession of drugs or drug paraphernalia on a military ship, aircraft, or submarine	30-day suspension to removal	Removal	
Refusal to obtain counseling and rehabilitation after having been found to use illegal drugs	Reprimand to removal	Removal	
Unlawful distribution, sale, or transfer of drugs or drug paraphernalia on or off duty	Removal		

DRUG TESTING	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Refusal to provide a urine sample when required	14-day suspension to removal	Removal	
Failure to appear for testing when directed, without a deferral	Reprimand to removal	Removal	
Substituting, adulterating or otherwise tampering with a urine sample, testing equipment or related paraphernalia	14-day suspension to removal	Removal	
Attempted or actual falsification, misstatement or concealment of a material fact, record, correspondence or other communication prepared in connection with the collection, handling, transportation or testing of urine samples	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

<b>MISCELLANEOUS OFFENSES</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Betting, gambling or the promotion thereof on duty or on DON premises	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Careless workmanship resulting in delay in production or spoilage or waste of materials	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Criminal, dishonest, infamous or notoriously disgraceful conduct	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Disobedience to constituted authorities; deliberate refusal or failure or delay in carrying out any proper order, work assignment or instruction; insubordination including failure to follow local or higher level policy	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

Discourteous conduct to the public within any one-year period or any other pattern of discourteous conduct	Reprimand to 14-day suspension	7-day suspension to 14-day suspension	14-day suspension to removal
Disrespectful conduct, use of insulting, abuse or obscene language to or about other personnel	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Falsification (or aiding or assisting in falsification) of time and attendance records or claims against the government	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Falsification, misstatement or concealment of material fact in connection with any official record or proceeding	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Loafing, wasting time, inattention to duty or sleeping on duty	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
Making threats to other employees or supervisor; fighting; engaging in	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

dangerous horseplay			
Misuse of a Government vehicle	Reprimand to removal	30-day suspension to removal	Removal
Reckless driving or improper operation of motor vehicle	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Immoral, indecent or notoriously disgraceful conduct e.g. incest, child abuse, etc.	15 day suspension to removal	Removal	
Violations of the Standards of Conduct or Joint Ethics Regulation	Reprimand to removal	10 day suspension to removal	15 day suspension to removal
Gross Negligence	Reprimand to removal	10 day suspension to removal	Removal
Abuse of NAF privileges	15 day suspension to removal	Removal	

Unsatisfactory performance or conduct offenses by a flexible employee for which a suspension would be given a regular employee	Removal		
Performance or conduct that indicates an inability to adapt to Federal employment during probationary period	Removal		
Unauthorized possession, use, loss, theft or damage to Government property or the property of others	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Misuse of Government equipment (e.g., unauthorized use of electronic mail, Internet, phones, or facsimile equipment)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

Misuse of Government sponsored travel charge card (e.g., use for unauthorized personal expenses, failure to pay charge card bill in a timely manner, or failure to use card for required expenses arising from official travel)	Letter of counseling to removal	5-day suspension to removal	10-day suspension to removal
Unauthorized use of or failure to appropriately control use of Government purchase card	Letter of counseling to removal	14-day suspension to removal	30-day suspension to removal
<b>PROHIBITED PERSONNEL PRACTICE</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Committing a prohibited personnel practice (see 5 U.S.C. 2302)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<b>SAFETY</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Failure to observe posted smoking prohibitions	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

Failure to use protective clothing or equipment	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Violation of safety or traffic regulations on duty or on an installation (on or off duty)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<b>SECURITY</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Failure to safeguard classified material	Reprimand to removal	14-day suspension to removal	Removal
<b>UNAUTHORIZED DISCLOSURE OR USE OF PROTECTED MATERIAL</b>	<b>FIRST OFFENSE</b>	<b>SECOND OFFENSE</b>	<b>THIRD OFFENSE</b>
Unauthorized disclosure or use of information or other protected material (e.g., records covered by the Privacy Act)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
* 31 U.S.C. § 1439(b) requires a minimum suspension of 30 calendar days even for the first offense, if the misuse was willful, i.e., employee acted either with knowledge that the intended use would be characterized as unofficial or with reckless disregard of whether such use was unofficial.			

**Table 5-1**

**CHAPTER 6**  
**Business Based Actions (BBAs)**

601. BBA Policy

a. Additional policy is available in DOD 1401.1-M Chapter V.

b. A BBA is used to adjust resources in response to changes in business revenue, budget, workload, organization, or mission. Covered employees will be issued BBAs if they are identified after an objective, fair and equitable ranking against other employees in the same employment category and group of affected positions. Careful planning is necessary to do as much as possible to reduce adverse effects and avoid administrative and morale problems. It is important to consider whether the cause of the reduction or realignment is temporary or permanent, along with each of the various actions that may be taken. For example, a reduction in hours of work or pay rate may be more appropriate than separation in some cases.

c. There is a requirement in SECNAVINST 12351.5F of 24 February 2000 that an annual notification be made to Congress of the DON downsizing efforts for all APF position Reduction in Force (RIFs) and NAF BBAs. The APF command representative will gather this data and submit a consolidated report to DON. NAF HR offices shall provide NAF data as requested.

(1) While there is no requirement to receive prior approval for a BBA, CNIC (N94) should be sent an information copy of all general notices impacting ten or more employees.

(2) Neither reversion nor retreat rights are provided for in the CNIC BBA process.

d. Delegation of Authority. All BBA notices shall be signed no lower than the management official who has supervisory authority over the total competitive area involved or any supervisor in the employee's chain of command above that level.

602. Types of BBAs

a. Reduction in Pay Rate. Such actions could result from reorganization, realignment of a 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. Reductions should impact all similar

employees in the competitive area. Employees may challenge the perceived equity in application of the decrease in pay. This challenge is in addition to the normally allowed BBA appeals/grievances. Reductions in pay as a result of misconduct are processed using severe disciplinary action procedures.

b. Furlough. A furlough occurs when a regular employee is placed in a non-pay status for business-based reasons for eight calendar days or more (i.e., a temporary layoff for a definite or indefinite period of time). Note: Flexible employees are excluded but shall be placed in a non-work status. As a courtesy, it is recommended that flexible employees be given written notification of any planned furlough, along with its effective and duration dates at the same time that written notices are sent to regular employees.

c. Change in Employment Category. This occurs when an employee is changed for business related reasons to a lower appointment type (e.g., regular to flexible).

d. Change in Work Schedule. This applies only when hours are reduced to the point that an employee is changed from RFT to RPT.

e. Separation. This action entails removal of an employee from the organization for business related reasons. This includes any situation where you abolish the established position. Separations also include reclassification of a PD to a lower grade or pay band. The employee can be offered a voluntary assignment to the reclassified lower pay band or grade job but cannot be BBAed to it. Should the employee decline the voluntary offer to the lower pay band or grade, BBA separation procedures are followed.

### 603. The Process for Taking a BBA - An Overview

a. Significant planning goes into conducting a BBA. A mock BBA often helps determine who is to be impacted by any BBA. The primary steps in a BBA are as follows:

(1) Establish competitive area.

(2) Management makes a decision on the need for a BBA. After this, permanent personnel actions that will impact the BBA should not be taken.

(3) Determine type of BBA action, e.g., furlough,

abolishment of positions.

(4) Determine the effective date of the BBA.

(5) Determine the competitive area(s) and competitive level(s) impacted.

(6) Determine position(s) involved, by title, pay plan, series, grade or pay band level and employment level, e.g., Bartender - NA-7405-4, RFT.

(7) Issue a general notice.

(8) List all involved employees separately by competitive level and area.

(9) Screen personnel files to determine performance evaluation information, to verify SCDs and to calculate the amount of service acceptable for severance pay.

(10) Using performance as a basis place involved employees into their earned performance category (Gold, Silver or Bronze).

(11) Within each performance category place those with the most seniority at the top and those with lesser time in descending order, i.e., by SCD.

(12) Prepare specific individual notices to the impacted employees.

(13) Effect the BBA using the retention register.

(14) Prepare and issue PARs implementing the BBA.

#### 604. An Explanation of the Component Parts of a BBA

a. Competitive Area. This is the agency/NAF activity defined geographical and organizational limits within which employees compete for retention. A competitive area may consist of all or part of an agency/NAF activity. The minimum competitive area is a subdivision of the agency under separate administration within a local commuting area e.g. club, branch, division, etc. All competitive areas must be announced to employees and be in place for a minimum of 90 days from the date of employee notification.

(1) When the NAF activity is one competitive area but one group of employees is working at a location outside the commuting area, the employees outside the commuting area would only be competing against each other. Transfer of function guidelines governs moves between commuting areas.

(2) The ICO/Region (N9)/Region NGIS has the authority to establish local competitive area(s) for the NAF activity. The local determinations must also be in place for at least 90 calendar days before use in a BBA (90 days from publication and employee notification of the change). If local competitive area designations have not been in place for at least 90 days, the following options are available:

(a) The ICO/Region (N9)/Region NGIS may issue local competitive area definitions, inform employees of this determination and wait 90 days before starting any BBA action; OR

(b) Use a competitive area for the BBA of -All NAF employees in the same cost code in the impacted commuting area, inform employees of this determination and wait 90 days before starting any BBA action.

b. Competitive Level. A competitive level represents all positions that are in a competitive area that are of the same

(1) pay plan

(2) series

(3) grade or pay band/level

(4) position title

(5) employment category such as regular or flexible. These categories are never mixed in one competitive level.

(6) work schedule such as RFT or RPT

(a) The following example depicts three different competitive levels for CT positions:

<b>Title</b>	<b>Series-Grade</b>	<b>Employment Category</b>
Bartender	NA-7405-04	Full-time
Bartender	NA-7405-04	Part-time
Bartender	NA-7405-04	Flexible

These positions would never compete with one another during any BBA action.

c. SCDs of Employees in the Competitive Level. SCD for regular employees is the annual leave SCD that includes creditable military service. For flexible employees, use the date of hire in the current NAF activity as "SCD" for BBA purposes.

(1) This is the final piece of data needed for management to conduct a BBA. Each competing employee is placed in the assigned competitive level. Within that level, each competing employee is placed in one of the following three categories, Gold, Silver or Bronze.

(2) Once placed in one of these categories, employees are stratified by their SCDs so that the employee with the least amount of service is placed lowest in the assigned performance group category.

(3) After action has been taken against non-competing employees (NCEs) in the same competitive level and area, if applicable, the employee to be impacted by any given BBA action is the competing employee in the lowest performance category. Within that category, the first impact is to the employee with the most recent SCD.

d. Annual Appraisals and the BBA Process

(1) Performance plays a key role in employee retention and in deciding who is impacted during BBA actions. This provides NAF Activities with a more balanced and equitable BBA approach in that it allows for retention of the most flexible, efficient and productive organization and employees needed to fulfill mission needs.

(2) Only annual appraisals are used in the BBA process. When taking BBAs, performance evaluations used to arrive at the BBA decisions must be at least 90 days old (i.e., have been

signed by the approving official and discussed with the employee 90 days prior to the formal announcement of management's decision to take the needed BBAs). This 90-day requirement means that management cannot issue a performance evaluation and then immediately conduct a BBA based on the new rating.

(3) Locate the two most recent annual evaluations before the General Notice was issued. While there is no time limit for use of the second or "secondary" performance evaluation in an employee's OPF, the most recent rating, i.e., primary rating, cannot be more than 14 months old.

(4) Presumptive ratings will be granted the employee by the servicing NAF HR office as necessary during the BBA process. The personnel specialist completes a performance evaluation form, checks the appropriate overall rating block and types or writes the word "presumptive" beside the checked block, and then signs the form, and places a copy in the employee's OPF. Presumptive ratings should be annotated "For purposes of a BBA dated \_\_\_\_\_ this employee is provided with a presumptive rating of \_\_\_\_\_ based on their most recent, but outdated, annual performance evaluation dated \_\_\_\_\_ (OR based on the fact that they have not been on board long enough to receive an annual rating OR two annual ratings.)"

