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**Date:** 09/09/2005**Category:** 10 - Security**OPR:** SC**Title:** AR 10-1 (U) SECURITY CLEARANCES, ACCESSES, AND APPROVALS
**REVISION SUMMARY:** 09 September 2005

This regulation supersedes AR 10-1, dated 23 March 2005.

AR 10-1 is revised to update organizational titles. This revision reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support. This revision also reflects the title change for the External Operations and Cover Division in the Directorate of Operations to the Global Deployment Center.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Security Center (SC)/Security Policy Staff,*

**1. (U) SECURITY CLEARANCES, ACCESSES, AND APPROVALS**

**(U) SYNOPSIS.** This regulation sets forth the authority and policies governing CIA security clearances, security approvals, and access approvals.

- a. (U) AUTHORITY.** The authority for this regulation is contained in the National Security Act of 1947, as amended; the Central Intelligence Agency Act of 1949, as amended; Executive Orders 10450, 12333, 12958, and 12968; Director of Central Intelligence Directive No. 6/4; and other applicable law.
- b. (U) DEFINITIONS.** For purposes of this regulation, the following definitions apply:
  - (1) A "security clearance" is a formalization of a security determination that an individual is authorized access, on a "need-to-know" basis, to a specific level of classified

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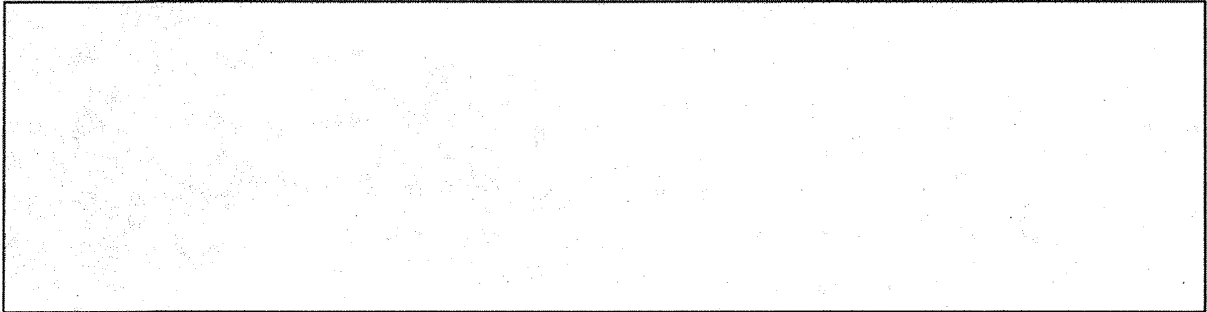
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information (that is, TOP SECRET, SECRET, CONFIDENTIAL).

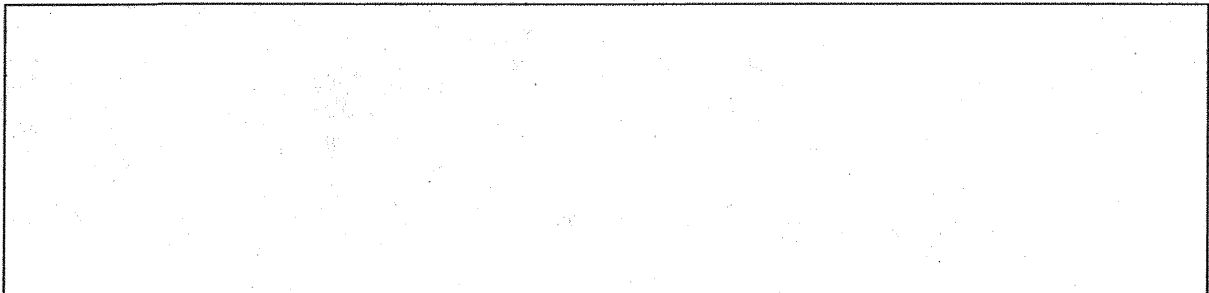
- (2) An **"access"** or **"access approval"** is a formalization of a security determination that an individual is authorized access, on a "need-to-know" basis, to a specific type of classified information, such as Sensitive Compartmented Information (SCI), that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.



- (4) A **"security approval"** is a security determination that is more restrictive in scope than a security clearance or access. A security approval only grants authorization on a need-to-know basis to an individual for access to specific Agency activities, information, or facilities at a specified classification level for a specific purpose. Security approvals generally apply to non-staff personnel, contractor personnel, service-type personnel requiring facility access, liaison contacts, and authorized contacts with persons who may be able to provide information of interest to the Agency.
- (5) The term **"Operating Official"** has the same meaning as specified in AR  but also includes "Heads of Independent Offices" as also identified in .

**c. (U//FOUO) POLICY**

- (1) All individuals employed by, affiliated with, or utilized by the Agency, excluding persons requiring operational approvals () must possess a security clearance, security approval, or access approval consistent with the sensitivity of the proposed use. The C/SC, or designee is responsible for granting or determining eligibility to receive CIA security clearances, accesses (to include SCI access approvals), and security approvals to individuals under the security cognizance of the Agency.



- (3) Individuals who do not have a need-to-know classified information and who are unlikely to be exposed to classified information during the course of their official duties (for example, groundskeepers, certain visitors to Agency premises, and so forth) may receive

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a limited FAA from the SC (see paragraph g of this regulation for a description of a full FAA).<sup>2</sup>

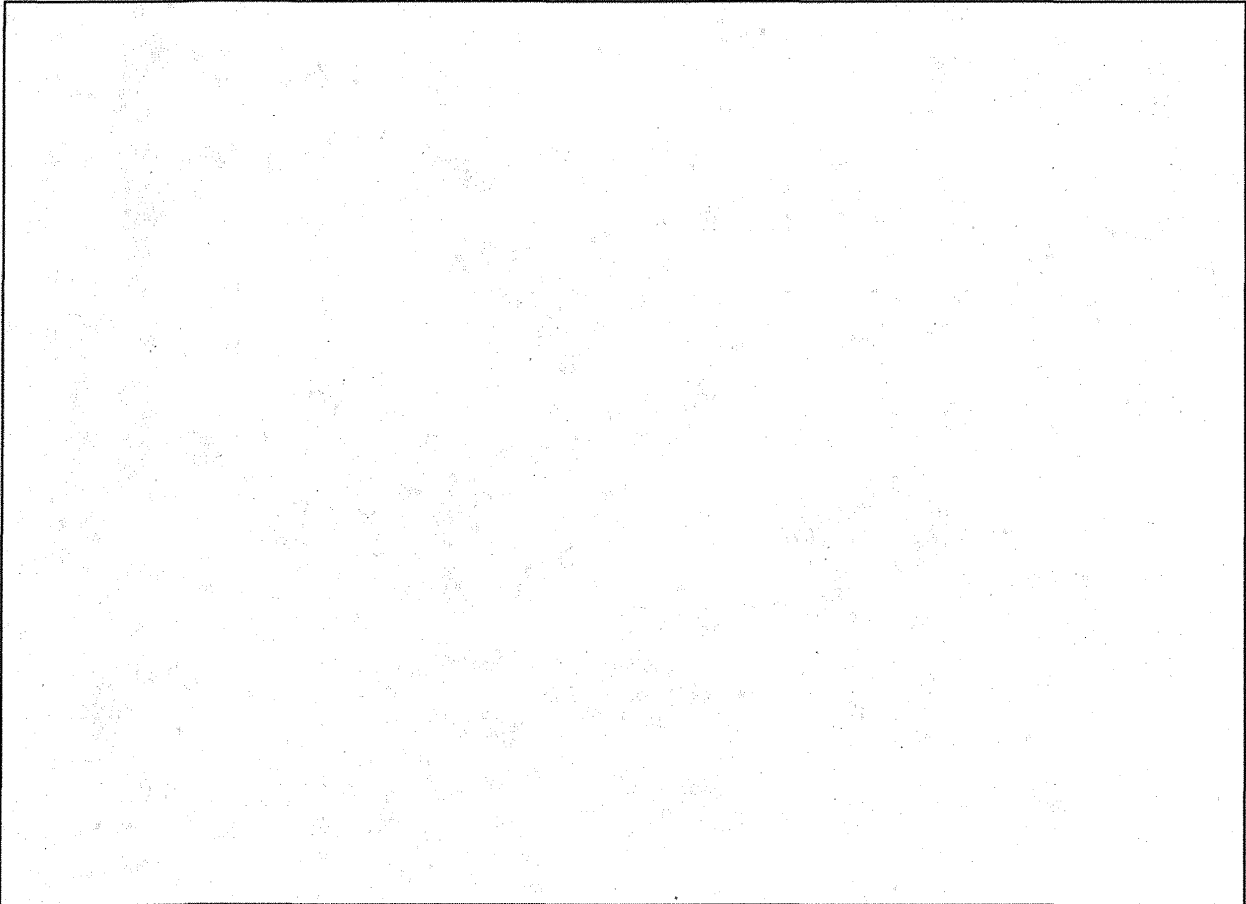
<sup>2</sup>The SC may grant limited FAAs to individuals who require escorted access to Agency buildings on a recurring basis. The SC Security Protective Service (SPS) may grant individuals (for example commercial delivery personnel) access to Agency premises on a non-recurring basis without additional SC coordination or approval. Investigations for Limited FAAs and escorted access granted by the SPS will be limited to examining federal, state, and local records as permitted by law. The limited investigations associated with these types of authorizations are conducted for the protection of Agency personnel and property rather than to determine eligibility to receive access to classified information. Denials of limited FAAs or SPS visitor requests are not subject to appeal under AR   or any other Agency regulation.

- (4) SC policies for the acceptance of security clearances and access approvals granted by other federal agencies and departments will be consistent with standards for the reciprocal acceptance of access eligibility determinations established by Executive Order 12968.
- (5) The Agency does not discriminate on the basis of race, color, religion, sex, national origin, disability, age (40 and over), or sexual orientation in granting, denying, or revoking security clearances, accesses, or security approvals.
- (6) The SC will not approve an individual for access or continued access to classified information if the individual, a member of the individual's immediate family as defined in DCID No. 6/4, or an immediate family member of the individual's spouse or cohabitant as defined in DCID No. 6/4, has ever been affiliated with the intelligence service or security service of a foreign country.
- (7) The SC will not approve an individual for access or continued access to classified information if the individual's spouse or cohabitant is a foreign national currently employed by a foreign government unless the spouse or cohabitant resigns such foreign government employment. If the spouse or cohabitant is a U.S. citizen working for a foreign government, the SC will determine on a case-by-case basis whether resignation of the foreign government employment is a necessary precondition for the individual to be considered for access or continued access to classified information.
- d. **(U) ADJUDICATIVE GUIDELINES AND INVESTIGATIVE STANDARDS USED BY CIA.** The investigative standards and adjudicative guidelines used by CIA for granting, denying, or revoking security clearances, accesses, and approvals are those national standards and guidelines approved by the President in accordance with Executive Order 12968. These guidelines and standards are set forth in DCID No. 6/4 and are hereby incorporated into this regulation.
- e.
- f. **(U) NON STAFF-LIKE ACCESS.** The clearance level (that is, TOP SECRET, SECRET, CONFIDENTIAL) and/or other access approvals granted for non-staff-like access will be consistent with the sensitivity of assigned duties, the information accessed, and/or the facilities which house sensitive information. As deemed appropriate, C/SC or designee may

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require completion of more stringent investigative requirements than required by the applicable Government-wide investigative standards, including the use of the polygraph. In some cases, due to the sensitivity of certain operations, a SC security approval at or below the SECRET level may be required before contacting individuals who will be requested to perform services for the CIA.