(a) When the employee has not been on board long enough to be entitled to any annual ratings they will be given two presumptive ratings of satisfactory and these two presumptive ratings will be their two ratings used in the BBA.

(b) When the employee has been on board long enough to be entitled to only one annual rating but not two ratings they will be given a presumptive rating of satisfactory for their second rating. Their one annual rating and the one presumptive rating will be their two ratings.

(c) When the employee has been on board long enough to be entitled to two annual performance evaluations and does not have a second rating, has a rating less than 90 days old or the most recent rating is more than 14 months old, the employee will be given a presumptive duplicate rating, i.e. equal to the last rating over 90 days old in the OPF. The presumptive rating score and the previously over 14 month old score become the two ratings. These two rating scores will be used to determine the employee's performance category.

e. Performance Category. There are three performance

categories, Gold, Silver, and Bronze. The categories are determined by adding the scores for the last two current annual performance evaluations.

(1) The following points system will be used for each annual rating.

Performance Evaluation	Points
Outstanding	5
Highly Satisfactory	4
Satisfactory	3
Minimally Satisfactory	1
Unsatisfactory	0

(a) Using above ratings and points, and the requirement to use two ratings during the BBA process, the following are possible variations in "adding" any two ratings:

RATINGS	SCORE
Outstanding/plus outstanding	10 points
Outstanding/plus highly satisfactory	9 points
Outstanding/plus satisfactory	8 points
Highly satisfactory/plus highly satisfactory	8 points
Highly satisfactory/plus satisfactory	7 points
Satisfactory/plus satisfactory equals	6 points
Highly Satisfactory/plus minimally satisfactory	5 points
Minimally Satisfactory/plus minimally satisfactory	2 points

(b) Using the above point values, competing employees are placed into one of the three performance categories as follows for BBA purposes.

PERFORMANCE CATEGORY	POINTS
Gold	9 and 10
Silver	7 and 8
Bronze	1 through 6

(c) When an employee's last performance evaluation is "unsatisfactory" and performance is still judged as such,

that employee is a NCE irrespective of total score of two ratings. Such employees, therefore, must be impacted before any other employee in their competitive level.

(d) When NCEs are to be impacted by any given BBA, they will be impacted in the following order:

1. All employees in the competitive level whose latest record of rating is -unsatisfactory|| (when such rating has not been upgraded due to a higher performance evaluation based on improved performance). In such cases, the improved rating would count as the employee's most recent annual performance evaluation, and have such counted in determining assigned performance evaluation category, i.e., Gold, Silver, or Bronze. Where there is more than one -unsatisfactory|| in a given competitive level, management decides which employee or employees are impacted based upon their comparative evaluation of the employees in this group.

2. The second group of NCEs to be impacted (only after all -unsatisfactory|| employees in the competitive level have been impacted, or in absence of such employees) are employees on a time limited appointment.

3. The third group of NCEs is flexible employees with less than three years service.

4. The fourth group of NCEs is regular probationary employees. When there is more than one regular probationary employee in the competitive level, the BBA procedure used will be the same as that for regular non-probationary employees, except that only one performance evaluation will be used.

#### 605. Employee Notification

a. Limitation on Effective Date. BBAs will not be issued with an effective date for separation during the period 15 December through 3 January; nor, will any such notices be issued for delivery to employees during this period.

b. General Notice. All employees in the NAF activity that may be affected will be provided initial information simultaneously. This may be done in writing. The written notification should provide general information not specific to identified positions. Employees should not perceive the notice as an official BBA proposal. A group meeting may also be

helpful; especially one in which employees may ask questions and receive answers. This shall occur at least one calendar day before BBA notices are issued.

c. Specific Written Notice. Specific BBA written notices will contain the following:

(1) Employee's name, current position title, series, grade/pay band level, rate of pay and type of employee. This identifies the competitive level to which assigned.

(2) A description of the BBA and the reason for it.

(3) Effective date of action.

(4) When the action is separation

(a) Statement that the action is non-disciplinary and does not preclude re-employment.

(b) Information on the RPL.

c) Information on eligibility for use of the Interchange Agreement to apply for APF positions for one year from date of separation.

(d) Information on unemployment compensation.

(e) Statement that BBA register may be reviewed by impacted employees or their representatives and where this may be done.

(f) Information on benefits including advice on loss of benefits if applicable.

(g) Employee's appeal rights and right to representation during the appeal.

(h) Information on severance pay entitlement if applicable. Severance pay information is in chapter 3.

(i) Point of contact for additional information.

(j) The minimum specific advance notice periods are:

Employment Category	Minimum Period Requirement	
	Separations	All other BBA Actions
Regular Non-Probationary	30 days	7 days
Flexible Employees with 3 or more years in the NAF activity	7 days	24 hours
Regular Probationary	7 days	24 hours
Flexible Employees with less than 3 years in the NAF activity, employees with time limited appointments, and employees with current performance evaluation of unsatisfactory	24 hours	24 hours

**Table 6-1**

606. Challenging BBAs

a. General. Regular non-probationary and flexible employees with at least three consecutive years of service in the current NAF activity have a right to appeal within seven calendar days after the effective date of the BBA if they believe BBA regulations and procedures were not properly applied (on the grounds of critical procedural error). Flexible employees with less than three years of service can grieve for the same reason. This is the only reason a BBA may be appealed or grieved. Management decisions regarding the budget, workload, organization, and mission are reserved to management and are not appealable or grievable. Should an employee allege that the action resulted from an act of discrimination, the action may only be contested through the discrimination complaint procedure.

b. Decision Impact. 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. However, when 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. A corrected BBA letter is issued and the BBA process continues.

c. Representation. An employee may be accompanied, represented, and advised by a representative of their own choosing, provided the person is willing and free to do so. The

employee will designate their representative in writing and provide the designation to the first stage appeal deciding official. The representative's service must not result in a conflict of interest as determined by the Region Director. All costs for the representative will be borne by the employee.

d. Use of Official Time. The employee and their designated representative may use reasonable amounts of official duty time to prepare and present appeals, subject to supervisory determination as to when such time may be used in light of priority needs of the NAF activity.

e. BBA Appeal Procedure. The BBA appeal process is different than the disciplinary action appeal process and does not include the right to a hearing. The appeal procedure for regular non-probationary employees and flexible employees with three or more years of continuous service is as follows:

(1) First Stage. Not later than seven calendar days after the effective date of the BBA, an employee or their representative may present a written appeal to the lowest level of management that can grant the relief (usually the person who signed the BBA notice). The appeal request must state the regulation; instruction or other pertinent source not complied with by management in conducting the BBA. Every effort will be made to resolve the matter promptly and fairly at this stage. A written decision will be provided the employee within seven calendar days of receipt of the appeal. The decision will

(a) summarize the issue.

(b) the consideration given.

(c) advise the employee of the right to seek relief at the next stage within seven calendar days of the receipt of the first stage decision if the employee is not satisfied

(d) advise the employee how and where to file the next stage of the appeal request.

(e) If the decision is not issued in a timely manner, the employee may proceed to the second stage of the BBA appeal process.

(2) Second Stage. A written appeal shall be submitted up the chain of command to the next level of

management above the person who signed the BBA specific notice. Upon receipt of the BBA appeal, the deciding official may designate a disinterested third party to review the facts and make a recommendation to the deciding official. The employee has no right to demand a formal hearing in BBA appeals. A written decision should be provided to the employee within 45 calendar days of receipt of the appeal and shall

(a) summarize the issue.

(b) the consideration given.

(c) advise a regular employee of the right to file an appeal to CNIC (N9) within seven calendar days of the receipt of the second stage decision if the employee is not satisfied. There is no further appeal above this second stage level for flexible employees with more than three years service.

(3) Third Stage. This stage applies to regular non-probationary employees only, who, if dissatisfied with the decision, may appeal to CNIC (N9) within seven calendar days after receipt of the step two BBA appeal decision. CNIC (N9) shall make a decision based on the written records within 30 calendar days of receipt of the appeal and appeal file from the NAF activity. There is no further appeal above this level.

f. Reemployment Priority Lists (RPLs). RPL guidelines are in DOD 1400.25-M SC 1403, DOD 1401.1-M Chapter V.

g. BBA Records. A BBA file must be established whenever such action(s) are taken. Such files will be maintained for two years from the effective date of the action and will contain:

(1) the general notification to employees announcing the need for the BBA.

(2) a copy of the BBA register.

(3) a copy of the specific letter or notice sent to each employee.

(4) a copy of the individual PAR that executes the BBA.

(5) a copy of the full appeal file with the required contents.

(6) an annotated and updated copy of RPL(s) established

as a result of the BBA.

- (7) any grievance or appeal involved to include
  - (a) a copy of the employee's written appeal for each stage of the appeal process that is used.
  - (b) a copy of all of the management responses to the appeal.
  - (c) all of the documents involved in the final disposition of the appeal.
  - (d) any other material deemed relevant.

**CHAPTER 7**  
**RETIREMENT AND INSURANCE**

701. Background and Policy. CNIC retirement and insurance benefits for NAF Activities under the cognizance of CNIC are administered per applicable laws, executive orders, rules and regulations regardless of whether or not they are referenced in this instruction. Should there be any conflicts between any correspondence, publication, conversation, web page or other issuance and the specific benefit Plan Document, the Plan Document prevails.

a. Navy NAF regular employees are offered a comprehensive benefits package. It is important for every eligible employee to understand the opportunities offered in these benefits programs. Brochures, containing cost and other specific information, are provided to an employee when the employee is appointed to a regular position. Information is also on the web site that includes CNIC (N94) information.

b. Each NAF activity HR office shall publicize open seasons and changes as they occur.

c. Safety and Claims Management. Claims procedures and policies are contained in CNICINST 5890.1. Workers' compensation claims are covered later in this instruction and are managed by CNIC (N94).

702. Retirement Plan

a. Retirement Coverage. CNIC provides a retirement plan for eligible employees. Retirement benefit payments under this plan are integrated with social security benefits.

b. Eligibility. Retirement plan participation is open to CNIC NAF employees who:

(1) are a RFT CNIC NAF employee working in the U.S. or;

(2) are a RPT CNIC NAF employee in the U.S. scheduled to work at least 20 hours a week and at least five months a year or;

(3) are U.S. citizens working overseas in one of the above employment groups. Non-U.S. citizens overseas are not eligible to enroll in the retirement plan.

c. Participation. Employee participation in the retirement plan is voluntary. The employee and the employer share the cost of the plan.

d. Retirement eligibility depends upon the years of retirement eligible NAF service. The amount of the annuity depends upon the years of plan service.

e. Retirement Eligibility

(1) Eligibility for a full retirement annuity:

AGE	Years of NAF Service
62 or older	5
60	20
55	30

(2) Early retirement eligibility:

(a) Age 52 or older with at least five years of CNIC retirement eligible NAF service. Benefits between age 52 and 62 are reduced by one-third of one percent for each month under age 62.

(b) Age 50 with 20 years of CNIC retirement eligible NAF service or 25 years of CNIC retirement eligible NAF service at any age if terminated by BBA action. There is a reduction of one-sixth of one percent for each month the person is under age 55 after a BBA.

(3) Participants will lose their eligibility for an immediate early annuity if they are terminated for cause, or if they resign pending termination or pending investigation.

(4) Employees scheduled for termination as a result of A-76 or Functionality Assessment (FA) study or similar restructuring may be permitted, upon request, to use their annual leave to extend their employment to make them eligible for retirement.

f. Termination of Employment or Change in Employment Status. The following options are available to employees when, for any reason other than death, their employment as a CNIC NAF employee ends, a portability election to retain CNIC NAF retirement is executed, or the employment status is changed to

flexible prior to normal or early retirement eligibility.