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- j. **(U) DELEGATIONS OF AUTHORITY.** The C/SC is the senior Agency official designated under section 6.1 of Executive Order 12968 to direct and administer the Agency's personnel security program. The C/SC is delegated all authority granted by Executive Order 12968 to the D/CIA, as head of the Agency, except for the functions and authority set forth in sections 2.4(b) and 5.2(b), (d), and (e) of the Order which must be exercised by the D/CIA, or the DD/CIA acting on the D/CIA's behalf.
- k. **(U) AUTHORITY TO REINVESTIGATE, DENY, SUSPEND, REVOKE, OR ADMINISTRATIVELY TERMINATE SECURITY CLEARANCES, ACCESS APPROVALS, AND/OR SECURITY APPROVALS.** The C/SC or designee may at any time deny a request for security clearance, access approval, or security approval. The C/SC or designee may, at their discretion, initiate reinvestigations of an Agency employee or any other individual who holds an Agency-sponsored security clearance, access approval, or security approval to determine continued eligibility for such clearance, access, or approval. The C/SC or designee may temporarily suspend an individual's security clearance, access

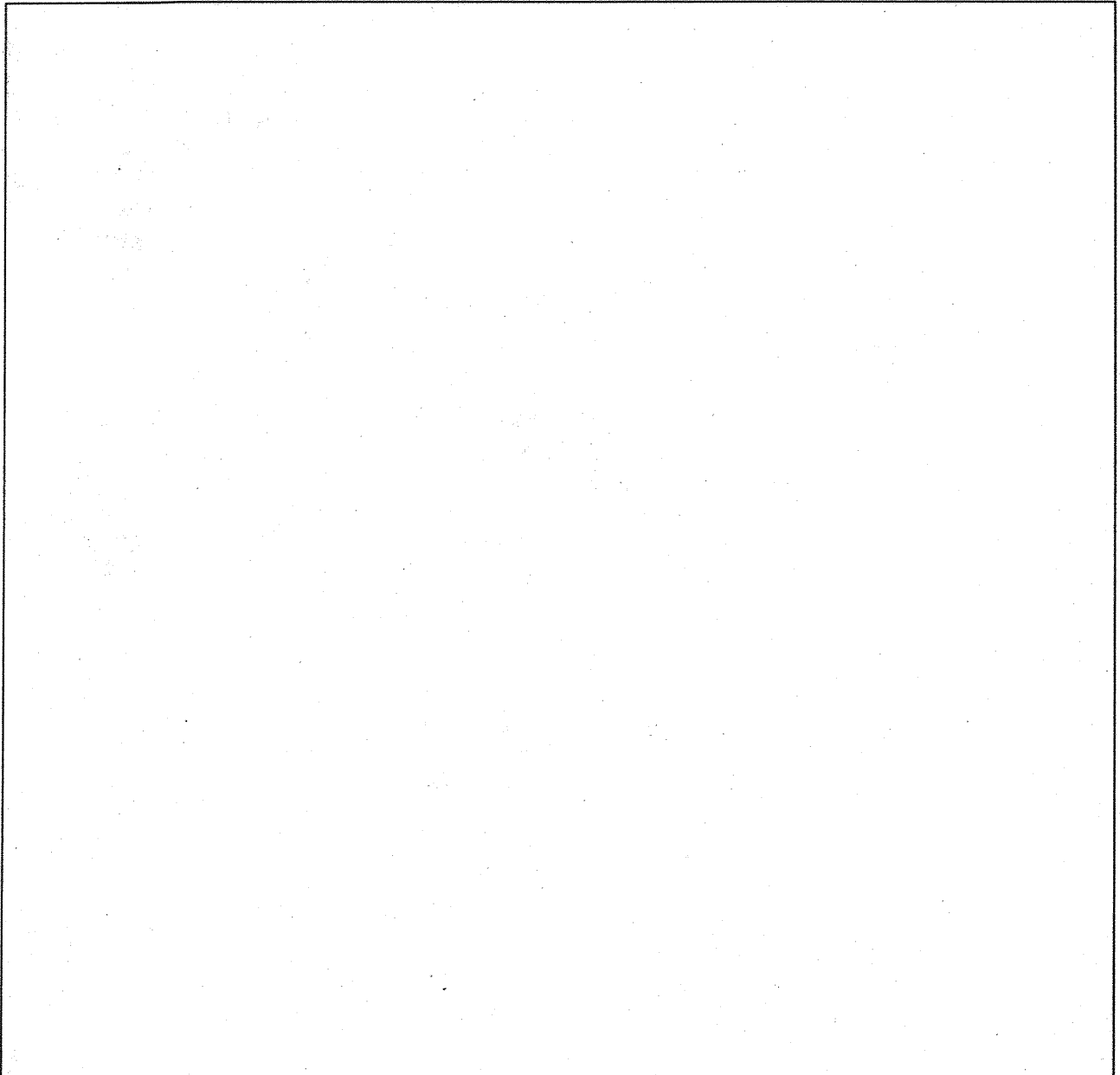
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approval, or security approval during the investigation and until final adjudication of the individual's eligibility for access to classified information. Suspensions may not be appealed under this or any other Agency regulation. Upon completion of the reinvestigation or other inquiry, the C/SC or designee may revoke the individual's security clearance, access approval, or security approval if doubts remain regarding the individual's continued eligibility for security clearance, access approval, or security approval. Finally, the C/SC or designee may administratively terminate any Agency security clearance, access approval, or security approval when it is determined that the affected individual no longer requires the clearance, access, or security approval to carry out the individual's official duties.

Administrative terminations may not be appealed under this or any other Agency regulation.

**I. Not Used.**



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will provide Agency BI-related information to DSS. Unless otherwise directed, overt employees should list the Chief, Human Resources as their supervisor. Overt and covert employees must not list any other Agency personnel on the packet.

- p. **(U) RESERVATION OF AUTHORITY.** Nothing in this regulation shall be deemed to limit or preclude the **D/CIA** or the **DD/CIA** from taking any actions regarding an Agency sponsored security clearance, access approval, or security approval with or without the procedures set forth in this or any other regulation. In addition, neither this nor any other regulation limits or precludes the **D/CIA** or **DD/CIA** from suspending, revoking, or administratively terminating any individual's access to SCI, with or without procedures, regardless of the individual's affiliation or lack of direct affiliation with the Agency.
- q. **(U) NO ADDITIONAL RIGHTS CONFERRED.** Neither this nor any other Agency regulation or policy statement creates for or confers on any person or entity any right to administrative or judicial review of Agency security clearance, access approval, or security approval determination procedures, their implementation, or decisions or actions rendered there under. Also, neither this nor any other Agency regulation or policy statement creates or confers any right, benefit, or privilege, whether substantive or procedural, for access to classified information or facilities. Finally, neither this nor any other Agency regulation or policy statement creates or confers any substantive or procedural right, benefit, or privilege enforceable by any party against the Agency, any Agency instrumentality, or any Agency officer or employee, or any other person acting for or on behalf of the Agency.

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**Date:** 07/08/2004

**Category:** 10 - Security

**OPR:** OS

**Title:** AR 10-19 (U) PROCEDURES FOR REPORTING UNFORESEEN ABSENCES, EMERGENCIES AND DEATHS

**REVISION SUMMARY:** 08 July 2004

This regulation supersedes AR 10-19 dated, 30 August 2001.

AR 10-19 is revised and retitled *Procedures for Reporting Unforeseen Absences, Emergencies and Deaths*. This revision also updates previous procedures for reporting unforeseen absences, emergencies, and deaths.

*Because this regulation has been extensively revised, boldfaced text has not been used.*

**FIELD DISSEMINATION:** WWSB

*This regulation was written by the Office of Security, Security Policy Staff,*

**19. (U) PROCEDURES FOR REPORTING UNFORESEEN ABSENCES, EMERGENCIES AND DEATHS**

**(U//AIUO) SYNOPSIS.** This regulation prescribes Agency policy for reporting unforeseen absences, emergencies, and designation of emergency contacts for covered individuals. It also provides Agency policy for reporting deaths of covered individuals that occur outside the continental United States (CONUS).

- a. **(U//AIUO) AUTHORITY.** The authority for this regulation is the CIA Act of 1949 as amended, Executive Order 12333, and other applicable law.

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**b. (U//AIUO) DEFINITION.** For the purpose of this regulation, the following definition applies:

- (1) (U//AIUO) A "covered individual" is anyone with staff or staff-like access. A covered individual includes staff employees, participants in student programs, military and civilian detailees, internal (Type I) contract employees, career associate (Type C) contract employees, independent contractors, industrial contractors, panelists, consultants, and any other affiliated personnel with staff-like access. A covered individual also includes anyone in temporary non-pay status who has retained his or her staff or staff-like access. Individuals do not have to be in a formal employment relationship with the Agency to have staff-like access to Agency information and facilities.

**c. (U//AIUO) POLICY**

- (1) In order for the Agency to safeguard its personnel and information and to render effective assistance, each covered individual is required to:

- (a) (U//AIUO) Report to his or her supervisor any situations of a medical or legal nature that could potentially impact the covered individual's ability to report for duty consistent with their work schedule. If necessary, the supervisor will pass this information onward to the appropriate Agency officials.
- (b) (C) Notify his or her supervisor of an unplanned absence from the covered individual's work site, to include unscheduled leave and non-emergency situations. Notification must be made within the first two hours of the covered individual's scheduled tour of duty. In the Metropolitan Washington area, if the covered individual is unable to contact the supervisor, the covered individual should contact the Office of Security, Protective Programs Group, Security Operations Center (SOC) at [REDACTED] The SOC will attempt to contact the covered individual's supervisor, appropriate area security officer (ASO), and human resources (HR) officer. Covered individuals should remember to follow official cover procedures when reporting any absence.
- (c) (U//AIUO) Designate an emergency contact to act on the covered individual's behalf should conditions require it, and inform the emergency contact of the above reporting requirements. The contact should be prepared to alert the Agency of any emergency or absence when the covered individual is unable to do so, and notify the Agency of the covered individual's death.

- (2) (U//AIUO) When a covered individual fails to report to work without explanation for more than two hours after their work tour begins, the supervisor, in a coordinated effort with the component ASO, must try to reach the covered individual by telephone. If unsuccessful, other efforts, such as contacting the covered individual's emergency contact and/or a family member, should be used to locate the covered individual. If after four hours the absence is still unexplained, Metropolitan Washington area supervisors must

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report the absence to the SOC, who will refer it to Personnel Security Group, Investigations Division, Special Investigations Branch (SIB). The covered individual's supervisor should provide pertinent cover and operational considerations, along with the names of acquaintances that may be able to assist in locating the absent covered individual.

- (3) (C) When a covered individual is absent for more than 24 hours, SIB will advise the [REDACTED]

**d. (U//AIUO) REPORTING EMERGENCIES FROM THE FIELD**

- (1) (C) Outside the Metropolitan Washington area, the designated field authority will investigate any unexplained absence and submit a report [REDACTED] within the first 24 hours after the absence is discovered.
- (2) (C) The designated field authority, in a coordinated effort with the HR [REDACTED] [REDACTED] will ensure that notification is made to the covered individual's emergency contact in a manner consistent with security and cover considerations. Only the designated field authority may authorize such notification. In the report to headquarters, the designated field authority will state specifically whether or not such notification was made.

**e. (U//AIUO) RESPONSIBILITIES**

- (1) (C) The Director of Security (D/OS) will develop and implement procedures for the expeditious handling of covered individual's emergencies in the Metropolitan Washington area and for the coordination of emergency actions with appropriate offices. Within the limits of applicable laws, regulations, and Agency equities, the D/OS will ensure that the interests of the covered individual are protected and that assistance is provided to ill or distressed covered individuals and their families.
- (2) (U//AIUO) Outside the Metropolitan Washington area, the above responsibility is delegated to the designated field authority.
- (3) (U//AIUO) Supervisors will ensure that all covered individuals under their supervision know and understand the provisions of this regulation.
- (4) (C) In the event of the death of a covered individual or a covered individual's dependent outside CONUS, the designated field authority will arrange for the preparation and shipment of the remains and personal effects of the deceased in accordance with the law, Agency regulations, [REDACTED]

- f. (U//AIUO) RELATED REGULATIONS.** The following activities are governed by other Agency regulations:

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(1) (U) AHB ☐ Employee Emergencies, Unforeseen Absences and Deaths

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## ADMINISTRATIVE - INTERNAL USE ONLY

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(b) (3)**Date:** 06/13/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-1 HUMAN RESOURCES ADMINISTRATION**REVISION SUMMARY:** 13 June 2002 (0674)

This regulation supersedes AR 20-1, dated 07 November 2000.

AR 20-1 is revised to update organizational titles. The organizational restructuring is a result of the D/CIA's decision to abolish the Directorate of Administration and establish the Mission Support Offices effective 4 June 2001.

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by the Policy Team, Human Resources Strategy & Planning Staff, at HR Policy @ DA.*

**1. (U) HUMAN RESOURCES ADMINISTRATION**

**SYNOPSIS.** This regulation states the authorities, policies, objectives, and responsibilities of the Agency's human resources system.

**a. (U) AUTHORITIES**

- (1) The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.); the National Security Act of 1947, as amended (50 U.S.C. 401 et seq.); and other applicable law.
- (2) Notice is hereby given that nothing contained in this regulation or in any procedures promulgated pursuant to this regulation is intended to or shall be construed to confer upon or create for any employee or applicant any property or other interest or privilege in his or her employment or prospective employment.

- b. (U) POLICY.** It is Agency policy to have a human resources system responsive to the changing needs of the Agency and the intelligence profession. The Agency's human resources

## ADMINISTRATIVE - INTERNAL USE ONLY

system seeks to:

- (1) Recognize and reward employees commensurate with their knowledge, talents, skills, abilities, and contributions.
- (2) Foster open communications on human resource issues.
- (3) Provide timely human resource assessment and feedback.
- (4) Train and develop employees consistent with Agency requirements.
- (5) Separate from employment poor performers, those who are unsuitable, or those whom the Agency declares excess to its needs.

c. (U) **OBJECTIVES.** The following are basic objectives:

- (1) Recruit, in full compliance with applicable provisions of equal employment opportunity policies, qualified candidates who demonstrate the ability or potential to fulfill present and future human resource requirements.
- (2) Maintain standards of conduct under which employees uphold the highest standards of integrity, honesty, and conduct, both on and off the job, work to their full ability, maintain a spirit of cooperation in their work, and serve the Agency's needs wherever and whenever required.
- (3) Provide employees with:
  - (a) Opportunities to use their training, experience, and skills to the fullest.
  - (b) Avenues for employment and opportunities for advancement on the basis of knowledge, talents, skills, abilities, contributions, performance, and interests.
  - (c) Equal pay for substantially equal work within Agency pay systems.
- (4) Reward employees whose performance clearly exceeds work requirements, retain employees who meet performance and suitability standards, and separate employees when deemed in the interest of the United States.
- (5) Operate within each Career Service a program to evaluate employees' performance in accordance with Agency performance appraisal guidelines and a program to identify employees with the greatest potential for advancement and to identify those employees who fail to meet performance, potential, or suitability standards.
- (6) Foster full and open communications between management and employees.

d. (U//AIUO) **RESPONSIBILITIES.** The Director of the Central Intelligence Agency (D/CIA) is responsible for human resource management, which is an integral part of overall Agency management. Human resource management is a primary responsibility of all individuals who plan, direct, or supervise the work of Agency employees. The D/CIA has delegated authority in accordance with applicable law and Agency regulations as follows:

- (1) The Executive Director (EXDIR) oversees the human resources system and, except as reserved for the D/CIA, develops HR goals, approves major proposals concerning

## ADMINISTRATIVE - INTERNAL USE ONLY

human resource management objectives, programs, and recommendations.

- (2) The Executive Board (see AR 1-2d for definition) serves as a review panel, convening to examine human resource issues and results in such areas as hiring, training and development, progress on glass ceiling issues, and retention. The Executive Board ensures that human resource requirements meet the corporate objectives set out in the Strategic Direction, identify and spread best practices, enhance leadership development and succession planning, and promote diversity.
- (3) The **Chief Human Resources Officer** is responsible for the formulation of Agency human resource policies, and programs. The **Chief Human Resources Officer** leads efforts to improve the effectiveness and flexibility of human resource management and ensure consistency among the Agency's various Career Services while considering their different needs.
- (4) The EXDIR, the Deputy Directors, the **Chief, Mission Support Offices, and the Deputy Director, National Reconnaissance Office (DD/NRO)** are Heads of the Career Services (AR 20-3). They are responsible for managing and monitoring the Agency's human resources program within their Career Services. Heads of Career Services exercise specific responsibilities as outlined in AR 20-3.
- (5) Managers are responsible for monitoring the work performance of their employees, responding to changes in their behavior, and reporting matters that raise security or suitability concerns. Managers are also responsible for evaluating trial period employees for continued employment, evaluating and counseling all employees on performance, and recommending training.

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**Date:** 12/15/2005

**Category:** 20 - Human Resources

**OPR:** HR

**Title:** AR 20-2 (U) CATEGORIES OF PERSONNEL

**REVISION SUMMARY:** 15 December 2005

This regulation supersedes AR 20-2, dated 6 November 2001.

AR 20-2 is revised to update organizational titles. This revision reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support. In addition, this revision also reflects changes to the Foreign Broadcast Information Service (FBIS).

*Boldfaced text in this regulation indicates revisions.*


*This regulation was written by the DS/CSC/HR/Programs and Policy Group/Policy Staff, HR Policy@DA.*

**2. (U) CATEGORIES OF PERSONNEL**

**(U) SYNOPSIS.** This regulation defines categories of personnel employed or engaged by the Agency.

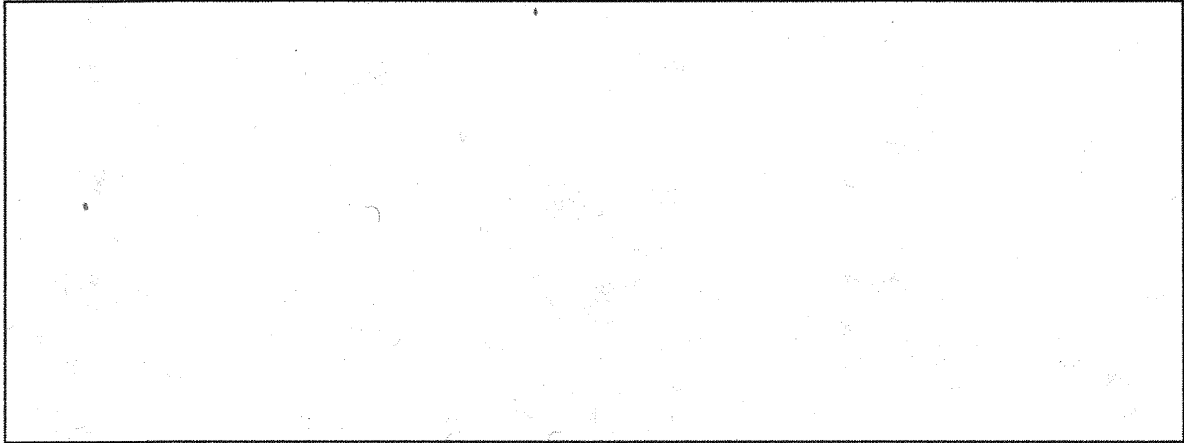
- a. (U) AUTHORITY.** National Security Act of 1947, as amended, and other applicable law or directives.

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- (1) **CONTRACT EMPLOYEES.** Personnel employed by the Agency in a noncareer status through a contract when services are required to meet operational or support requirements that cannot be met by other Agency resources. The Agency maintains an employer-employee relationship with contract employees. Contract employees provide the Agency with personal services. A contract employee's entitlement to benefits is determined by the language contained in and the period covered by the contract documents. Benefits provided to contract employees may be similar to those provided to staff personnel (see AR 20-72 .

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**Date:** 09/27/2006**Category:** 20 - Human Resources **OPR:** HR**Title:** AR 20-3 THE CAREER SERVICES**REVISION SUMMARY:** 27 September 2006

This regulation supersedes AR 20-3, dated 5 April 2005.

AR 20-3 is revised to reflect the D/CIA's decision, effective 5 July 2006, to replace the post of Executive Director with a new position, that of Associate Deputy Director of the Central Intelligence Agency (ADD/CIA). This revision also reflects the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service and remove "Deputy Director" designation from the other Directorates and replace it with "Director".

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by DS/CSC/HR/Strategy and Programs Group/Policy Staff, HR Policy@DA.*

**3. (U//AIUO) THE CAREER SERVICES**

**(U//AIUO) SYNOPSIS.** This regulation states the policy and responsibilities for administering the Agency Career Services.

**a. (U) AUTHORITY.** Section 8 of the CIA Act of 1949, as amended (50 U.S.C. 403j).

**b. (U//AIUO) POLICY**

- (1) The Associate Deputy Director (ADD/CIA), the four Directors, and the Principal Deputy Director, National Reconnaissance Office (PDD/NRO) are each the Head of a Career Service encompassing those positions identified by functional responsibilities and those employees designated as being within the respective Career Service. Career Service designations identify staff and contract employees and positions within the Career Services or Career Subgroups as follows:

<u>CAREER SERVICE</u>	<u>HEAD OF CAREER SERVICE</u>	<u>DESIGNATION</u>
EXECUTIVE	Associate Deputy Director	ADD/CIA



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OPERATIONS	<b>Director of the National Clandestine Service</b>	NCS
INTELLIGENCE	<b>Director</b> for Intelligence	DI
SCIENCE AND TECHNOLOGY	<b>Director</b> for Science and Technology	DST
SUPPORT	<b>Director</b> for Support	DS
FORMER NRO CORPORATE SUPPORT	<b>Principal</b> Deputy Director, NRO	PDD/NRO

- (2) Heads of Career Services manage the Agency human resources program for their Career Service. However, the Executive Leadership Review Board considers nominations of Senior Intelligence Service (SIS) members and others for selected senior management positions. Such assignments require the approval of the ADD/CIA or the Director of the Central Intelligence Agency depending on the level of the position per AR 20-22.

**c. (U) RESPONSIBILITIES**


**(1) HEADS OF CAREER SERVICES WILL:**

- (a) Establish Career Service human resource management objectives that include workforce planning to integrate people and program requirements and career development programs to develop leadership ability and professional expertise. Fulfilling these objectives will include the identification of skills needed to accomplish the Agency's mission, a projection of the composition of the Career Service workforce, and specific recruitment and career development plans.
- (b) Develop and utilize all employees to their fullest potential. Ensure that the Career Service works with employees to identify assignments and training that are consistent with individual career development plans. This includes employees returning from rotational or overseas assignments who must be placed--by directed assignment if necessary--within 45 days of the employee's return to their home component. Establish Career Service policy for recommending and approving participation in Agency-sponsored training and standards for selecting candidates to attend senior schools or courses.
- (c) Be held accountable for ensuring fair representation of women and minorities at all organizational levels. Mechanisms for doing so can include career development programs, succession planning, competitive selection, and directed assignments.
- (d) Establish and maintain a senior human resource management board to advise them on human resource matters, as well as a Career Service evaluation board and panel structure; and designate membership of boards and panels.
- (e) Prescribe procedures to conduct, at least annually, the evaluation of all personnel. Develop and disseminate evaluation and promotion criteria to complement Agency policy.
- (f) Organize Career Service Subgroups to implement human resource management


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policies, programs, and objectives within the Career Service. Career Service Subgroups may be organized by grade, function, occupation, skill, or program.