(1) Option A. An employee may have all contributions returned. In addition, if an employee has been employed and contributed to the plan for three full years, interest will be paid on the refunded contributions. Interest is not paid when an employee terminates before completing three full years of credited service.

(2) Option B. When an employee has completed more than five years of credited service, the employee may elect to leave their contributions in the plan, and when eligible, receive an annuity on their normal retirement eligibility date or their early retirement eligibility date.

g. DOD Portability Program in relation to CNIC Retirement. Employees who move between civil service and NAF may make an election to remain in the retirement system of the losing employment system. When the employee elects to retain the retirement system of the losing employer, the election is irrevocable. Therefore, regardless of any future moves between NAF and civil service employment, in or out of DOD, breaks in service, or retirement status, the employee's retirement coverage would remain with the plan in which the employee elected to retain membership. Employee deductions, employee match, etc. continue as if the employee were still an employee of the employment system of the retirement election

h. Retirement Application. Employees need to submit all of the following to their NAF HR office:

(1) Application for retirement.

(2) Evidence of age and copy of birth certificate. If married send a copy of the marriage certificate and a copy of the spouse's birth certification.

(3) Copy of Social Security Award Letter.

(4) Copies of the consecutive three highest W-2 pay statements.

(5) May elect to provide their Social Security Benefit estimate provided by the Social Security Administration.

i. The employee is responsible for providing proof of service or contributions if not available in CNIC (N94).

j. Reemployment as a CNIC NAF employee after CNIC NAF retirement is covered in chapter 2.

703. Disability Plan. CNIC offers a disability plan that works with sick leave, social security, and workers' compensation to provide income protection for employees who develop non-occupational disabilities.

a. Eligibility. All RFT NAF employees are eligible to enroll except at NAF activities outside the U.S. or its Territories, where participation is limited to RFT employees who are U.S. citizens.

b. Enrollment. A regular employee may enroll without providing medical evidence during the first 31 days of employment. Enrollment opportunities after this period are very limited and subject to submission of statement of health and approval by the servicing insurance administrator.

c. Receiving Disability Benefits

(1) To be eligible for disability benefits, an employee must be totally disabled for two consecutive months and sick leave must be exhausted. Accumulated annual leave and donated leave may also be used during the two-month waiting period. If accrued or donated leave is not available to cover the waiting period, LWOP will be used. If donated leave is used it can only be used during the two month waiting period and it must be exhausted prior to receiving disability payments. After disability is approved payments will start the workday after all annual, sick and donated leave payments ended. An employee may not receive disability payments for any period that they were on paid leave.

(2) Total disability means that an employee cannot perform any gainful employment that the employee is qualified for based upon their training, education and experience.

(3) Normally, disability benefit payments continue until the employee recovers, becomes 65 years of age or dies. However an employee who becomes disabled:

(a) between age 62 and 64 may receive disability payments for up to 36 months.

(b) between age 65 and 67 may receive disability

payments for up to 24 months.

(c) at age 68 or older may receive disability payments for up to 12 months.

704. Unemployment Compensation Benefits. Civilian employees of NAF activities and military personnel employed voluntarily during off-duty hours may be considered to have rendered -Federal Service|| within the meaning of 5 USC 8501-8508, entitling them to unemployment benefits. Individual State unemployment offices administer the unemployment compensation program. OCONUS U.S. citizen employees may apply for payment upon return to CONUS.

a. When a NAF activity receives a request for payment of unemployment wages, the NAF activity should check "exempt" in the block provided and return the form to the originating IRS office. The returned forms should contain the following statement -NAF activities under the cognizance of the CNIC within the CONUS and overseas qualify as NAF activities as defined in Revenue Ruling 54-566 and are therefore exempt from these taxes.||

b. Whenever a CONUS NAF employee or when an OCONUS NAF employee that is returning to CONUS is separated for any reason, placed in a non-pay status for more than seven consecutive days, or transferred to another payroll office with a break in service, the NAF activity must do the following:

(1) Complete a PAR. This PAR will specify the date of the separation action and the reason for separation.

(2) Complete a Notice to Federal Employees SF-8, Unemployment Insurance, showing the full name and address of the NAF activity where payroll records are maintained. Immediately below the address insert: -Navy Clubs and Recreation System  
808.||

(3) Deliver the original SF-8 and separation PAR to the employee and place a copy of the PAR in the employee's OPF.

c. The following actions are required upon receipt of inquiries from State unemployment agencies:

(1) When a former employee files a claim for unemployment compensation, the State agency will forward an ES-

931, Request for Wage and Separation Information to the NAF activity listed on the SF-8. When the ES-931 is received by the NAF activity, the form must be completed in detail and returned to the State agency within four working days. If, for any reason, the four-day limit cannot be met, the State agency must be advised of the reason for the delay and the estimated completion date.

(2) If, for any reason, the information supplied on ES-931 is not adequate, the State agency or State administrative appeal authority will request additional forms. These requests for information are subject to the same time limit and controls as the ES-931. The local NAF activity should furnish any relevant information requested unless the information is prohibited from release by law.

(3) On unemployment compensation related forms, ensure that -Navy Clubs and Recreation System 808|| is inserted in the block indicated for Name of Parent Federal Agency.

(4) Upon notification of an unemployment hearing a member of the NAF HR office or some other management official with knowledge of the reason and circumstances involved in the employee separation will make arrangements to participate in the hearing. Participation through conference call may be arranged with the unemployment hearing official. The final decision on payment or non-payment of unemployment compensation is based upon State rules and the State has the authority to pay or not make payments.

705. Group Medical, Dental and Life Insurance Plans. CNIC NAF offers group medical and dental. Medical insurance is available through the DOD Uniform Health Plan (UHP). Health Maintenance Organizations (HMOs) are available in some geographic locations, in addition to the DOD UHP.

a. Medical and Dental Eligibility and Enrollment Options

(1) All RFT and RPT NAF employees are eligible to enroll except at NAF activities outside the U.S. or its Territories; participation is limited to RFT and RPT employees who are U.S. citizens. Off duty military employees are not eligible to enroll.

(2) To apply for group plan coverage the employee must complete the required enrollment forms and get them to the NAF HR office within the required timeframes as follows:

(a) During an employee's initial 31-day eligibility period (when appointed as a regular employee).

(b) New enrollment after the initial 31-day window for medical coverage can only be during open seasons that occur every year or for a documented loss of other coverage.

1. Once enrolled, you can only make changes in your medical and dental plan during open seasons or within 31 days of a life-changing event.

2. You can only cancel coverage during open season or if there is a change in family status and the enrollee can show that, as a result of the qualifying life event, he/she now has other health insurance coverage.

3. Every year during open season employees already enrolled in medical may

a. enroll in medical/dental.

b. add or drop dependants.

c. change medical coverage.

d. cancel medical/dental.

(3) When an insured employee enrolls in family medical insurance within 31 days of gaining a family member, the insurance will become effective on the date of enrollment though deductions may not start until the beginning of a new pay period. A newborn child will be covered from the date of birth, if application for family coverage is made within 31 days of birth. Children of covered employees shall be eligible for medical coverage to age 26.

(4) Verification of enrollment in the Uniform Health Benefit (UHB). Each month each NAF HR office receives an audit certification list from medical providers and other medical vendors. Each NAF HR office shall check this certificate every month and notify the medical provider of any corrections.

(5) Employees who are covered by the DOD NAF UHB and are either separated or placed in a LWOP status to perform military service may continue to be covered by this health plan for up to 24 months, unless the employee elects in writing to have the

enrollment terminated. If the employee chooses to continue the health plan and the employee has been called to active duty in support of a contingency operation, the NAF activity will pay the employee share of the premium. If the employee's military service is not in support of a contingency operation, the employee is responsible for paying the employee's share of the premium for the 24 months.

b. Life Insurance Eligibility and Enrollment Options

(1) All RFT NAF employees are eligible to enroll except at NAF activities outside the U.S. or its Territories; where participation is limited to RFT U.S. citizen employees. Off duty military employees are not eligible to enroll.

Retirees' eligibility to continue to carry life insurance is covered later in this chapter.

(2) RFT employees may elect one of the following group life insurance options:

(a) Basic life that is the annual salary rounded up to the next thousand plus \$2,000 e.g. an employee with an annual salary of \$18,700 would have \$21,000 coverage.

(b) Optional life coverage up to six times the employee's annual salary with a maximum benefit of \$750,000 in coverage combined with basic life coverage.

(c) Employee's who enroll in basic life are automatically given Accidental Death and Dismemberment (AD&D) coverage at no cost.

c. Effective Date of Coverage. Effective dates of coverage are set as follows:

(1) For new employees group insurance becomes effective the day the employee signs and submits the enrollment election forms to personnel provided the enrollment forms are received in the NAF HR office within the first 31 days of eligible employment. Deductions will begin at the beginning of a pay period though the employee will be covered once the enrollment form is accepted.

(2) During open enrollment periods the effective date shall be as specified by CNIC (N94).

(3) For life insurance purposes, employees on LWOP at the time of enrollment or increase in coverage must return to work for life insurance increase or for coverage to become effective.

(4) The amount of basic life and AD&D coverage will change with the effective date of the pay adjustment, unless the employee is not in a pay status on that date. If the employee is not in a pay status on the date of the pay adjustment, the amount of coverage will not change until the employee returns to a pay status for one full day. Employee deductions will change the same pay period as the pay adjustment.

d. Termination of Medical and Life Coverage

(1) An employee ceases to be insured on the earliest of the following:

(a) The date employment ends.

(b) The date an employee on LWOP does not make the required premium payment. Premium payments will be submitted to the employing NAF activity and must be received not later than the payday for each pay period the employee is on LWOP.

(c) The date the master group contract terminates.

(2) A family member ceases to be insured on the earliest of the following dates:

(a) The date the family member becomes ineligible per the applicable plan document.

(b) The date the employee is no longer insured.

(c) The last day of the last pay period for which an employee makes contributions for family member coverage.

(d) The day the master group contract terminates.

(3) Employees covered by medical insurance benefits may elect temporary continued coverage per the rules of the NAF DOD HBP.

e. Open Season. An open season for group insurance will be announced periodically. The open enrollment period will normally be a 30-day period. Employees applying for disability

or group life coverage during open season shall provide statement of health with the application.

706. Savings and Investment Plan (401-K). This is a voluntary long-term savings and investment program that can be a supplement to the retirement plan. Employee payments into the plan reduce the employee's taxable income and lower the employee's income taxes. A Third Party Administrator (TPA) operates the plan with CNIC (N94) providing overall plan management. Specific plan information booklets are provided to eligible employees upon hire and are available at <http://www.mwr.navy.mil>.

a. Eligibility. All RFT and RPT NAF employees including off duty military employees age 18 or over are eligible to enroll except at NAF activities outside the U.S. or its territories, where participation is limited to RFT U.S. citizen employees.

b. Enrollment. Enrollment is permitted during the first open enrollment after entering an eligible position (Open enrollment periods occur in the first month of each quarter). Newly eligible employees may elect to enroll in the 401K plan within 31 days of hire or they must wait until the next open enrollment period.

c. Deductions. Employees can save any percentage, within two decimal places, of their base pay in the Plan as long as the total employee contributions do not exceed the IRS Annual Limit.

d. Vesting. There is a one-year vesting period before employer contributions to the plan become available to the employee within the IRS limits. Employer contributions are never available for Hardship withdrawals.

707. Prohibitions. The group insurance and retirement benefit plans are offered to employees on a voluntary and contributory basis. Rates are set centrally. Payment by any NAF activity of the employee's contribution is prohibited. Only the employee can pay the employee contribution.

708. Long Term Care (LTC) Insurance. DOD has approved CNIC NAF employee eligibility for the same LTC Insurance available to Civil Service employees. The plan will also offer coverage to CNIC NAF retirees. The enrollment process and payment process will be fully administered between the employee and the provider. There will not be any payroll deduction. Employees

may obtain information concerning the program at  
<http://www.ltcfed.com>.