- (g) Review the effectiveness of employee management and evaluation systems. Establish and monitor training standards for managerial positions. Review performance appraisal reports and, as appropriate, advance work plans. Make counseling and feedback on performance and evaluations available to all employees. Ensure managers monitor the performance and suitability and assess the potential of trial period employees.
- (h) Ensure remedial or other appropriate action is taken with respect to employees identified as having performance or suitability issues. This could include termination of employment, downgrading, reassignment, remedial training, or counseling.
- (i) Review requests to reassign, demote, or separate employees, and recommend action to the Chief, Human Resources or Chief, Security Center, as appropriate, and establish procedures for notifying, counseling, retraining, reassigning, or separating employees declared excess under AR .
- (j) Establish and maintain a Career Service grievance system in coordination with the Agency grievance system.
- (k) Maintain a program and criteria for career management of SIS personnel, including recertification every three years.
- (l) Not used.
- (m) Establish Career Service procedures for recommending Honor and Merit Awards (AR 20-37 .

**d. (U) ASSIGNMENT OF CAREER SERVICE DESIGNATIONS**

- (1) The Heads of Career Services or their designees assign Career Service designations to Agency positions under their purview. Employees of one Career Service may be assigned to positions of a different Career Service with concurrence from the Head of the Career Service with jurisdiction over those positions.
- (2) The Chief, Human Resources must ensure that employees' official records contain accurate Career Service designations. These designations identify employees with a Career Service and, as appropriate, a Career Subgroup.
- (3) Employees assigned to another directorate or independent office for a tour normally retain their Career Service designations. However, employees may change Career Service as stated in AR 20-17 .

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## ADMINISTRATIVE - INTERNAL USE ONLY

**Date:** 01/06/2004**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-4 (U) GARNISHMENT ORDERS**REVISION SUMMARY:** 06 January 2004

This regulation supersedes AR 20-4, dated 25 June 2002.

AR 20-4 formerly titled *Garnishment Orders for Child Support And/Or Alimony* is retitled *Garnishment Orders*. This revision also reflects a change to the Agency's Agent to receive process and to include guidance on processing commercial garnishments.

*Because this regulation has been extensively revised boldfaced text has not been used to indicate revisions.*

*This regulation was written by the Policy Branch, Centralized and Deployed Human Resources, Chief Human Resources Office (HR Policy@DA).*

**4. (U) GARNISHMENT ORDERS**

**(U) SYNOPSIS.** This regulation describes Agency policy and responsibilities governing the receipt and dispensation of legal process pertaining to financial responsibilities on child support, alimony, and commercial debt obligations. The law makes certain distinctions on child support and alimony payments as opposed to commercial debt obligations and these distinctions are appropriately noted in this regulation. Unless otherwise specifically stated, information cited is applicable to child support, alimony, and commercial debt obligations.

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a. **(U) AUTHORITY.** 5 CFR Part 581, 5 CFR Part 582, 5 U.S.C. 8437(e), 15 U.S.C. 1673, 26 U.S.C. 6331, 42 U.S.C. 659 and 666, E.O. 12105, E.O. 12953, Public Law 104 -193, Section 324, Central Intelligence Act of 1949, National Security Act of 1947, and 1993 Hatch Act Reform Law (P.L. 103-94).

b. **(U) POLICY**

- (1) The Agency complies with any valid legal process served upon it for the enforcement of legal obligations to provide child support, make alimony payments, and/or to support commercial garnishments. All garnishment orders are honored regardless of cover status, but with due regard for the protection of that status.
- (2) If the Agency is served with more than one legal process for an individual, orders for child support and/or alimony take priority over any other legal process under State law including orders for collecting private debts. Otherwise, if more than one writ is served, the first one served takes priority.
- (3) Questions regarding whether particular moneys or payments are or are not subject to garnishment that cannot be determined on the basis of information contained within this regulation, should be referred to the Office of General Counsel (OGC) for resolution. OGC should also be consulted on any other issues on the Agency's role/obligation in compliance with the service of legal process.

c. **(U) DEFINITIONS**

- (1) **AGENT TO RECEIVE PROCESS.** The agent to receive process is the Agency representative designated in the Code of Federal Regulations to receive service of legal process on behalf of the Agency for enforcement of an employee's obligation to provide child support, to make alimony payments, and/or to make a commercial payment obligation.
- (2) **AGGREGATE DISPOSABLE EARNINGS.** Aggregate disposable earnings means the employee's pay for employment less those amounts deducted in accordance with

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exclusions as specified in this regulation.

- (3) **ALIMONY.** Alimony means periodic payments of funds for the support and maintenance of a spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. Alimony does not include child support or any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.
- (4) **CHILD SUPPORT.** Child support means the amounts required to be paid for the support and maintenance of a child, to include a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.
- (5) **COMMERCIAL GARNISHMENT.** A commercial garnishment refers to pay for an employee that can be garnished to satisfy debts to private parties, and Federal, State and local governments. This type of garnishment applies to active employees and reemployed annuitants, but does not include retired employees.
- (6) **EMPLOYEE.** Employee, for purposes of garnishment orders for child support and/or alimony, includes an actively employed or retired employee who receives an annuity from the Agency. An employee for purposes of commercial garnishments includes an actively employed individual or reemployed annuitant employed by the Agency, but does not include a retired employee.
- (7) **INTERROGATORIES.** Interrogatories are a series of written questions concerning the employee that are served on the "agent to receive process" for Agency response.
- (8) **LEGAL OBLIGATION.** Legal obligation means a responsibility to pay alimony and/or, child support that is enforceable under appropriate State or local law. A legal obligation may include current as well as past due alimony and/or child support debts depending on the law in the jurisdiction from which the legal process was issued.
- (9) **LEGAL PROCESS.** Legal process means any writ, order, summons, notice to withhold income pursuant to subsection (a)(1) or (b) of section 666 of title 42, United States Code, or other similar process in nature of garnishment, which may include an attachment, writ of execution, court ordered wage assignment, or in the case where a child support order is submitted by a child support agency using the standard Order/Notice to withhold income for child support as required by section 324 of Pub. L. 104-193 and which is:
  - (a) issued by:
    - (1) A court of competent jurisdiction, including Indian tribal courts, within any State,

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territory, or possession of the United States, or the District of Columbia;

- (2 ) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; or
- (3 ) An authorized official pursuant to an order of a court of competent jurisdiction or pursuant to State or local law; or
- (4 ) A State agency authorized to issue income withholding notices pursuant to State or local law pursuant to the requirements of section 666(b) to title 4 of the United States code; and

(b) Is directed to, and the purpose of which is to compel, a governmental entity, to make a payment from moneys otherwise payable to an individual, to another party to satisfy a legal obligation of the individual to provide child support, alimony or both.

(10) **PARTY.** Party means the person or persons to whom alimony and/or child support payments should be made, or, in the case of an agency established by State or local law, the agency that has been assigned, by law or by agreement, the right to receive such payment or payments.

(11) **REMUNERATION FOR EMPLOYMENT.** Remuneration for employment means compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay or otherwise, and includes but is not necessarily limited to those items described in the paragraph on "moneys subject to garnishment"

d. (U) **AGENT TO RECEIVE PROCESS.** The Chief, Biweekly Payroll Division (C/BPD) is the agent designated in the Code of Federal Regulations to receive service of legal process on behalf of the Agency for the enforcement of an employee's obligation to provide child support, to make alimony payments, and/or to comply with commercial debt payments.

**Special Activities Staff, Office of Security Notification.** The C/BPD is responsible for notifying the Chief, Special Activities Staff, Office of Security of all garnishments.

e. (U) **MONEYS SUBJECT TO GARNISHMENT FOR SUPPORT.** All remuneration for employment is subject to garnishment except as otherwise prohibited by law.

(1) **CHILD SUPPORT/ALIMONY.** Moneys subject to garnishment include, but are not limited to the following:

- (a) Basic pay,
- (b) Night differentials,
- (c) Premium pay,
- (d) Overtime pay,
- (e) Physician's comparability allowances,
- (f) Recruitment bonuses,

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- (g) Relocation bonuses,
- (h) Performance-based cash awards, and
- (i) Other moneys as described in 5 CFR Part 581.

Certain periodic or lump sum payments (if the lump sum payments are a substitute for periodic payments), are considered remuneration for employment and therefore subject to garnishment. These payments include, but are not necessarily limited to, amounts received under any of the following:

- (a) A Federal program for compensation of work injuries,
- (b) Pensions (except Department of Veterans Affairs pensions),
- (c) Retirement benefits,
- (d) Annuities,
- (e) Dependents' or survivors' benefits when payable to the employee, and
- (f) Any other payment as further described in 5 C.F.R. Part 581.

**(2) MONEYS NOT SUBJECT TO GARNISHMENT FOR ALIMONY OR CHILD SUPPORT.** In instances of garnishments for Alimony or Child Support, certain moneys are not subject to garnishment, including, but not limited to moneys payable under the following:

- (a) Educational or training grants and fellowships,
- (b) Separate maintenance allowances,
- (c) Post allowances,
- (d) Quarters allowance,
- (e) Cost-of-living allowances when applicable to employees in foreign areas or employees outside the continental United States or in Alaska or Hawaii,
- (f) Cash awards for employee suggestions, and
- (g) Other payments as specified by applicable law or regulations as described in 5 C.F.R. Part 581.

**f. (U//AIUO) MONEYS SUBJECT TO GARNISHMENT FOR COMMERCIAL DEBTS**

**(1) COMMERCIAL DEBTS.** Moneys subject to garnishment include, but are not necessarily limited to the following:

- (a) Basic pay,
- (b) Night differentials,
- (c) Premium pay,
- (d) Overtime pay,

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- (e) Physician's comparability allowances,
- (f) Recruitment bonuses,
- (g) Relocation bonuses,
- (h) Performance-based cash awards, and
- (i) Other moneys as described in 5 C.F.R. Part 582.

(2) **MONEYS NOT SUBJECT TO GARNISHMENT FOR ALIMONY OR CHILD SUPPORT.** Moneys that are not subject to garnishment include those stated in paragraph e(2)(a) - (f) above in addition to the following:

- (a) Any Federal program for compensation of work injuries and
- (b) Any other payments as specified by applicable law or regulations as described in 5 C.F.R. Part 582.

g. (U) **EXCLUSIONS.** In determining the amount of money due or payable to an employee, certain amounts are excluded. These excluded amounts include the following that are applicable to child support, alimony, and commercial debt obligations as specified below.

- (1) Excluded is an amount owed by the employee to the U.S. except for a debt based on a levy (charge) for income tax under 26 U.S.C. section 6331 shall not be excluded in complying with legal process for the support of minor children if the legal process for child support was entered prior to the date of the levy.
- (2) Excluded is any amount required by law to be deducted from an employee's compensation that includes, but is not necessarily limited to the following:
  - (a) Amounts withheld from benefits payable under Title II of the Social Security Act where the withholding is required by law; this also includes amounts deducted for Medicare.
  - (b) Amounts withheld for Federal, State, or local income tax purposes if the amounts withheld are not greater than would be the case if the employee claimed all dependents to which he or she is entitled.
  - (c) Amounts deducted as health insurance premiums, including, but not limited to, amounts deducted from annuities for Medicare where the Health Care Financing Administration requests such deductions.
  - (d) Amounts deducted as normal retirement contributions including all amounts contributed to the Thrift Savings Plan, but not including amounts deducted for supplementary coverage.
  - (e) Amounts deducted as normal life insurance premiums from salary or other compensation for employment, not including amounts deducted for supplementary coverage.

h. (U) **FUTURE PAYMENTS.** Moneys paid by a governmental entity which may be due and payable to an employee at some future date will not be considered due unless and until all of



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the conditions necessary for payment of the moneys have been met. It includes, but is not limited to, conditions such as:

- (1) Retirement,
- (2) Resignation, and/or
- (3) Application for payment of moneys by an employee.

i. **(U//AIUO) SERVICE OF PROCESS.** Service of legal process brought for the enforcement of an obligation to provide child support, alimony, and/or commercial garnishment payments is accomplished by personal service or by certified or registered mail, return receipt requested to the C/BPD.

- (1) **Legal Process by Mail.** For legal process by certified or registered mail, C/BPD will note the date and time of receipt and the fact that he or she is acting in a representative capacity only on the legal process.
- (2) **Legal Process Addressed to Wrong Individual.** If legal process is addressed to the wrong individual at the Agency, the recipient shall forward the legal process to C/BPD. Valid service is not accomplished until it is received in C/BPD office.
- (3) **Documentation to Establish Legal Obligation.** If it does not appear that process is brought to enforce a legal obligation to support garnishment of wages, a certified copy of the court order or other document establishing such legal obligation must be provided. If State or local law provides for the issuance of legal process without a support order, documentation must be submitted establishing enforcement of a legal obligation to garnish wages.
- (4) **OGC Role. When required,** OGC will make determinations on the validity of any garnishment or similar order, on the validity of the service of process, and on the sufficiency of process.
  - (a) Unless specifically expressed elsewhere in this regulation, any communication on behalf of the Agency on any legal matter inclusive of those stated in the preceding paragraph will be handled solely by OGC. Communication on behalf of the Agency includes that with the following individuals or entities:
    - (1) A court or other judicial authority,
    - (2) An employee and/or employee's attorney, or
    - (3) Another legally interested person or entity or attorney of such person or entity.
  - (b) If the process cannot be complied with for reasons set forth under 5 C.F.R. section 581.305 or 582.305 as applicable, OGC will respond directly to the court or other authority. This response will describe its objection to legal process. OGC will inform the party who caused the legal process to be served or the party's representative that the legal process will not be honored.
  - (c) In cases involving covert employees, OGC will work closely with the appropriate directorate or mission support office, attorneys, and the courts to ensure cover

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protection in garnishment proceedings.

**j. (U) INFORMATION REQUIRED TO ACCOMPANY LEGAL PROCESS**

(1) **Identifying Information.** Sufficient identifying information must accompany the legal process to enable processing by the Agency. This information includes the following:

- (a) Full name,
- (b) Date of birth,
- (c) Social security number, and
- (d) Employee status (employee, former employee, or retired employee).

(2) **Insufficient Information.** If the information submitted is not sufficient to identify the employee, the legal process will be returned to the court or other authority with an explanation by OGC of the deficiency. Prior to returning the legal process, OGC will attempt to inform the party who caused the legal process to be served, or the party's representative, that it will not be honored unless adequate identifying information is supplied.

(3) **Non-liability for Failure to Comply with Process.** The Agency shall not be liable to pay monetary damages for failure to comply with legal process.

(4) **Non-Liability for Disclosure.** No employee whose duties include responding to interrogatories may be subject to any disciplinary action or civil or criminal liability or penalty for any disclosure of information made in connection with the carrying out of any duties pertaining directly or indirectly to answering these interrogatories. However, the Agency is not precluded from taking disciplinary action against an employee who consistently or purposely fails to provide correct information requested by interrogatories.

**k. (U) COMPLIANCE WITH PROCESS.** Upon proper service of sufficient legal process, together with all supplementary documents and required information, Chief, Pay & Benefits (C/P&B) will authorize C/BPD to effect withholdings. Authorization will be in writing and will include all supplementary garnishment documents and information. Upon receipt, and after determining the maximum aggregate disposable remuneration subject to garnishment, the C/BPD will withhold payment of the amount necessary to permit compliance with the legal process. C/BPD is not required to vary normal pay or disbursement cycles to comply with the legal process.

**l. NOT USED**

**m. (U) Notification to the Employee.** As soon as possible, but not later than 15 calendar days after the date of valid service of adequate legal process, the C/BPD will send to the employee, at his or her duty station or last known home address, written notice:

- (1) That such process has been served, including a copy of the legal process and any supporting documents received.
- (2) Of the maximum garnishment limitations (see paragraph o below), with a request that the employee submit to C/BPD supporting affidavits or other documentation necessary for

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determining the applicable percentage limitation.

- (3) That by submitting supporting affidavits or other necessary documentation, the employee consents to the disclosure of such information to the garnisher.
- (4) Of the percentage that will be deducted if the employee fails to submit the documentation necessary to enable the Agency to respond to the legal process within the time limits set forth in paragraph n below.
- (5) That the Agency does not represent the employee in the pending legal proceeding.

**n. (U) RESPONSE TO LEGAL PROCESS OR INTERROGATORIES**

- (1) After being validly served with sufficient legal process, C/BPD will respond to the legal process within 30 calendar days or within such longer period as prescribed by applicable State or local law. C/BPD will also respond within this time period to interrogatories that accompany legal process.
- (2) If State or local law authorizes the issuance of interrogatories prior to or after the issuance of legal process, C/BPD will respond to the interrogatories within 30 calendar days after receipt provided that the documentation required by paragraph i above has been presented properly.
- (3) Determinations as to whether State or local law authorizes the issuances of interrogatories at the time issued are made by OGC. Any response to interrogatories must be coordinated with, reviewed, and approved by OGC.

**o. (U) MAXIMUM GARNISHMENT LIMITATIONS**

- (1) **Child Support/Alimony.** Unless applicable State or local law provides a lower maximum garnishment limitation, the maximum part of the aggregate disposable earnings subject to garnishment to enforce any support order will not exceed:
  - (a) Fifty percent of the employee's aggregate disposable earnings for any workweek where the employee asserts by affidavit or other acceptable evidence that the employee is providing over half of the support for a spouse, dependent child or both, other than the former spouse, dependent child, or both for whose support the order is issued. Copies of the evidence shall be sent to the party who caused legal process to be served or the party's representative as well as to the court or other authority together with notification that the employee support claim will be honored; or
  - (b) Sixty percent where the employee fails to make such assertion by affidavit or other acceptable evidence.

In either case, an additional five percent will apply if it appears on the face of the legal process or from other evidence submitted that such earnings are to enforce a support order for a period that is 12 weeks prior to that workweek. An employee is considered to be supporting a spouse or dependent child only if he or she provides over half of the spouse's or dependent child's support.

- (2) **Commercial debts.** Unless a lower maximum limitation is provided by applicable State or local law, the maximum part of an employee-obligor's aggregate disposable earnings

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subject to garnishment to enforce any legal debt other than an order for child support or alimony, including any amounts withheld to offset administrative costs shall not exceed 25 percent of the employee-obligor's aggregate disposable earnings for any workweek.

- (a) If the employee's aggregate disposable earnings for a workweek are in excess of 40 times the Fair Labor Standards Act (FLSA) minimum hourly wage, 25 percent of the employee's aggregate disposable earnings may be garnished.
- (b) If the employee's aggregate disposable earnings for a workweek are less than 40 times the FLSA minimum hourly wage, garnishment may not exceed the amount by which the employee's aggregate disposable earnings exceed 30 times the current minimum wage rate.
- (c) If the employee's aggregate disposable earnings for a workweek are equal to or less than 30 times the FLSA minimum hourly wage, the employee's earnings may not be garnished for any amount.

There is no limit on the percentage of an employee's aggregate disposable earnings that may be garnished for a Federal, State, or local tax obligation or in compliance with an order of any court of the United States having jurisdiction over bankruptcy cases under Chapter 13 of title 11 of the United States Code. Orders from courts having jurisdiction over bankruptcy cases under Chapter 7 or Chapter 11 of the United States Code are subject to the maximum garnishment restrictions in paragraph o(2) above.

- p. **(U) TERMINATION OF EMPLOYMENT.** In the event that an employee terminates gainful employment with the Agency during a time the Agency is honoring a continuing legal process, C/BPD will inform the court or other authority and the party who caused the legal process to be served or the party's representative. In cases where the employee has separated and requested a refund of retirement contributions, or transferred, or is receiving benefits under the Federal Employees' Compensation Act, and where this information is known by the Agency, the Agency will provide the party with the designated agent for the new disbursing governmental entity. If the employee will be employed in the private sector and the Agency knows the name and/or address of the new employer, the Agency will provide the party with this information.

q. **(U) RESPONSIBILITIES**

**(1) The Office of General Counsel (OGC)**

- (a) When their assistance is required [as discussed in Paragraph i(4) above], the OGC is responsible for making determinations on the validity of any garnishment or similar order, on the validity of the service of process, and on the sufficiency of process. The OGC provides communication in support of such determinations or on any other legal matter to courts, employees, attorneys, or other legally interested persons or entities.
- (b) The OGC reviews and approves responses made to interrogatories that accompany the legal process.

**(2) Chief, Biweekly Payroll Division (C/BPD)**

- (a) The C/BPD is the agent designated in the Code of Federal Regulations to receive

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service of legal process on behalf of the Agency for the enforcement of an employee's obligation to provide child support, to make alimony payment, and/or to comply with commercial debt obligations.

- (b) The C/BPD makes withholdings for garnishment of employee wages upon authorization by C/P&B.
  - (c) After being validly served with sufficient legal process, C/BPD will respond, in coordination with OGC, to the legal process or to any interrogatories that accompany the legal process, within 30 calendar days or within the period as prescribed by law.
  - (d) The C/BPD provides written notice to the employee of service of legal process to include the information stipulated in paragraph m.
  - (e) The C/BPD informs the court or other authority and the party who caused the legal process to be served in the event of an employee's termination during a time when the Agency is honoring a continuing legal process.
  - (f) The C/BPD is responsible for notifying the Chief, Special Activities Staff, Office of Security of all garnishments.
- (3) **Employee.** The employee is responsible for submitting to C/BPD any supporting affidavits or other documentation necessary as requested for compliance with the legal process.

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(b) (3)~~CONFIDENTIAL~~**Date:** 06/25/93**Category:** 20 - Personnel**OPR:** OPS**Title:** HR 20-8 MARRIAGE OF EMPLOYEES

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## **8. MARRIAGE OF EMPLOYEES (U)**

**SYNOPSIS.** This regulation establishes policy and procedures with respect to the continued employment after marriage of staff and contract personnel, hereinafter referred to as employees. (U)

### **a. MARRIAGE TO FOREIGN NATIONALS**

#### **(1) POLICY**

- (a) As a matter of Agency policy, the marriage of Agency employees to foreign nationals is discouraged and is a subject of serious security and counterintelligence concern. For purposes of this regulation, a foreign national is a person who is not a citizen of the United States. If an employee wishes to remain in the employ of the Agency after marriage to a foreign national, permission to do so must be obtained prior to the marriage. Failure to obtain permission constitutes grounds for dismissal. In addition to requesting permission to remain employed, an employee must submit his or her resignation at the same time. It is Agency policy to consider each case individually. A determination to approve or disapprove a request to remain employed following such a marriage will be based on evaluation of the security and counterintelligence risks involved. The provisions of this regulation will apply without regard to the grade or position held by an employee.
- (b) A statement will be required from the employee stipulating his or her understanding of the prospective spouse's intent to apply for U.S. citizenship as soon as eligible. Failure by the spouse to obtain U.S. citizenship after marriage will be grounds for termination of the employee's Agency employment. The Office of Personnel (OP) and the Office of Security (OS), with the assistance of the Head of the employee's Career Service, will monitor such cases to ensure compliance with this provision.
- (c) Before the marriage is to take place, appropriate field and headquarters traces and

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other investigative inquiries will be conducted on the prospective spouse. The prospective spouse normally will be required to undergo a polygraph examination for assistance in the verification of the personal history statement, as well as focusing on certain counterintelligence issues. In certain circumstances, the employee may be requested to undergo polygraph testing. Employees will be notified of when and how they are to inform their prospective spouse of the scheduled polygraph.