709. DOD Transportation Incentive Program. Executive Order 13150 of April 21, 2000 directed Federal agencies including NAF to establish a transportation incentive program. The Department of Transportation (DOT) is handling this program for all Federal agencies. Employees apply directly to DOT for the incentive. DOT then sends the bill to CNIC (N94) for action.

**CHAPTER 8**  
**ADMINISTRATIVE GRIEVANCE PROCEDURES**

801. Employee Grievances - General. A grievance is a request by an employee or by a group of employees for personal relief from matters of concern or dissatisfaction that are subject to the control of the NAF activity as well as requests for relief from personnel actions. The process outlined in this chapter will be the only grievance process available to any CNIC NAF employee not covered by a negotiated union grievance process. Employees who are part of a recognized bargaining unit must use their negotiated grievance procedures unless excluded from doing so.

802. Exclusions. All of the following are matters that are excluded from coverage of the grievance process. These matters will not be accepted as grievances.

a. Grievances covered by a negotiated agreement. The negotiated procedure is the exclusive procedure available for resolving grievances that fall within the coverage of the collective bargaining agreement.

b. Actions taken pertaining to the security program.

c. Separation during the probationary period provided all procedural requirements have been met.

d. Separation from a flexible appointment (unless the separation is for BBA and the employee has been on the rolls of the NAF activity for three continuous years).

e. Allegations of discrimination on the basis of race, age, color, religion, sex, disability, or national origin. These cases should be referred to the EEO Office.

f. Personnel actions voluntarily requested by the employee.

g. Granting or not granting an honorary or monetary award.

h. Granting or not granting a pay increase to a pay band employee.

i. The content of published policy applicable to CNIC NAF employees.

j. A specific action required by an authority outside of CNIC or any matter subject to final administrative review outside CNIC.

k. Wage or salary rates or schedules established by appropriate authority.

l. Terminating a temporary promotion or temporary pay increase due to the assignment of additional duties and the return to the rate of pay that was being received prior to the temporary promotion.

m. Non-selection from a referral list of properly certified candidates.

n. Letter of Caution or warning of a proposed unsatisfactory performance evaluation.

o. Management decisions regarding budget, workload, organization, and mission.

p. Allegations of mismanagement or any other allegations/situations when no form of personal relief to the grieving employee is appropriate.

q. Release of information and records from Navy files.

r. Reassignment to a position at the same rate of pay or grade/level and in the same employment category.

s. Content of performance standards.

t. Separation of off duty military employees upon withdrawal of their military CO approval to work.

u. Any matter that has its own review or appeal procedure stated as part of its regulatory provisions.

v. Matters accepted by the Inspector General for review.

w. Any issue previously decided in an earlier grievance, complaint or appeal brought by the employee.

x. Actions such as counseling sessions that do not harm the employee.

803. Employee Rights

a. All employees will be treated fairly and equitably in all respects. Those who feel they have not been so treated have a right to present their grievance to appropriate management officials for prompt consideration and decision. An employee may exercise this right personally or through a personal representative. In exercising this right, the employee will be unimpeded and free from restraint, coercion, discrimination, or reprisal. Dissatisfactions and disagreements arise occasionally in any work situation; the filing of a grievance will not be construed as reflecting unfavorably on the quality of supervision or on the general management of an organization.

b. Grievances will be resolved or decided at the lowest practicable organizational level and in the shortest time possible.

c. Consideration of a grievance must be expeditious, fair, thorough, and impartial. Lengthy delays in the resolution of a grievance may overshadow the original matter about which the grievant was dissatisfied, with an accompanying adverse effect on morale.

d. Upon request, grievants may be given redacted information from official records related to their grievance. However, records or investigative work products will not be released if prohibited by law or regulation. Also, grievants will be given full access to relevant regulations and official directives. When feasible, extracts or copies of these regulations and directives will be given to the grievant on request.

e. Both the aggrieved and the designated representative may be present at any phase of the process and may review documentary evidence. Review of the documentary evidence or attendance at group meetings or interviews will not be permitted by any individual whose involvement is not required for resolution of the case.

804. Employee Representation

a. A grievant may be accompanied, represented, and advised by a representative of choice. The representative's service must not result in a conflict or apparent conflict of interest or position, conflict with the priority needs of the service, or cause unreasonable cost to the NAF. Similarly, a representative

of a labor organization may not represent supervisory personnel. The NAF management official may not designate a representative for an employee nor require any employee or individual to serve as a representative of another employee. All expenses of the grievant and representative shall be the responsibility of the grievant, the representative, or both.

b. Representatives must be designated in writing. The representative's name will be sent through the grievant's immediate supervisor to the NAF HR office. Changes in representatives must be made in writing in the same manner.

c. The head of the NAF activity may disapprove a grievant's choice of representative at any time. The employee will be told, in writing, the specific reasons for the disapproval.

d. The representative must obey the same rules of conduct and procedures as the grievant.

#### 805. Use of Official Time and Resources

a. The aggrieved employee and designated representative, if otherwise in an active duty status as a CNIC NAF employee may use reasonable amounts of official time, subject to supervisory approval. The time allowed depends on the facts of the specific case. Official time must be requested in writing from the supervisor and may be used to

(1) get advice on rights and privileges from official sources.

(2) get information on or assistance with the grievance from official sources (for example, get copies of witnesses' statements, etc.)

(3) present the grievance.

b. Official time will not be granted for preparing a grievance, organizing materials, writing, or typing it.

#### 806. Discontinuance of Consideration

a. A grievance may be canceled at any time at the grievant's request. The request will be in writing and should state briefly the reasons for the request. When a grievant requests that a grievance be canceled, a subsequent grievance on the same matter may not be filed.

b. Any unjustified delay or dilatory tactic on the part of the grievant will serve as a basis for closing out action on a grievance. Specifically, failure without reasonable basis to furnish requested information within specified time limits, or any other unjustifiable delay in the processing of the case, will justify closing the case and rendering a decision on the basis of the information available. Unjustified delay on the part of management will serve as basis for the employee to request that the grievance move to the next higher level.

c. If the grievant resigns, dies, or is separated before a decision is reached, action will be stopped and all interested parties will be notified promptly in writing that the case is being closed without decision. A copy of this notification will be made a part of the case record. If a separation or a pay issue is involved, the case will be processed to conclusion in the same manner as though the grievant had remained on the rolls.

d. When a grievance is terminated, the grievant will be informed of the reasons in writing, unless the grievant has been separated from the rolls voluntarily or unless the case is closed because of death.

#### 807. Grievance Steps

a. There are two formal steps in the agency grievance process. However, employees and supervisors are encouraged to discuss issues informally before a formal grievance is initiated. Many issues are usually resolved through open communication. There is not any requirement the employee do this. The employee may go directly to step one.

##### b. Formal Step One

(1) A formal written grievance may be submitted up the employee's chain of command to the lowest level supervisor who can grant relief. The grievance shall be submitted not later than seven calendar days after the effective date or date the event occurred or the date that the employee became aware of the event that is the basis of the grievance. Written step one or step two grievances, must contain

(a) a detailed and clear description of the grievance.

(b) a summary of previous attempts or steps taken to resolve the issue.

(c) the relief sought.

(2) Upon receipt of the grievance the deciding official may resolve the grievance on the basis of the record. If further information is required, a disinterested third party may be designated to obtain the facts and if desired a recommendation to the deciding official. This fact finder may not be a subordinate of an official involved in the grievance unless that official is the ICO/Region (N9)/Region NGIS.

(3) The step one deciding official may approve and implement the recommendation of the fact finder, or determine another resolution. A written decision will be provided to the employee within 30 calendar days of receipt of the grievance. If the fact-finding process will be lengthy the employee will be advised of the expected date of decision. Failure to render a decision within 90 calendar days is basis for the employee to request forwarding the grievance to the next higher level. The written decision on the grievance shall summarize the grievance and the consideration given. The employee will be advised that if they are dissatisfied with the step one decision, the grievance may be presented to step two not later than seven calendar days from the date of the receipt of the step one decision.

c. Formal Step Two Process

(1) Within seven days of receiving the step one decision, or in the event such response was not received within the specified time-frame, the employee may continue the attempt to resolve the grievance by filing a written grievance to next level of command above the step one deciding official unless the step one official was the ICO/Region (N9)/Region NGIS. If the ICO/Region (N9)/Region NGIS was the deciding official in step one, the step one decision is the final answer and there is not any step two.

(2) If step two is used by the grievant, the step one manager will provide the step two official with all available information concerning the grievance. The step two official may use any means to gather relevant information in order to arrive at the facts of the case, e.g., appointment of a fact finder, or a review of the case as presented. Based on the review of the grievance issue(s), the step two official shall issue a written

response of the findings and decision to the employee. The step two official's decision is the final Navy decision. The step two official should provide the grievant with a written decision within 90 days of receipt of the grievance

(3) CNIC (N94) is not a party to step one or step two grievances unless the employee is assigned to CNIC (N94) or the grievance involves an action taken by CNIC (N94).

(4) Employees do not have a right to a formal hearing under the grievance process, (i.e., a hearing presided over by a hearing officer during which witnesses/affidavits may be used and a comprehensive transcript of proceedings recorded.)

d. Grievance File. A grievance file will be established and maintained by the servicing personnel office and must contain all documents related to the grievance.

e. Regulatory interpretation. When the only issue in a grievance involves the interpretation of a regulation or policy, the proponent of the regulation or policy may be requested to provide interpretation and decision.

f. Issues previously decided. If an employee attempts to grieve an issue that was decided in an earlier grievance by the same employee, the previous decision will be cited and the grievance rejected.

g. Grievances of Performance Evaluations. An employee may grieve the overall performance evaluation, or the rating of an individual factor using the two step procedure above. When grieving performance, the employee shall provide written justification as to why the rating should be different. The burden of proof rests with the employee for ratings of satisfactory or above. An employee may also grieve a supervisor's failure to provide a timely appraisal of performance. Grievances must be filed within seven days of receipt of the rating. If the issue concerns the supervisor's failure to issue a timely performance evaluation, the grievance must be filed within seven days of the expiration date of the current, or last annual rating. This time may be extended when the employee has not been informed in a timely fashion as to the date of their next rating. Management should consider a supervisor's use, or neglect of the appraisal rating process during overall annual performance evaluation of each supervisor/manager.

h. NF and CY classification complaint guidance is in section 319.

**CHAPTER 9**  
**WORKERS' COMPENSATION PROGRAM**

901. NONAPPROPRIATED FUND INSTRUMENTALITIES ACT (NAFIA) 5  
U.S.C. 8171-8173

a. Self-insurance. The NAFIA which was effective 18 November 1958 extended the provisions of the LHWCA (33 U.S.C. 901 et seq.) to NAF employees. The LHWCA pertains to NAF employees of the Federal government, and is administered by the DOL. The individual workers' compensation statutes that are administered by the various States do not have jurisdiction over NAF employees of the Federal government. In order to comply with the NAFIA CNIC self-insures the workers' compensation insurance program that covers all CNIC NAF employees for accidental injuries or occupational diseases arising out of and in the course and scope of their employment.

b. Provisions. The NAFIA does not require the employee to establish the employer's fault for the employee's accident, nor does the employee have to prove they were entirely free from fault for their own accident/injury. The only requirement is that the injury arose out of, and occurred during the course and scope of employment. If so, the employer is liable for all valid workers' compensation claims without regard to fault.

c. Limitations/Requirements. The NAFIA removes the employee's common law right against the employer and substitutes a remedy that requires the employer to pay specific benefits. This obligation on the employer to pay under this statute becomes an absolute or strict liability of the employer. In other words, the statute makes it mandatory that the employer pays the costs that accrue to all valid workers' compensation claims. However, it also prevents the employee from suing the employer for damages as a result of that employee's job-related injury or occupational disease.