- (d) When approval is granted to remain in the employ of the Agency after marriage to a foreign national, the following caveats will apply:

- (1) An employee serving overseas, [redacted] [redacted] will be reassigned to the United States at the end of the tour or within six months from the date of the marriage, whichever is earlier. This reassignment policy will be applied consistently to all members of an overseas station, base, or non-Directorate of Operations (DO) facility. Normally, the employee will remain in the United States until the spouse has obtained U.S. citizenship. This limitation is intended to provide the spouse with the protection of the U.S. passport as well as to minimize intelligence threats. Under certain circumstances, and with the approval of the Director of Personnel, the employee may serve overseas on a nonaccompanied tour prior to the spouse's obtaining U.S. citizenship. Approval will be contingent on the spouse's continued residence in the United States and verification that the original intent of the spouse to obtain U.S. citizenship still exists. Once the spouse obtains U.S. citizenship, subsequent assignment of the employee to the spouse's country of birth, country of former citizenship, or country of extended residence, or to a country where possible counterintelligence concerns are raised will require approval of the Deputy Director for Operations (DDO).
- (2) A security review of the spouse, generally in the third year after marriage, will be conducted and may include a polygraph examination, appropriate field investigation, or both.
- (3) Approval of the employee's request to remain in the employ of the Agency upon marriage to a foreign national will be valid for one year only. If the marriage does not take place within one year of the date of this approval, the employee must submit a new request with updated documentation prior to the marriage.

## (2) PROCEDURES

- (a) An employee who contemplates marriage to a foreign national and wishes to remain in the employ of the Agency following the marriage must prepare a written request for permission to remain employed. The following must be prepared as attachments:
  - (1) A letter of resignation stating the employee's intention to marry a foreign national, as well as an understanding that the Agency may not permit continued

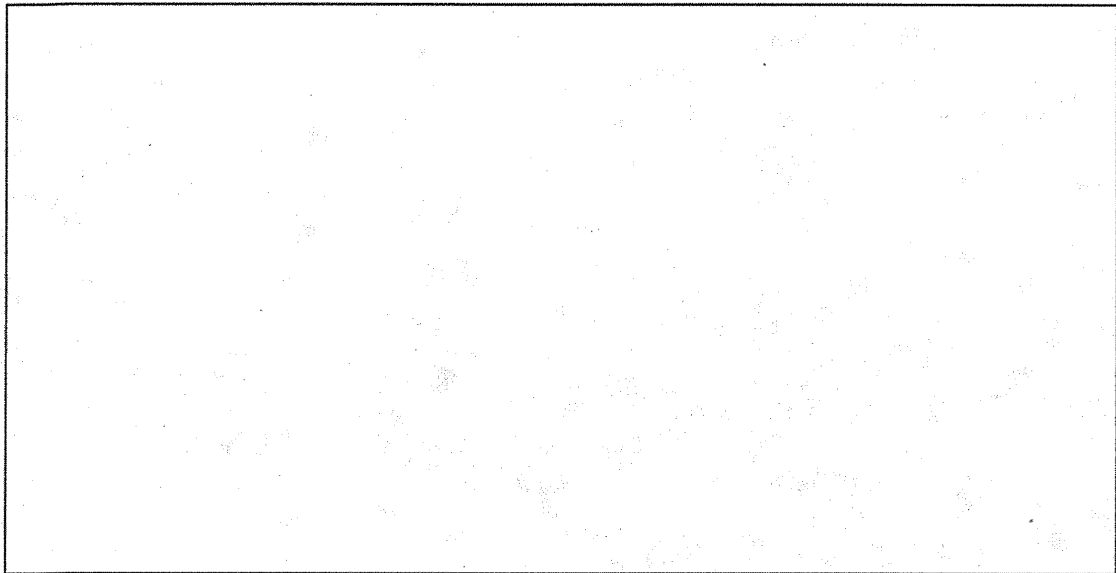
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employment after such marriage and that, should permission to remain employed be denied and the employee enters the marriage, the resignation will be acted upon and will be effective no later than 45 calendar days after the marriage takes place. The resignation also may be effected for security reasons at any time prior to the spouse's obtaining U.S. citizenship.

- (2) A statement of the employee's understanding of the requirement for the prospective spouse to become a U.S. citizen and intention to file an application for naturalization as soon as eligible. Failure to apply for naturalization within the minimum time allowed by law and to complete the naturalization process as soon as possible will be grounds for termination of Agency employment. The Director of Personnel is responsible for ensuring compliance. The employee must inform the Director of Personnel of any circumstances which would prevent compliance with this policy. Communication of such circumstances to the Director of Personnel, however, does not, in and of itself, preclude acceptance of the employee's resignation or termination of employment.

- (3) A clear color photograph of the prospective spouse.



- (b) An employee serving in the headquarters area must submit the request and accompanying documents to the Director of Personnel, Attention: Special Activities Staff (SAS), with copies to the Head of the employee's Career Service, the Director of Security, and the Chief, Counterintelligence Center (CIC), DO, at least 120 calendar days in advance of the proposed date of marriage for review and a determination. The 120-calendar-day process does not begin until OS is in receipt of all of the official documents. The Head of the Career Service must provide the information required by HR 90-4e  for an employee who has a cryptographic clearance.

- (c) If the employee is serving in the field, the Chief of Station (COS) 

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[ ] will forward two signed originals of the request and accompanying documents to headquarters, one to the attention of OS and the other to the employee's Career Service via the component. The latter will be responsible for ensuring that copies of the request and documents are sent promptly to CIC and to SAS/OP for processing. In order to make a determination, CIC and OS require 120 calendar days from receipt at headquarters of the pouched request and accompanying documents. The COS [ ] will transmit electronically to headquarters, on a priority basis, the information provided by the employee as well as the following:

- (1) Results of field traces and investigative inquiries on the prospective spouse and relatives as well as any other pertinent information or comments bearing on the background and reputation of the prospective spouse or having significance with respect to the future assignments of the employee.
  - (2) Recommendation and reasons for approval or disapproval.
  - (3) Information required by HR 90-4e [ ], if it is determined that suspension or revocation of an individual's cryptographic clearance would cause serious operational hardship or otherwise be determined not to be in the best interests of the Agency.
- (d) The Chief, CIC will advise the Directors of Personnel and Security of any counterintelligence concerns.
- (e) The Director of Security will:
- (1) Conduct a security investigation, including requests for additional field traces, as appropriate.
  - (2) Arrange for a polygraph examination of the prospective spouse and, if deemed necessary, the employee, in coordination with the Head of the Career Service and/or the DDO if the employee is overseas. The prospective spouse will be asked to sign a polygraph consent form at the time of polygraph testing.
  - (3) Review the results of the security processing and forward a recommendation to the Director of Personnel, the Head of the employee's Career Service, and the Chief, CIC.
- (f) The Director of Personnel, after consultation with the Director of Security, Chief, CIC, and the Head of the employee's Career Service, will approve or disapprove retention of the employee after marriage to a foreign national. The decision will be based upon security and counterintelligence concerns. A decision by the Director of Personnel to disapprove an employee's request may be appealed by the employee to the Executive Director (EXDIR) within 30 calendar days. In the event of disagreement among the interested components, the case, accompanied by a

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recommendation from the Director of Personnel, will be referred to the EXDIR for a decision. In cases in which the decision is referred to the EXDIR because of a disagreement among the interested components, a decision by the EXDIR to disapprove the request may be appealed by the employee within 30 calendar days to the Deputy Director of the Central Intelligence Agency (DD/CIA).

- (g) The Director of Personnel will inform the Head of the employee's Career Service, the Director of Security, and the Chief, CIC of the decision.
- (h) The Head of the employee's Career Service will ensure that the employee is informed immediately of the decision. If the request is denied, the Head of the employee's Career Service also will ensure that the employee is informed of the appeal privilege to the EXDIR from decisions made by the Director of Personnel or, if the Director of Personnel did not make a final decision in the case, to the DD/CIA from decisions made by the EXDIR. An appeal must be made in writing within 30 calendar days from the date the employee is informed of the denial and must contain an explanation of why it is being made and any additional information that may not have been presented initially for consideration. Appeals to the EXDIR will be forwarded through the Head of the employee's Career Service and the Director of Personnel. Appeals to the DD/CIA will be forwarded through the Head of the employee's Career Service, the Director of Personnel, and the EXDIR. The Head of the employee's Career Service will advise the Director of Security and the Chief, CIC of the employee's appeal. (C)

**b. MARRIAGE TO CITIZENS OF THE UNITED STATES**

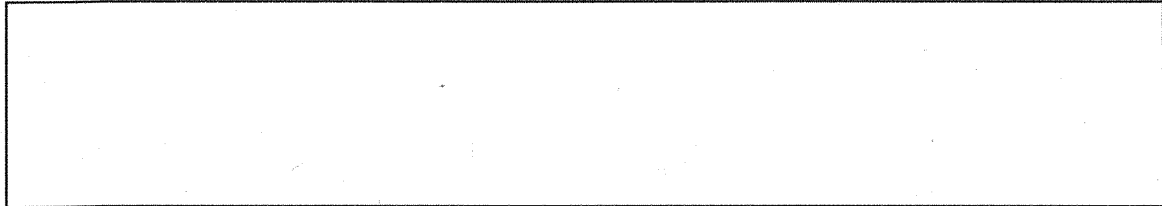
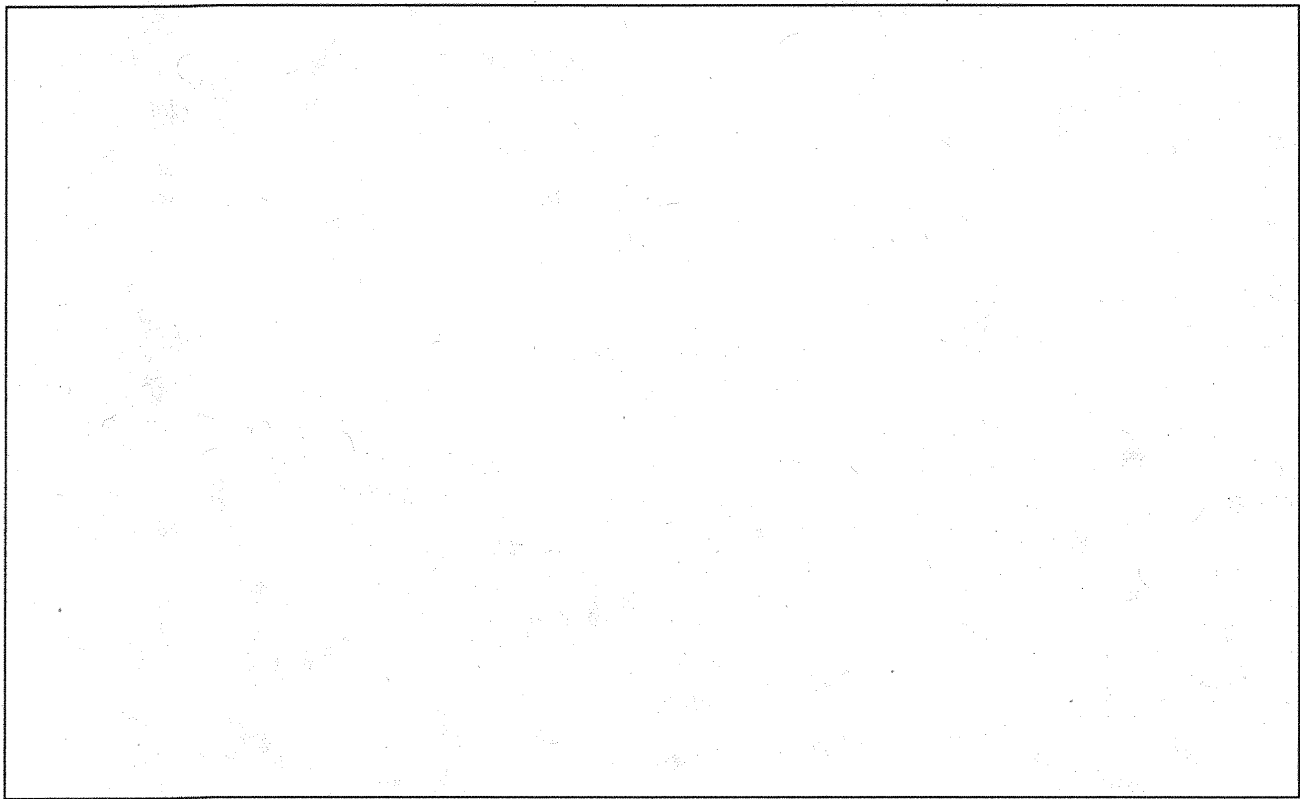
- (1) **POLICY.** Although prior permission to remain with the Agency after marriage is not required of an employee when the marriage is to a U.S. citizen, certain information regarding the spouse or prospective spouse is required by the Agency. If, after review of the information provided and any other appropriate inquiry, in the opinion of the Agency, the spouse or prospective spouse is found to be a security or counterintelligence risk or if the marriage may limit the usefulness of the employee, the marriage may be sufficient grounds for terminating employment or, should circumstances warrant, transferring the employee to other duties within the Agency. The procedures related to provision of this information differ, depending on whether or not the employee is under cover.