902. Applicability. Provisions of the NAFIA apply to benefits for disability or death resulting from job-related injury or occupational disease to:

- a. employees of the NAF activity within the United States.
- b. U.S. citizens, or permanent residents of the United States or its territories and possessions while employed by the NAF activity outside the U.S.

903. Exclusions

a. Active Duty. Active duty military members including those employed during their off-duty hours are not eligible for NAF workers' compensation. Military members receive medical, dental and disability benefit coverage from their military status, regardless of whether an injury or illness occurs while they are on or off-duty.

b. Foreign National Employees. Heads of NAF Activities at overseas activities must advise CNIC (N94) promptly upon determination that they have foreign national employees including third country foreign national employees without workers' compensation or medical coverage. These employees are normally provided coverage through local law, under a provision of a SOFA, a contract or some other document that provides benefits to foreign national NAF employees. Third country foreign national employees are those employees without U. S. citizenship, who are citizens of a country other than the host country where the overseas naval installation is located. If there is not already something in place to provide this coverage, the Region Commander shall meet this need to provide workers' compensation and medical coverage through the purchase of a separate commercial insurance policy that provides workers' compensation and medical coverage for these type employees. CNIC does not provide this coverage to foreign nationals including third country national employees.

c. Contract Personnel. Contract personnel including NAF employees while performing contract duties are not covered by workers' compensation. Contract personnel are required to provide their own coverage under their contract.

904. Coverage. Compensation will be paid under the LHWCA for the disability or death of an employee arising out of and in the course of employment or when it is related to it. Compensation may be denied if the injury was due solely to intoxication or resulted from a willful intent to injure or kill themselves or another person. In broad terms, the LHWCA covers employees during the following times:

a. From the time they report for duty until the time they leave at the end of working hours.

b. During travel away from their duty station under orders of temporary duty or during local travel at the direction of the

employer, unless the employee deviates from the course and scope of employment.

c. The LHWCA does not normally cover an employee while they are going to or from their place of work.

905. Program Administration. CNIC (N94) provides overall management for the self-insured workers' compensation program.

Day to day processing is usually handled through a Third Party Administrator. CNIC (N94) will publicize the address, phone number, etc. of the TPA to NAF ACTIVITIES as changes occur.

906. Benefits Authorized. Workers' compensation benefits are stated in the LHWCA and NAFIA. Highlights of these benefits are listed below.

a. Medical Care. NAF employees eligible for benefits are entitled to medical services (including required dental care), medicines and supplies, to the extent required by the nature and severity of their injury as required by the recovery and rehabilitation process, subject to the provisions of the LHWCA.

(1) Electing Treating Physician. An employee has the right to choose an attending physician who will be authorized to provide care under the LHWCA. An employee may not change physicians after they have made an initial selection of an attending physician unless prior TPA consent has been given for the change. When prompt treatment is needed and the employee is unable to choose a doctor, the head of the NAF activity will select one.

(2) Forms Submission. The treating physician shall, within 10 days after the first treatment, send a medical report using DOL LS-1 (Rev. MAY 1998), Request for Examination and/or Treatment, part B, to the Deputy Commissioner of the local DOL and the TPA. Thereafter, the doctor should send supplemental reports to these same places at regular intervals using DOL LS-204 (Rev. MAY 1998), Attending Physician's Supplementary Report (Longshore and Harbor Worker's Compensation Act, as extended).

b. Disability Compensation

(1) Total Disability. Employees permanently or temporarily totally disabled because of an on-the-job injury or occupational disease may receive 66 2/3 percent of their average weekly wage (AWW), subject to the maximum and minimum rate specified in law. The AWW will not exceed an amount equal to

200 percent of the national AWW as determined by Secretary of Labor, or be less than 50 percent of the national AWW as determined by Secretary of Labor. Employees whose AWW is less than the minimum receive 100 percent of their AWW.

(2) Partial Disability. Compensation for temporary or permanent partial disability is two-thirds of the difference between the AWW before the injury and the wage-earning capacity after the injury. In addition, employees who lose parts of the body (fingers, toes, hands, feet, arms, legs, and eyes) may be entitled to scheduled awards.

c. Death Benefits. The following benefits are payable if an injury results in a qualifying work-related death.

(1) Reasonable funeral expenses not to exceed \$3,000.

(2) When a widow or widower survives the decedent with no children, that spouse shall receive 50% of the decedent's average weekly wage until death or remarriage. If children survive in addition to the widow or widower, an additional 16 2/3% of the average weekly wage shall be added per child. However, the total compensation shall not exceed 66 2/3% of the decedent's average weekly wage. Regardless of whether one or more than one, child survives together with a widow or widower, only 16 2/3% of the average weekly wage will be added to the spouse's 50%.

(3) Benefits are also payable to other persons who satisfy the term "dependent" as defined in the LHWCA.

d. Total Payments. Total compensation payable in all cases will not exceed 66 2/3 percent of the employee's AWW. Payments are made bi-weekly.

907. Willful False Statements. Any claimant or claimant's representative who knowingly and willfully makes a false statement to obtain benefits under the NAFIA is guilty of a felony and may be fined or imprisoned or both. Any person who knowingly and willfully makes a false statement for the purpose of reducing, denying or terminating benefits to an injured employee may be fined or imprisoned or both. In addition, employees found to have violated either of these requirements are subject to severe disciplinary action, including possible termination. The LHWCA provides guidance on penalties for misrepresentation.

908. Fees to Representatives. All notices of representation must be approved by DOL. Secretary of Labor will not approve payment of a fee to a claimant's representative who has been disqualified from representing claimants under the LHWCA.

909. Posting Notice of Coverage. Individual NAF Activities will post a notice to employees (DOL LS-242, provided annually by CNIC (N94)) in a place where the employees can easily see it. This notice states that CNIC NAF employees have workers' compensation coverage under the LHWCA.

910. Obtaining Forms. All DOL LS forms required by the employer can be obtained from the TPA or downloaded from <http://www.dol.gov/library/forms/index.asp>.

911. Workers' Compensation Claims Procedures. The head of the NAF activity will ensure compliance with all workers' compensation requirements. Employing NAF HR offices shall monitor HR actions and events involving employees with workers' compensation claims.

a. When an employee is injured or develops an occupational disease the following steps will be followed:

(1) The employee shall immediately notify their supervisor or the NAF HR office. Failure to make this notification promptly and before seeking medical treatment could adversely impact the employee's workers' compensation claim.

(2) Medical treatment will be arranged if needed. In the case of an emergency, treatment can be at a military medical facility. In other cases treatment will normally be by a civilian medical facility or civilian doctor. When an employee is injured and medical treatment is necessary, administrative leave may be granted for the initial first aid treatment on the date of the injury.

(3) When medical treatment is needed, a NAF HR office employee or other authorized person will complete part A of the DOL LS-1. The employer must enter the name and address of the physician or medical facility authorized to provide medical service in block #2, type of treatment authorized in block #7, and the NAF activity HR office address in block #13. This form is only released per claim and it must have the name of the authorized physician or medical facility listed in block #2. Do not release this form if the employee does not know where treatment will be rendered. The completed part A of this form

should be sent with the employee to the physician or medical facility except in emergency situations. In emergencies the first priority is to arrange for emergency medical care. The physician should complete part B and send the completed form as directed on part A to the NAF activity HR office where a copy will be made and the original form sent to the TPA. Authorization (using the DOL LS-1) can only be given once per claim. Further medical authorization must be obtained from the TPA.

(4) Complete DOL LS-202 (Rev. Oct 1998), Employer's First Report of Injury or Occupational Illness. In cases of severe injury or death, the NAF activity shall notify CNIC (N94) within 24 hours. The employer's first report of injury DOL LS-202 is required by Federal law and must be fully completed by the employing NAF activity and must be filed within ten days from (1) the date of any injury or death; (block #3 on the LS-202); or (2) the date CNIC first had knowledge of an employment related injury, illness, occupational disease or infection (block #22 on the DOL LS-202). DOL LS-202 forms will be prepared and signed by the head of the NAF activity or their designated representatives. A CNIC NAF HR specialist prior to signature will provide technical review. If DOL LS-202 is not filed within ten days, from the time that the NAF had knowledge of an employment related injury, illness, occupational disease or infection, the CNIC organization will be liable for fines/penalties imposed by the DOL, to a maximum amount of \$1,000. The employer should inform the TPA of any doubtful aspects of the claim when filing. Any questions regarding claims processing or workers' compensation benefits should be addressed to the TPA or to CNIC (N94).

(5) Complete DOL LS-210 (Rev. OCT 1998, Employer's Supplementary Report of Accident or Occupational Illness. This form must be completed to report any lost time in excess of three days. Block 15 must show a return-to-work date. This form must be completed each pay period when the employee continues to be disabled from performing their duties. Receipt of the DOL LS-210 by the TPA provides confirmation that benefits should or should not continue to be paid to the employee, depending on whether the form indicates that the employee has returned to work or not.

(6) If the employee is going to be off work, advise the employee regular and recurring medical statements shall be submitted on a timely basis to the HR office. Failure to provide this information may result in the loss of workers'

compensation payments as well as disciplinary action. The NAF HR office will forward a copy of the medical statements to the TPA. The NAF HR office should send the employee a written request with a deadline to provide the necessary supporting documentation for any time that medical status statements are not provided in a timely manner. Even in long term disability situations the NAF activity will require updates at least every 60-90 days. If the employee fails to comply, notify the TPA.

(7) If the employee receives medical documentation they are fully recovered within one year of the date of injury, the NAF HR office will process the paperwork necessary to return the employee to work. NAF Activities will also provide duty consistent with medical restrictions if available.

(8) If the employee is unable to return to work after one year of receiving workers' compensation, a separation disability will be processed but the employee may continue to receive workers' compensation if appropriate.

b. Assist the TPA. The NAF HR office of the employee will assist the TPA with claims servicing and coordination as needed. All items such as bills, reports, doctor or employee correspondence flow through the NAF HR office to the TPA.

912. Forms Submission. All DOL LS forms, whether or not there is loss of time or medical expense involved with the claim shall be initially sent to the NAF activity HR office. The NAF activity HR office will maintain a copy of the form and promptly distribute the forms as follows:

a. Submit the original DOL LS 202 to the DOL when the employee loses one or more work shifts. In cases where the injury has not caused the loss of one work shift, the form must be maintained at the local NAF activity in the event that the employee loses additional time in the future due to the same injury.

b. Submit a copy of the DOL LS 202 to the TPA. Submit the original of all other DOL LS forms to the TPA.

913. Leave Status of Employees for Workers' Compensation Benefits. Compensation is not provided for the first three days of disability. This is the waiting period. If the injury is disabling for more than 14 days, there is no waiting period and the employee will be paid for these first three days under the LWHCA. If lost time does not exceed 14 days, the employee may

be offered the option of using paid leave retroactively for these first three days after returning to work

a. Employees are authorized to take annual or sick leave for work related disability periods during the first three days of absence after an on the job injury or in addition to compensation to make up 40 hours. Should an employee elect to use annual leave or sick leave for this period they must complete and turn into NAF HR the CNIC NAF Workers Compensation Leave Option Form.

b. Employees on approved workers' compensation disability will be carried on the rolls in a LWOP status (timekeeping system does not provide a receiving workers' compensation status). Supervisors will ensure employee is providing proper documentation on a continuing basis to remain in this status. An employee receiving workers' compensation cannot be separated for at least one year for not being able to work. If an employee is separated after one year, they will continue to be paid their compensation and the NAF activity will have very little if any ability to end the cost of the payments.

914. Use of Military Medical Facilities. Use of military medical facilities by NAF employees is normally limited to initial or emergency treatment only. In overseas areas or in remote areas of the U.S. where there are no adequate civilian medical facilities for NAF employees, follow-up treatments or hospitalization in military facilities may be authorized. The employee may be required to directly pay for military medical treatment. The receipts will then be sent to the TPA through the servicing NAF activity HR OFFICE for reimbursement.