**(2) PROCEDURES**

- (a) The employee, except when marrying an Agency employee, must submit to the Agency basic biographic information on the spouse or prospective spouse who is a U.S. citizen.

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- (b) The original and one copy of the memorandum or form must be forwarded at least 90 calendar days before the marriage or as soon as practicable to the Director of Security through the appropriate Operating Official or Head of Independent Office.
- (c) The Director of Security will conduct a security investigation of the spouse or prospective spouse. If information that would limit the usefulness of the employee is found, the Director of Security will advise the Operating Official or Head of Independent Office who will submit a recommendation for either retention or termination of employment. The Director of Personnel will review the recommendation and either will approve retention or forward the case to the Director of the Central Intelligence Agency (D/CIA) if termination of employment is recommended. The Director of Personnel will inform the Head of the employee's Career Service, the Career Service of assignment if different, and the Director of Security of the decision reached. The Head of the Career Service will advise the Operating Official or Head of Independent Office who is responsible for advising the employee. If termination of employment is recommended, the employee may submit an appeal to the D/CIA to accompany the Director of Personnel's recommendation, in accordance with the provisions of HR 20-27. (C)
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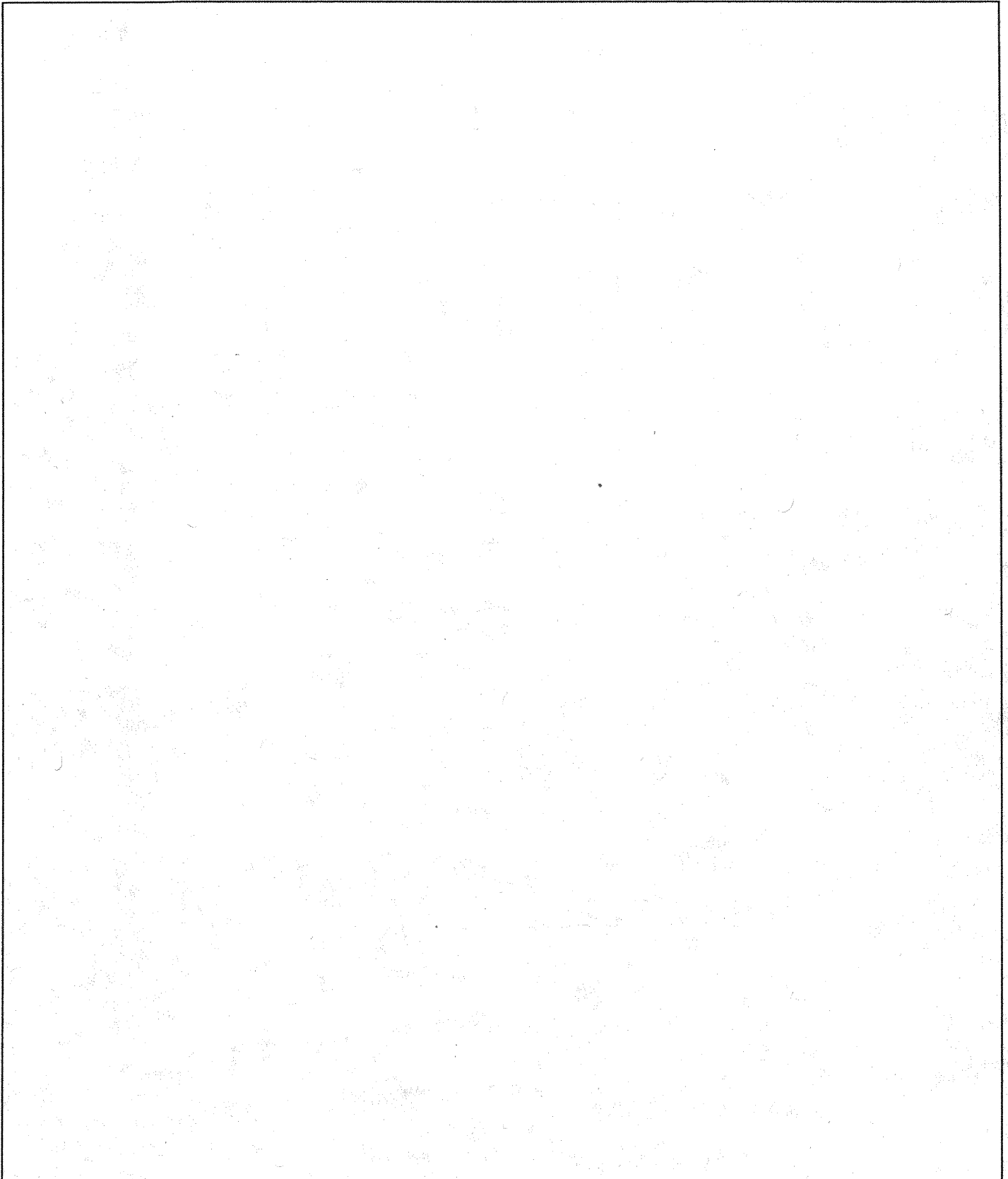
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- [REDACTED]
- e. **DISSEMINATION.** The Director of Personnel will ensure that all new employees entering on duty at headquarters are made aware of the provisions of this regulation as part of their entrance-on-duty processing. [REDACTED]
- [REDACTED]

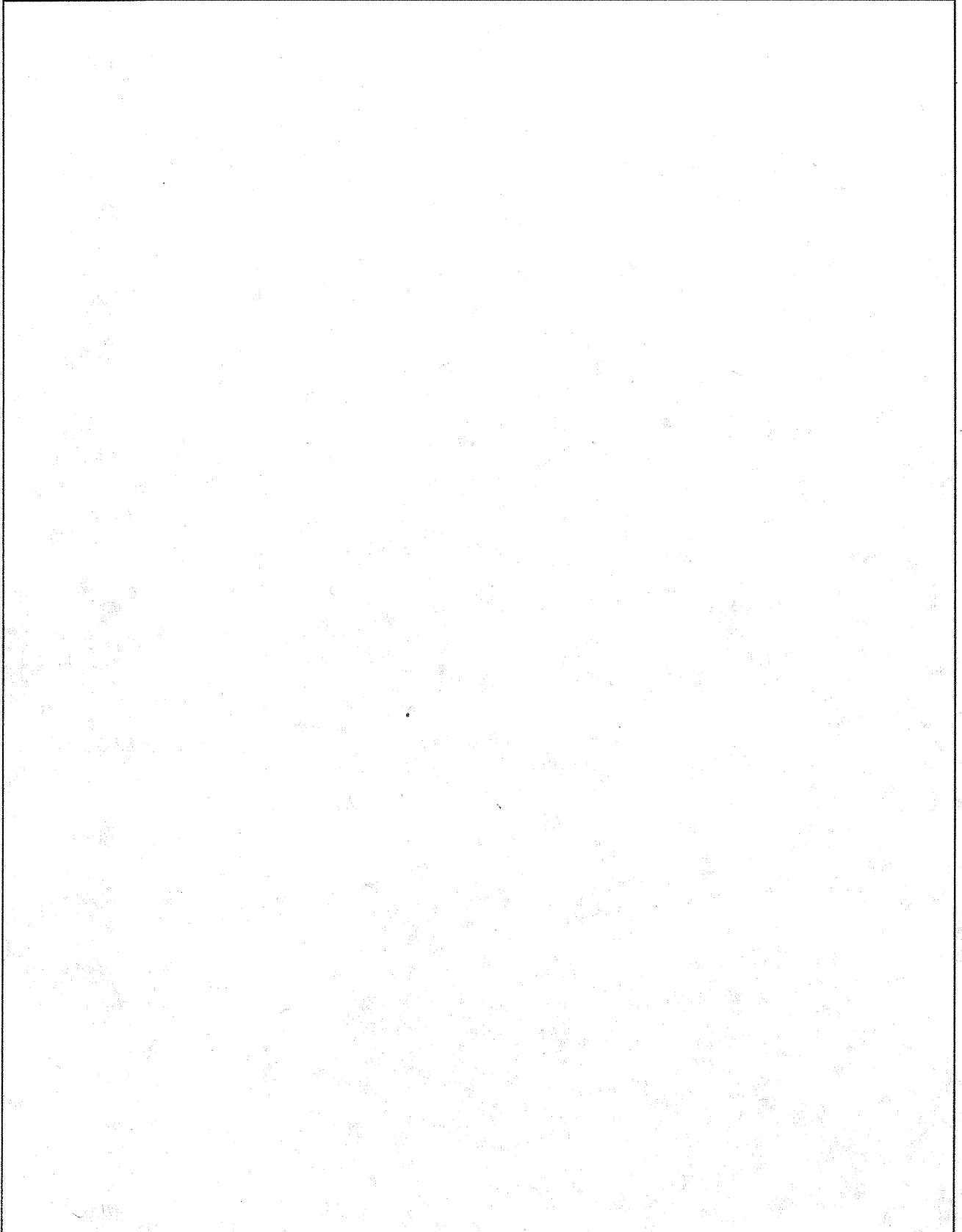
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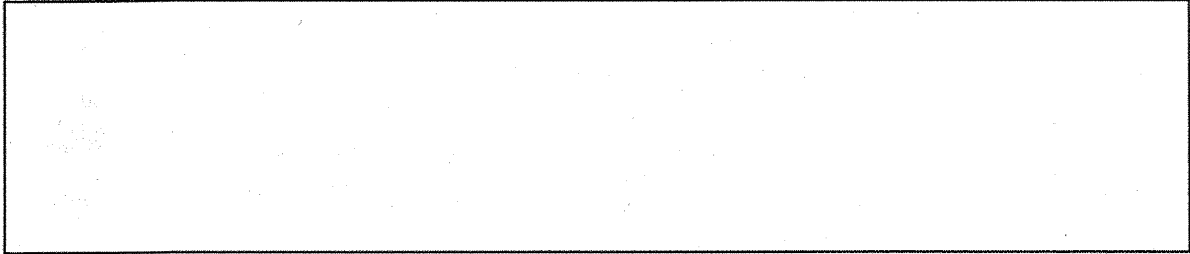
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(b) (3)~~ADMINISTRATIVE - INTERNAL USE ONLY~~**Date:** 09/17/2001**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-9 RESTRICTIONS ON EMPLOYMENT OF RELATIVES**REVISION SUMMARY:** 17 September 2001 (0554)

This regulation supersedes AR 20-9, dated 5 January 1998.

AR 20-9 is revised to reflect the new organizational title of Human Resource (HR), and organizational title changes in paragraphs b and e(2)(b).

This regulation reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001, to abolish the Directorate of Administration, and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions .*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, HRM Policy @ DA.*

**9. RESTRICTIONS ON EMPLOYMENT OF RELATIVES**

**SYNOPSIS.** This regulation contains restrictions on the appointment, employment, promotion, or advancement of relatives, including employee couples.