915. Long-Term Inability to Perform the Duties of the Position.

a. When an employee is injured on the job and a workers' compensation claim is accepted as valid, the NAF activity shall keep the employee on the rolls in a workers' compensation status for one year from the date of the injury. The exceptions to this are

(1) employees serving on a time-limited appointment may be terminated due to separation of appointment but these individuals may continue to receive worker's compensation payments as appropriate.

(2) employees with a medical prognosis that recovery will not occur within the year may be separated due to

disability but they may continue to receive workers' compensation payments as appropriate.

b. At the end of one year, the NAF activity may separate the employee due to disability but the employee will continue to receive workers' compensation payments as appropriate.

## CHAPTER 10 OVERSEAS EMPLOYMENT

### 1001. Overseas Employment Policy

a. DOD policies and laws governing employment practices for NAF personnel in 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. NAF personnel policies developed in any one area shall apply uniformly to all NAF elements of the U.S. Forces in the same area.

b. Except as otherwise specified in this manual, Subchapters 1230, 1231, 1250, 1251, 1261 and 1412 of DOD 1400.25-M are applicable to CNIC NAF Activities and their employees.

c. Third (Other) Country Nationals. The importation of workers from another country by a NAF activity shall only be made when personnel requirements cannot be met by local hire(s). 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.

d. Resident Aliens. Resident aliens shall be employed per agreements made with the host country.

### 1002. Allowances and Differentials

a. Authorization. Subject to pre-employment negotiation, allowances and differentials for U.S. citizen/U.S. national employees in foreign areas may be authorized.

b. Controls. If allowances and differentials are authorized, they will be administered per provisions of DOD 1400.25-M, SC 1250 and 1405 and Department of State Standardized Regulations (Government Civilians Foreign Areas) SC 031.11, 031.12a, 031.12b, and 031.12c, 031.2 and 031.13. Allowances and differentials will not exceed those provided to civil service employees in comparable positions.

c. Limitations. In the case of U.S. citizens/U.S. nationals recruited locally overseas who may claim allowance/differential eligibility, extreme care must be

exercised to ascertain that the prospective employee has not held other interim employment between the last entitlement eligibility. The employee should not have exited the country on official "end of assignment" travel orders and reentered at the employee's own expense for the purpose of establishing residence, or seeking employment with an instrumentality of the U.S. Government. Such interim employment, or exit and reentry would disqualify the employee for any allowance/differential eligibility.

1003. Relocation Travel and Household Goods Costs for Employees Recruited in the U.S.

a. Movement Overseas

(1) Subject to pre-employment negotiation costs for travel and movement of household goods, not to exceed the limitations set forth in JTR, volume II, may be authorized provided sufficient local NAF funds are available to defray these expenses. A Transportation Agreement must be executed when these entitlements are offered to a NAF employee. The Transportation Agreement shall not authorize return rights unless approved by the losing NAF activity. If the DD 1617 (NOV 1999) is used, delete any inapplicable portions of the first paragraph.

(2) Employees who complete less than one year of employment with the NAF activity will be required to reimburse the NAF activity for relocation costs unless the Region Commander forgives the debt.

(3) NAF HR offices shall maintain a suspense file on individual tour completion. The employee may make a written request for a tour extension not earlier than eight months before the end of the tour and not later than six months before the end of the tour. NAF Activities may also take the initiative and issue an invitation to renew to employees who will be accepted for renewal. The decision to approve an employee's request for tour renewal is a command prerogative. When a tour ends the employee loses U.S. Government sponsorship which is required for the employee to remain in the overseas location as a nonresident alien. NAF Activities should make every effort to provide written notification to employees whose tour will end and not be renewed six months before the end of the tour but not later than 90 days before the end of the tour. Employees without return rights shall be terminated at the end of the tour and provided return travel to CONUS within 90 days.

This termination is a non-disciplinary termination and is not appealable or grievable.

b. Relocation Costs for Return Home

(1) Return travel and movement of household goods costs upon completion of an overseas tour may be authorized at a level that does not exceed the limitations set forth in JTR, volume II.

(2) Funds must be reserved by the NAF activity to pay for costs to return an employee to the home of record in the U.S., its territories or possessions, upon completion of the employee's tour. Any costs of this return transportation, beyond those associated with return to the employee's home of record, will be borne by the employee or the gaining NAF activity.

(3) Employees are not entitled to return relocation costs until they have completed their tour of duty, unless otherwise approved by the Region CO.

1004. Return Rights

a. Eligibility. NAF return rights may be negotiated with the losing NAF activity in advance of the PCS move. Consideration is limited to NAF employees in grades NF-4 and above who have been employed within the CNIC NAF system for more than two years at a NAF activity located within the 50 states. Selection must be for a position at a CNIC NAF activity outside the 50 states.

b. Negotiated Return Rights

(1) Local NAF Activity Return Rights. The employee is responsible for initially negotiating return rights with the losing NAF activity. Return rights are limited to the last position held by the employee in the losing NAF activity. The return rights agreement must be in the form of a "Memorandum of Understanding" (MOU) signed and duly witnessed.

(2) CNIC NAF Employee Return Rights. If return rights are not approved at the local level, an employee may request return rights, in writing via the chain of command, from CNIC (N94). Any request must be submitted and approved in writing in advance of commencement of travel. Approval of CNIC (N94) return rights will be in writing and on a limited and selective

basis.

(3) NAF employees who were recruited in the U.S., its territories or possessions, or who otherwise qualify under that criteria and who have satisfactorily completed the established tour in the foreign area may request placement assistance from CNIC (N94). An employee who desires this assistance should submit a current OF 612 (FEB 2002), Optional Application for Federal Employment or resume, to CNIC (N94) at least six months prior to completion of a tour unless a tour renewal agreement has been negotiated with the Region CO. The application must list at least three geographic areas, in order of preference, for priority placement consideration.

c. Tour Completion

(1) Once extended to the employee, return rights are contingent on the successful completion of the normal tour in the area by the employee. Failure to meet this requirement nullifies a return rights agreement.

(2) Employees must inform their original NAF activity and CNIC (N94) of their intention to exercise return rights not later than six months before the completion of their tour outside the 50 states. Before return rights can actually be exercised, however, the employee must be within 30 days of successful completion of the tour requirement.

d. Duration of Return Rights. Return rights may be negotiated for a period not to exceed the length of the normal tour for the area. Return rights may be renegotiated for extensions not to exceed five years if approved by both the affected NAF activity and CNIC (N94) after the Region CO has approved the extension of time in the overseas area.

e. If an employee exercising return rights under the CNIC (N94) return rights program is offered a comparable position within the 50 states and refuses the offer, their return rights will be canceled.

f. When an employee accepts a comparable offer, the gaining NAF activity will fund the difference between returning the employee to the last place of employment within the 50 states and the new duty station.

g. Any exceptions to the policy must be approved by the appropriate NAF Activities which employ the individual and CNIC

(N94) .

h. The refusal to authorize return rights is a management prerogative and is not grievable or appealable.

i. When a NAF activity authorizes return rights to a NAF employee, the employee's position shall be filled as an encumbered position. If the position is abolished while the employee is gone, it will be reestablished long enough to run a BBA when the employee returns.

1005. Use of Department of Defense Schools (DODDS). Dependents of NAF employees may be enrolled in DOD dependent schools on a space available basis as outlined in DODEA Regulation 1342.13 of 20 Sep 2006.

## **APPENDIX A DEFINITIONS**

The following definitions apply, except where they may conflict with public law (P.L.).

Accrued Annual Leave. Leave earned which is credited to an employee's account during the current leave year.

Accumulated Annual Leave. Unused annual leave remaining to the credit of an employee at the end of any pay period.

Accrued Sick Leave. Leave accrued and credited to an employee's account during the current leave year.

Accumulated Sick Leave. Unused sick leave remaining to the credit of the employee at the end of any pay period.

Administrative Leave. The administratively authorized absence from duty without loss of pay, and without charge to earned leave.

Agency. When stated in this instruction and other regulations, in the Code of Federal Regulations (CFR), Title V and other regulations, agency means DOD or one of the other executive agencies/Departments i.e. Treasury, Health and Human Services, etc. Navy, Army, and Air Force are components/departments of DOD but are not agencies in this context.

Appropriated Fund (APF) Employee. A person appointed to a competitive service position administered by OPM and paid from funds appropriated by Congress (Civil Service GS and WG).

Base Pay. As used in this manual, means the rate of pay for an 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. Base pay, which includes basic and locality pay, may not exceed the maximum rate for the employee's pay band.

Best Qualified (BQ). Are employees who have a rating and ranking score above the cut-off score and are placed on the referral for selection.

Break-in-Service. A separation from the rolls for a period of one day is considered a break in service under the Interchange Agreement. For most other situations including the Portability

Laws, a break in service is a break of more than three calendar days. A period of absence for military duty or worker compensation, followed by the timely exercise of reemployment rights, is not regarded as a break in service for purposes of this instruction.

Business Based Action (BBA). A BBA is a reduction in an employment category or pay rate, a furlough of eight calendar days or more, a reduction in grade as a result of a reclassification action, 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 performance or conduct deficiencies. 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.

BBA Competing Employees. All regular non-probationary employees and flexible employees with three or more continuous years at the NAF activity and are assigned to the competitive level impacted by the BBA.

BBA Non-Competing Employees (NCE). NAF employees who do not meet the competing employee definition. NCEs do not compete with competing employees under BBA procedures. Such employees may however, compete with one another in determining BBA impact before any competing employees in the same competitive level are impacted by the BBA. NCEs include:

(a) regular employees still under a probationary period on the date the general notice is issued.

(b) regular employees with a current unsatisfactory performance evaluation.

(c) flexible employees with less than three continuous years of service in the current NAF activity on the date the BBA general notice is issued.

(d) all employees on time limited appointments.

Career Progression Promotion. Career progression positions with known grade level promotion potential shall be competitively advertised rather than filled by reassignment action to ensure fairness and to provide an opportunity for other qualified candidates to apply for the position.

Career Promotion. A career promotion (pay band increase) is the promotion of an employee without current competition when competition was held at an earlier date and the employee was appointed to an entry or intermediate grade level position designed or intended to prepare them for the higher graded full performance level of the position being filled. A NAF activity may make successive noncompetitive promotions of such an employee until the full performance level of the career series or occupation is reached as long as the promotion potential was included in the initial vacancy announcement.

Categories of Employees. There are only two categories of employees, regular and flexible. Other descriptive terms are often used to describe circumstances. Most new hires are either competitive selections off of a vacancy announcement or noncompetitive reinstatements of former NAF employees.

CC and GSE. Obsolete descriptive designations that previously were used to identify child care positions with their "GS" counterpart. CY is now the appropriate pay plan.

CY. The pay band symbol used to identify the pay plan code of caregivers.

CY Full Performance or Target Level. The grade or level of the position that an employee is expected to attain once all required training has been satisfactorily completed. The target level is CY-II (GSE-04).

Competitive Area. This is the agency/NAF activity defined geographical and organizational limits within which employees compete for retention. A competitive area may consist of all or part of an agency/NAF activity. The minimum competitive area is a subdivision of the agency under separate administration within a local commuting area.

Concessionaire. An entrepreneur placed under contract to an authorized NAF activity for the purpose of providing goods or services.

Continuous Service. The total period of time, from the date of appointment until the date of separation.

Contractor. An individual obtained through the appropriate contracting procedures to perform a service or function that does not require a NAF employee. An employee employer

relationship does not exist with a contractor and CNIC.

Days. Wherever appearing throughout this manual, unless otherwise specified, days mean calendar days.

Developmental Position. Position is established to allow recruitment at a reduced grade. The individual is competitively selected into the position in a lower pay band. Upon successfully completing training, or otherwise meeting the qualification and performance requirements of the target grade, the incumbent holding such positions may be non-competitively promoted to the higher or full performance pay band. Positions that call for noncompetitive movement to higher pay bands must be clearly announced as jobs having the potential to move to a full performance level/higher pay band upon meeting management's stated requirements. The full performance level pay band, position, and title will be shown in the announcement.

Flexible Employee. Employees who serve in either continuing or temporary (time limited) positions, on a scheduled or unscheduled (as needed or intermittent) basis, up to 40 hours per week. Flexible employees are not eligible to participate in the CNIC benefit programs, nor are they entitled to earn or use leave including military leave, court leave, sick or annual leave. All flexible employees will be officially placed on the payroll of the employing NAF activity. The change between scheduled and unscheduled does not require a competitive action and is not grievable. The termination of a flexible employee for cause or performance requires written notification to the employee. In many cases (as specified in this instruction) flexible employees are not covered by grievance or appeal procedures.

Foreign Areas. Areas situated outside the United States, Federated State-of-Micronesia, and Republic of the Marshall Islands (all formerly the Trust Territory of the Pacific Islands), Commonwealth of Puerto Rico, Panama and the possessions of the U.S. (including the Commonwealth of the Northern Marianas Islands, a U.S. Territory).

Head of a NAF activity. The individual responsible for the oversight and fiduciary accountability, for the central, non-APF account as well as the business operations of a NAF activity. Personnel actions and travel orders for the incumbent of this position shall be approved one supervisory level above the head of the NAF activity.

Holiday Premium Pay. This is the extra pay at the employee's basic rate of pay when the employee is entitled to holiday pay and works on the holiday. When an employee entitled to a holiday works on the holiday, the employee is paid both holiday pay and holiday premium pay (the equivalent of double time) for the non-overtime hours that the employee would normally be scheduled for on the holiday.

Host Country. A foreign country where U.S. forces are stationed.

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

Human Resources. This term incorporates all of the aspects of personnel rules, regulations and policies.

Indirect Hire System. A system where 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.

In-service Placement. A noncompetitive action in which a position is filled with a current or former competitive service employee through promotion, reassignment, change to lower grade, transfer, reinstatement, reemployment, or restoration. In-service placement also includes noncompetitive conversion of appointees whose NAF positions are involuntarily converted to APF.

Installation Commanding Officer (ICO). Military head of the installation or command. Depending upon the Region organization functions in this instruction may be exercised by the Region (N9)/Region NGIS or a CNIC staff Head instead of the ICO.

Leave Year. The period that begins on the first day of the first full pay period in January and ends on the last day of the last pay period that starts in December each year. The cutoff date for "use or lose" annual leave is the end of the last pay period that begins in December and ends in January.

Legal Holidays. 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 APF employees), or any other calendar day designated as a holiday by Federal statute or executive order.

Local National NAF Employee. A citizen or native of a host country employed in the host country by or for a NAF activity.

Local Prevailing Rates. Rates determined by wage surveys, paid to local national personnel employed in retail, wholesale, service, and recreation establishments for comparable jobs.

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.

NAF. NAF funds consist of cash and other assets received by NAF activities from sources other than moneys appropriated by the Congress. NAF funds are Government funds and are used for the collective benefit of military personnel, their family members, and authorized civilians who generate them. These funds are separate and apart from funds that are recorded in the books of the Treasurer of the U.S.

NAF Activity. Within this instruction, this is referring to the total region F&FR organization. It can also include N9 staff organizations like Millington Detachment N941. It does not mean an installation, geographic location or any part of a region organization.

NAF Employee. A person employed by a NAF activity and compensated from NAF.

NAFI. In DOD regulations this refers to the six major NAF employers in DOD (the Army, the Navy CNIC, The Navy Exchange Command (NEXCOM), the Marine Corps, the Air Force, and the Army and Air Force Exchange Service (AAFES).

Non-U.S. Citizen. An individual who is not a citizen of the U.S.

Non-U.S. Citizen Dependent of a U.S. Citizen. A non-U.S. citizen NAF employee who is a bona fide dependent of a U.S. citizen serving in a foreign area, and where such dependents are recognized by the host government as part of the U.S. Armed Forces under a SOFA.

Non-U.S. Member of the U.S. Armed Forces. A citizen of a

foreign country who is serving on active duty as a member of the U.S. Armed Forces. When employed in an off-duty status as a NAF employee, such personnel will be treated the same as U.S. citizen members of the U.S. Armed Forces who are NAF employees.

Personnel Action Report (PAR). CNIC 5314/2 (Rev 4-94) or the electronic Systems Applications and Procedures (SAP) system substitute will be prepared to document all changes in employee category, pay, position, name, organization, job title, pay plan, series, grade, awards, details more than 30 days and SCD. A PAR shall also be prepared for periods of leave without pay (LWOP), lost time for worker compensation, and suspensions. Once the PAR is signed by the delegated approving official it becomes the legal record of the action. An individual shall never approve a PAR on themselves or any relative.

Positions of Trust. Positions of trust are positions that have been assigned responsibility for cash or inventory values in excess of \$5,000.

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

Promotion. A promotion occurs when an employee is moved from a position in one pay band to a higher pay band.

Regular Employee. These are NAF employees in continuing positions who work 20 or more hours a week on a regular, recurring and scheduled basis. Those who are scheduled to work between 35-40 hours per week in this capacity are regular full-time (RFT) employees, and those who are scheduled to work 20 to 34 hours a week are regular part-time (RPT) employees.

Resident Aliens. A person who is foreign-born and who is residing in the host country and is not become a citizen of the U.S.

Service Computation Date (SCD). The date either actual or constructed by crediting service used to determine annual leave accrual. The leave SCD is used on BBA retention rosters. It is the effective date of the employee's first NAF Regular appointment. The date must be recalculated every time an employee changes employment, uses over six months LWOP in a

leave year or has creditable military service. The SCD is constructed by totaling the days, months and years of the employee's creditable civilian and military service and subtracting that total from the effective date of the employee's most recent regular appointment.

Testing Designated Positions (TDPs). TDPs include the following categories of employees:

- (a) Positions which authorize the incumbent to carry firearms.
- (b) Positions that require the incumbent to operate a motor vehicle that transports one or more passengers on at least a weekly basis.
- (c) Positions that require operators to have a commercial driver's license (CDL) and who drive motor vehicles weighing more than 26,001 pounds, or drive motor vehicles transporting hazardous materials.
- (d) Positions that require a Secret security clearance.
- (e) Railroad operating personnel.
- (f) Aviation operating personnel.
- (g) Fire and Rescue personnel.
- (h) Munitions and explosive handling personnel
- (i) Child care employees.

Temporary Emergency Flexible Positions. Individuals who meet the minimum qualifications requirements of the position may be hired into flexible pay band and Craft and Trade (CT) positions for not more than 30 days in the event of an emergency without using competitive procedures. Temporary emergency hire flexible employees are prohibited from employment in food service or beverage handling, and processing or servicing positions, prior to issuance of a Food Handlers Certificate. Temporary emergency flexible employees may be extended for an additional 30 days with CNIC (N94) approval.

Temporary Promotion. A temporary promotion occurs when a pay band employee is moved from a lower to a higher pay band for a

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specified period of time. Temporary promotions may be made for

up to six months on a noncompetitive basis, and up to two years on a competitive basis. Temporary promotions beyond six months time frame must be made through competitive procedures. Persons promoted on a temporary basis must be given the normal promotion pay increase until the temporary promotion ends. Then the employee's pay is reduced to where it would have been without the temporary promotion.

Third (Other) Country National NAF Activity Employee. A citizen or national of a country other than the U.S. or the host country, who is employed by a NAF activity.

Transfers. The movement of a NAF employee from one NAF activity to another, without a break in service, while remaining in the same pay band and the same or lower employment category. Such movements may be made on a noncompetitive basis as long as all special preference program requirements are complied with.

(a) The head of the NAF activity shall document the incumbent's qualifications for the new position, either by memorandum or a new application for employment from the incumbent, prior to the reassignment as well as the reason why the individual was selected noncompetitively.

(b) All PDs must be written, approved and classified prior to the transfer and kept current.

U.S. National. A person who is born:

(a) in an outlying possession of the U.S. 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 U.S.

(c) of unknown parents in an outlying possession of the U.S.

**APPENDIX B  
FORMS**

1. The following forms are available from the GSA Federal Supply System through normal supply procurement procedures and at <http://www.dior.whs.mil/icdhome/forms.htm>:

a. DD 1172-2 (OCT 2002), Application for DOD Common Access Card DEERS Enrollment

b. DD 1351 (JUL 1999), Travel Voucher.

c. DD 1556 (AUG 2002), Request Authorization, Agreement, Certification of Training and Reimbursement.

d. DD 1610 (JAN 2001), Request and Authorization for TDY Travel of DOD Personnel.

e. DD 1617 (NOV 1999), Department of Defense (DOD) Transfer of Civilian Employees Outside CONUS (OCONUS) Transportation Agreement.

f. DD 2793 (FEB 2002), Volunteer Agreement for Appropriated Fund Activities and Nonappropriated Fund Instrumentalities.

2. The following Department of Labor forms are available at <http://www.dol.gov/esa/owcp.dlhwc/lsforms.htm>:

a. DOL LS-1 (Rev. May 1998), Request for Examination and/or Treatment.

b. DOL LS-202 (Rev. Oct 1998), Employer's First Report of Injury or Occupational Illness.

c. DOL LS-204 (Rev. May 1998), Attending Physician's Supplementary Report (Longshore and Harbor Worker's Compensation Act, as extended).

d. DOL LS-210 (Rev. Oct 1998), Employer's Supplementary Report of Accident or Occupational Illness.

e. DOL LS-242. This form is provided annually to all installations from CNIC (N94).

3. The following form is available from State employment security offices. This form is initiated by the employment security office with jurisdiction to obtain information to process unemployment claims. Activities should not need to initiate this form. ES-931, Request for Wage and Separation Information.

4. The following form is available at <http://www.ins.gov/graphics/index.htm>: INS I-9 (21 Nov 91), Employment Eligibility Verification.

5. The following forms are available from the Internal Revenue Service (IRS) Forms Distribution Center or may be downloaded from the IRS web site: [http://www.irs.gov/form\\_pubs/forms/html](http://www.irs.gov/form_pubs/forms/html):

- a. IRS 1099, Miscellaneous Income.
- b. IRS 4070, Employee's Report on Tips.
- d. W-4, Employee's Withholding Allowance Certificate.

6. The following forms are available in the Naval Inventory Control Point using requisition procedures contained in CD-ROM NAVSUP PUB 600 (NLL), Navy Stock List of Publications and Forms or at <http://forms.daps.mil/order/> and are loaded under personnel at <http://www.mwr.navy.mil>:

- a. CNIC 5300/14 (Rev. 03-03), Request for Nonappropriated Fund (NAF) Folders.
- b. CNIC 5300/17 (Rev. 03-03), Navy Nonappropriated Fund Employee Performance Evaluation Form.
- c. CNIC 5314/2 (Rev. 4-94), Personnel Action Report.
- d. CNIC 12300/18 (03-03), New Employee Indoctrination Check List.
- e. CNIC 12300/23 (01-03), Additional Data Sheet N253.
- f. CNIC 12630/1 (01-03), NAF Request for Leave or Approved Absence.
- g. CNIC 12630/2 (8-72), NAF Employee Leave Record.
- h. NAVSO 4650/10 (Rev. 8-72), Department of the Navy Invitation Travel Order.

7. The following forms are available at  
[http://www.gsa.gov/Portal/content/offerings\\_content.jsp?contentOID=116369&contentType=1004&P=1&S=1](http://www.gsa.gov/Portal/content/offerings_content.jsp?contentOID=116369&contentType=1004&P=1&S=1):

a. OF-8 (01/1985), Position Description.

b. OF-612 (09/1994), Optional Application for Federal Employment.

8. The following form may be ordered online at  
<http://forms.daps.mil/order/>: OPNAV 5040/4 (Jul 1987), Navy Hotline Poster.

9. The following forms are available at  
<http://www.opm.gov/asd/pdf/2002/02-102E.pdf>: RI 38-144 (April 2002), Election to Retain CSRS, CSRS Offset or FERS Retirement as a Result of a Move from a Civil Service Position to a NAF Position on or after 28 December 2001 and RI 38-134 (April 2002), Election to Retain Nonappropriated Fund Retirement.

10. The following forms are available at  
<http://www.gsa.gov/Portal/formslibrary.jsp>:

a. SF-8 (06/1987), Notice of Federal Employee About Unemployment Insurance.

b. SF-52 (07/1991), Request for Personnel Action.

c. SF-78 (Rev. 10-69), Certificate of Medical Examination, S/N 7540-00-634-4027 can be ordered by calling GSA at (817) 978-2051.

d. SF-85P (09/1995), Questionnaire for Public Trust Position.

e. SF-181 (05/1982), Race and National Origin Identification.

f. SF-256 (08/1987), Self Identification of Handicap.

g. SF-813 (08/1994), Verification of a Military Retiree's Service in Non wartime Campaigns or Expeditions.

11. The following form is available at  
<http://www.tsp.gov/forms/index-forms.html>:

- a. TSP-1 (8/2002) Thrift Savings Plan Election Form.
- b. TSP-19 is a bulletin and may be obtained by contacting CNIC (N94).

12. The following forms are available at <http://www.cnic.navy.mil> under Personnel and Benefits.

- a. RP-2 Application for Participation in NAF Retirement Plan.
- b. RP-7 Notice of Retirement.
- c. RP-12 Designation of Beneficiary.
- d. RP-5 Notice of Discontinuation of Active Participation in the NAF Retirement Plan.
- e. RP-6 Termination of Employment Form.
- f. RP-10 Evidence of Qualification for Pre-Retirement Surviving Spouse Benefit.
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- h. MDF-01 NAF Medical/Dental Enrollment Form.

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Medical Certificate	Sec 406a	
	Sec 406d	
Reason for Use	Sec 406a	
Re-credit	Sec 406c	
Earned While APF	Sec 406c	
Transfer of		
Spouse Preference	Sec 206b	SC 1403.7
SSN Disclosure	Sec 205k	
Standards of Conduct	Sec 502	1401.1-M Ch V A1
Strikes	Sec 501f	
Suitability	Sec 203b	SC 1403.4
Denial of Employment	Sec 203d	SC 1403.4
NACI	Sec 203c	SC 1403.4
Supervisory Authority of NAF		
Over APF employees	Sec 107a	SC 1403.12
Over Contractors	Sec 107a	
Over Military Personnel	Sec 107a	SC 1403.12
Tardy	Sec 402b	

<b>SUBJECT</b>	<b>5300.2</b>	<b>1400.25-M SC &amp; OTHER REGS</b>
Taxes	Sec 312	
Cash Bonus	Sec 222c	
Exemption in War Zone	Sec 312d	
RITA	Sec 301c	
Temporary Employment Agencies		SC 1403.5.6
Time Clocks	Sec 402b	
Tips	Sec 313	
Service Charges	Sec 313d	
Tours of Duty	Sec 401	
Training and Development	Sec 214c	
Training Records	Sec 214c	
Training Reimbursement	Sec 214c	
Transfers	Definition	SC 1403.10.2
Transportation Agreement	Sec 301c	
Transportation Incentive Program	Sec 710	
Transfer Function Pay		SC 1405 Ap1.5.2.2
Travel and Transportation		
Expenses		SC 1405.2.7
PCS Moves	Sec 301c	SC 1405.2.7
Tuition Assistance	Sec 214c	
UFM previously USA	Sec 104c	
Unemployment Compensation	Sec 704	
Unsatisfactory Performance	Sec 508	
USA now UFM	Sec 104c	

<b>SUBJECT</b>	<b>5300.2</b>	<b>1400.25-M SC &amp; OTHER REGS</b>
USERRA	Sec 204h	
Employment & Reemployment of Military	Sec 204h	
Vacancy Announcement		
Contents	Sec 205	
Minimum Posting Time	Sec 205	
Requirements	Sec 205	
Vacancy Recruitment File	Sec 205e	
Veteran's	Preference	
Sec 206d Voluntary Changes of Position		
Sec 212a		
Volunteers	Sec 204d	SC 1403 p. 5
VSIP Recipients	Sec 204f	
Wage Survey Participation	Sec 301m	
Whistleblower Protection		1401.1-M V-9
Withholding Pay	Sec 301i	
Workday		SC 1406.2.1.3
Work Schedule	Sec 402	
Authority to Establish	Sec 402	
Changing Tours of Duty	Sec 402a	
Daylight Savings Time	Sec 402a	
Flexible & Compressed Schedules	SC 1406.2.1.8 credit Hours	
	Sec 402b	
Meal Periods	Sec 402a	SC 1406.2.1.4
Rest Periods	Sec 402a	
Tours of Duty	Sec 402a	
Workers Compensation	Ch 9	
Benefits Authorized	Sec 906	
Claims Procedure	Sec 911	
Contractor Exclusion	Sec 903c	
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False Statements	Sec 907	

**SUBJECT**

**5300.2**

**1400.25-M SC &  
OTHER REGS**

Forms Submission	Sec 906a
Obtaining Forms	Sec 910
Keeping Injured Employees on Rolls	Sec 915
Leave Status	Sec913
Leave Use Exclusion	Sec 913a

**APPENDIX D**  
**CHANGES FROM BUPERSINST 5300.10A**

1. Definitions were moved from chapters to appendix and placed in alphabetical order.
2. In a number of cases, wording from DOD 1400.25-M and DOD 1401.1-M had been repeated in BUPERSINST 5300.10A. Unless this wording preceded a CNIC interpretation/clarification it was mostly deleted from the rewrite. The appendix was updated to show users where the deleted information could be found in these DOD regulations.
3. Some topics in chapters were realigned to better match order of presentation in DOD 1400.25-M.
4. Most figures were removed and will be issued in a separate guide to NAF HROs.
5. MWR, BUPERS and NAVPERSCOM were changed to CNIC.
6. PERS-65 and PERS-653 were changed to N94.
7. Chapter 1 Changes
  - a. Reversed Purpose and Coverage. Updated wording in both.
  - b. Moved Volunteers information section to Chapter 2.
  - c. Moved the Transportation Agreement information to Chapter 3.
  - d. The bulletin board posting list was removed and will be included in a guide.
8. Chapter 2 Changes
  - a. USA was changed to UFM.
  - b. Deleted the requirement to send PARs of spouse preference selections to Millington. Information is in SAP.
  - c. Volunteers information was added from Chapter 1.
  - d. Services Contracts information was added from Chapter 3.

e. Deleted the requirement to file I-9s on right side of OPF due to OPM change. However forms must still be obtained and kept on file.

f. Information about advertising for projected vacancies was reduced to a statement it could occur.

g. The designation of beneficiary for unpaid compensation information was moved to Chapter 3.

h. Information concerning the Lautenberg Amendment requirements was added (sec 217).

i. Performance appraisal information was moved to the end of the chapter so it can be easier modified when DOD publishes DOD 1400.25-M chapter on performance. Awards information was also added to end of Chapter 2 from 3 to be with performance appraisals. DOD will do awards and appraisals together in the same chapter.

j. Table 2-1 (Authorized APF Support) and 2-2 (Preference Eligibles) were deleted as they are duplicates of information in other regulations.

k. Employment of retired military was revised to eliminate duplications of DODD 1402.1 of 21 Jan 82 and to clarify that retirees may enter on duty while on terminal leave (Sec 204c(2)(f)).

l. Revised the wording on veterans' preference for clarity (sec 206d).

m. Stated the requirement to verify for VSIP before hiring former Federal employees (sec 204f).

n. Extended the requirement to obtain verification of registration for the draft to NAF similar to the APF requirement (sec 203f).

o. Updated Probationary Period information to comply with DOD 1400.25-M and include the DOD restrictions on not requiring a probationary period when a person has already served on with another DOD NAF employer. A requirement to submit a memorandum concerning the completion of the probationary period was also added (sec 207).

p. Revised detail type personnel action guidelines to comply with other services and APF. (60 days to higher grade/pay band and statement of duties and one year to same or lower pay band) (sec 219).

q. Section on Employee Records and Files was deleted. Material is in DOD 1400.25-M and the OPM Guide to Personnel Record Keeping available at <http://www.opm.gov>. Some of the material will later be included in a guide.

r. Added some information about the drug testing requirements (sec 218).

s. EEO complaint procedures and processes were deleted as they are in EEO regulation. If they change correction will be made there or available from EEO Office.

t. The requirement for a 90-day evaluation was eliminated.

u. The requirement to prepare/update an IDP during the annual performance process was added (sec 221 b).

v. Added requirement to terminate flexible employee who has been inactive for six months (sec 204 j).

w. The authorization to use \$10.00 per NAF employee for awards ceremony was deleted as it was difficult to monitor and there were legal issues regarding the use of it.

## 9. Chapter 3 changes.

a. Service Contracts was moved to Chapter 2 Employment to match DOD 1400.25-M chapter.

b. Designation of beneficiary for unpaid compensation information was moved from Chapter 2.

c. Transportation Agreement information was moved from Chapter 1.

d. Made a change to indicate that annual across the board increases are one decision and not two separate decisions. If the annual increase is given to NF-3 and above it must be given to NF-1 and NF-2 (sec 303f)

e. The maximum number of weeks of severance pay available that a region can offer is eight weeks (sec 307a).

f. Combined BUPERINST 5300.10A Chapter 4 Classification with the new Chapter 3 Classification, Pay and Allowances to be consistent with DOD 1400.25-M.

g. Pay increase and cash bonus information that used to be mixed between chapters 2 and 3 was consolidated in chapter 3. The cash bonus annual limitation was increased to \$10,000 to comply with higher level regulations (sec 222c).

h. Added information on RITA (sec 301j).

i. The wording that 15 percent pay increase limitations do not include competitive selections of employees who have been on board at least 90 days was added.

10. BUPERSINST 5300.10A Chapter 5 Work Attendance and Leave became new Chapter 4 Attendance and Leave. Changes to the BUPERINST 5300.10A chapters 3 and 4.

a. Eliminated the crediting of certain Flexible service towards annual leave service computation date as it did not comply with DOD 1400.25-M, Section 404 a (1) (a).

b. Information on military leave deleted as it is fully covered in DOD and on OPM. References included in index.

c. Information on FMLA deleted as it is fully covered in DOD and DOL. References included in new index.

d. A change was made on Leave Banks to permit the authorizing bank official to approve annual leave transfer from another CNIC NAF as long as arrangements could be made to transfer funds (Sec 403 b (2)).

11. BUPERSINST 5300.10A Chapter 6 Employee and Labor Relations became Chapter 5. Appendix B, C, and D were added to the chapter and duplication eliminated.

12. Appendix D, BBAs became Chapter 5. A CNIC competitive area has been defined if the NAF activity does not have competitive area definitions in place for 90 days and does not want to wait 90 days to do a BBA 404. Modified the wording of who may sign BBA notices.

13. Chapter 7 Retirement and Insurance was updated to include plan changes. Appendix E, Administrative Grievance Process

became Chapter 8. The wording on step one and step two grievance officials was modified.

14. Chapter 9 is Workers' Compensation Program and was updated.

15. Overseas Employment became Chapter 10 and the information in DOD regulations was not repeated but included in Appendix C Index.

16. The old Appendix A regarding CT was eliminated. It was a duplicate of information in the OPM manual, DOD 1405 and the pay chapter. Appendix A became Definitions.