- a. **AUTHORITY.** The authority for the policy prescribed by this regulation is derived from 5 U.S.C. 3110, 42 U.S.C. 2000e, and 50 U.S.C. 403j and E.O. 12674, which when read in tandem oblige employees not only to avoid nepotism or favoritism, but also to conduct themselves in such a way as to avoid giving rise to even the appearance of favoritism and nepotism.
- b. **POLICY.** It is the policy of the Agency to preclude nepotism in the administration of its **human resource** programs. Agency employees are cautioned to avoid any action, however well-intentioned, that might jeopardize the job of the related applicant or employee. At the same time, in recognition of the fact that related employees (including husbands and wives

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who are both Agency employees) are a valuable resource in whom the Agency has invested much time, effort, and money, this policy does not prevent the assignment of related employees to the same field location. Such assignments must meet certain conditions as specified in this regulation.

**c. DEFINITIONS**

- (1) **PUBLIC OFFICIAL.** An officer, a member of the uniformed services, an employee, and any other individual in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in the Agency.
- (2) **RELATIVE.** An individual who is related to the public official as a father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, 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 brother, or half sister.
- (3) **EMPLOYEE COUPLE.** As specifically used in this regulation—a husband and wife who are Agency employees and who have been, are, or expect to be assigned to the domestic or foreign field.
- (4) **CHAIN OF COMMAND.** The line of supervisory personnel that runs from a public official to the head of an agency.
- (5) **DOMESTIC OR FOREIGN FIELD.** As specifically used in this regulation—Agency installations, both domestic and foreign, outside the headquarters complex and its outlying buildings.

**d. RESTRICTIONS**

- (1) A public official may not advocate a relative for appointment, employment, promotion, or advancement in or to a civilian position in the Agency or over which the public official exercises jurisdiction or control in the Agency or in any other agency. A public official who recommends a relative or refers a relative for consideration for appointment, employment, promotion, or advancement by a public official standing lower in the chain of command is deemed to have advocated the appointment, employment, promotion, or advancement of the relative.
- (2) A public official may not appoint, employ, promote, or advance in or to a civilian position in the Agency or over which the public official exercises jurisdiction or control in the Agency or in any other agency:
  - (a) Any relative.
  - (b) The relative of another public official of the first official's agency or of a public official who exercises jurisdiction or control over the first official's agency if that other public official has advocated the appointment, employment, promotion, or advancement of the relative.

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- (3) An individual appointed, employed, promoted, or advanced in violation of paragraph (1) or (2) above is not entitled to pay, and money may not be paid from the U.S. Treasury as pay to an individual so appointed, employed, promoted, or advanced.

**e. ASSIGNMENT OF EMPLOYEE COUPLES AND OTHER RELATED INDIVIDUALS**

- (1) An employee couple may be assigned to the same domestic or foreign field location if selection of the couple and approval of the assignment are made by an official or officials senior to both members of the employee couple. The official(s) approving the assignment will ensure that one member of the employee couple: is not the direct supervisor of the other member; is not in a position to write or review the other's Performance Appraisal Reports (PARs) or under any circumstances the PAR of the junior spouse's rating officer; or otherwise participate in any way in any evaluation of the other's performance; and cannot recommend the other member for promotion, within grade increase, or other benefit or favorable personnel action. The official(s) approving the assignment will also ensure there is effective management and supervision, including accountability to a higher level, of both employees.
- (2) If one member of an employee couple is a Chief of Station, Chief of Base, Chief of Facility (or equivalent), FBIS Bureau Chief, or FBIS Unit Chief, the employee couple may be assigned to the same domestic or foreign field location if the appropriate Head of Career Service, in consultation with the General Counsel and the Office of Equal Employment Opportunity, as appropriate, approves the assignments in advance. In considering whether to approve such assignments, the Head of Career Service shall ensure that the assignments would be in the best interests of the Agency and the field installation, would be in accordance with Agency policy concerning equal employment opportunity and affirmative action, and would not violate the Federal antinepotism statute (5 U.S.C. 3110) or this regulation. Among the factors to be considered in the approval process shall be:
- (a) The size of the field installation.
  - (b) Whether different directorate or mission support office tasking is available so that the PARs of the employee couple could be written by different directorates or mission support offices.
  - (c) Whether the assignments are necessary for operational reasons; for example, in denied areas to provide cover or operational assistance.
  - (d) Whether a chain of command could be established so that the spouse could work outside the field installation managed by the senior spouse.
  - (e) The past performance of the employees.
- (3) Heads of Career Services may institute specific safeguards regarding the assignment of employee couples, as warranted by particular circumstances within their Career Services, to avoid favoritism, nepotism, or other employment impropriety and to avoid the appearance of favoritism, nepotism, or other employment impropriety.

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- (4) If during the assignments circumstances change, then the Head of Career Service may revoke the assignments or institute specific safeguards to avoid favoritism, nepotism, or other employment impropriety and to avoid the appearance of favoritism, nepotism, or other employment impropriety.
- (5) An employee couple may not be assigned to the same division or branch in the headquarters complex and its outlying buildings if their assignments would result in one member of the couple being able to advocate the appointment, employment, promotion, or advancement of the other.
- (6) The provisions of paragraphs (1) through (5) above shall also apply to the assignment of other related individuals.
- f. **EXCEPTIONS.** Relatives may be employed temporarily without regard to the above restrictions to meet needs resulting from an emergency posing an immediate threat to life or property. Employment under these conditions normally will not exceed one month but may be extended for a second month if the emergency need still exists.
- g. **PENALTY**
  - (1) The penalty for violating the restrictions of this regulation normally is loss of the improperly appointed, employed, promoted, or advanced employee's position and may include the recovery of improperly paid compensation from that employee. It shall also be incumbent upon senior Agency management to report such behavior to the Office of Inspector General.
  - (2) Agency officials who violate the restrictions of this regulation may be subject to appropriate disciplinary measures as set forth in HR 20-6.

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(b) (3)**Date:** 11/06/2001**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-10 POSITION MANAGEMENT AND PERSONNEL CONTROLS**REVISION SUMMARY:** 06 November 2001 (0571)

This regulation supersedes AR 20-10, dated 12 May 1997.

AR 20-10 is revised to update organizational and position titles. This revision reflects the Agency's organizational restructure that resulted from the D/CIA's decision, effective 4 June 2001, to abolish the Directorate of Administration and establish the Mission Support Offices (MSO's).

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, HRM Policy @ DA.*

**10. POSITION MANAGEMENT AND PERSONNEL CONTROLS**

**SYNOPSIS.** This regulation states Agency policy, authority and responsibilities for the Agency's decentralized position management and personnel controls program.

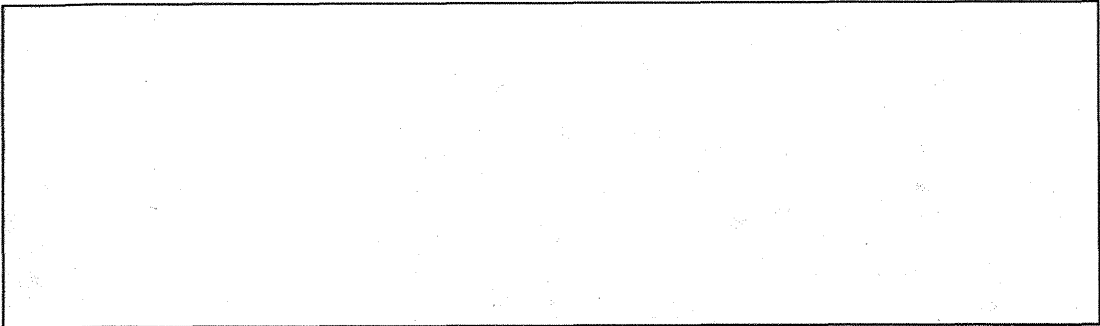
- a. **AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403j).
- b. **POLICY.** The Agency conducts a decentralized position management and personnel controls program to ensure the efficient and effective use of personnel.
- c. **DEFINITIONS**
  - (1) **COMPONENT.** Any major unit that submits a budget to the **Director of Budget** (for example, Independent Offices and organizations headed by Operating Officials).

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- (2) **POSITION MANAGEMENT.** The process by which managers, assisted by component Human Resource (HR) officers, organize work and align positions under managers' jurisdictions to accomplish missions and further career development of employees through efficient and effective use of position and personnel resources.
  - (3) **POSITION AVERAGE GRADE.** The average of the grades of General Schedule (GS) ceiling positions on a component's staffing complement.
  - (4) **CEILING.** The number of positions authorized by the Director of the Central Intelligence Agency (D/CIA) for a component.
  - (5) **CEILING AND NONCEILING POSITIONS.** Ceiling positions count and nonceiling positions do not count against components' authorized personnel ceilings. Ceiling positions are established for the assignment of full-time permanent (FTP) count employees. The purpose of nonceiling positions is described in paragraph f(3) below; employees assigned to these positions count against authorized personnel ceilings (FTP and/or full-time equivalent (FTE)), except as noted in paragraph e(2) below.
- d. **PROGRAM.** The Agency's position management and personnel controls program is flexible and decentralized to enable managers to change organizational structures and shift positions to meet changing work requirements. The program includes:
- (1) Continuing managerial review of organizational structures, positions, and personnel use.
  - (2) Annually forecasting each component's personnel requirements on the basis of the annual program plans and budget estimates.
  - (3) Establishment, by fiscal year, of a personnel ceiling (as explained in paragraph e below) for each component consistent with the Agency ceiling approved in the budget process.
  - (4) Long-range projection of personnel requirements by numbers, skills, and occupational categories.
  - (5) Distinction between personnel working or in training for career and skills development or on Leave Without Pay (LWOP).
  - (6) Adherence to the position average grade in the Agency's approved annual budget.
- e. **PERSONNEL CEILING**
- (1) The Agency controls employment levels by ceilings on FTP positions and on FTE employment. Position and FTE ceilings are allocated to the D/CIA and further allocated to independent offices, **Mission Support Offices (MSOs)**, directorates and their components. The ceilings are as follows:
    - (a) FTP position ceiling is the maximum number of FTP employees the Agency is authorized to employ. FTP position ceiling includes full-time permanent Agency staff and contract employees, reimbursable detailees to the Agency from other Federal agencies, and nonreimbursable detailees from the Agency to other Federal agencies.
    - (b) FTE ceiling is the total employee work years authorized, excluding overtime and holiday time, for the two constituents of FTE employment:

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- (2) Total employment ceiling excludes personnel in the following statuses: LWOP for more than 30 calendar days, extended sick leave pending approved disability retirement, reimbursable detailees from the Agency to other Federal agencies, nonreimbursable detailees to the Agency from other Federal agencies, and appointed foreign nationals charged to a separate allocation.

**f. STAFFING COMPLEMENT**

- (1) The staffing complement is an official record of a component's organizational structure, distribution, and identification of positions, and assignment of full-time and part-time staff and contract personnel as well as military and civilian personnel on reimbursable details from other Federal agencies. Components will assign military and civilian nonreimbursable detailees to nonceiling positions (as defined below). The component's staffing complement lists positions within suborganizations by schedule, grade, position title, geographic location, Career Service or Career Subgroup indicator, and planned incumbency.
- (2) The planned incumbency of each position is one and components normally assign only one person to each position. However, components may assign more than one person to a position when work requirements fluctuate. The total number of personnel assigned may not exceed the component's authorized position ceiling.
- (3) **NONCEILING POSITION.** A nonceiling position is a category for the assignment of individuals who are not performing the duties of an Agency full-time ceiling position. Employees in nonceiling assignments include part-time and temporary personnel; full-time term employees awaiting reassignment to ceiling positions when those positions are currently filled; and personnel on extended training, LWOP in excess of 30 calendar days, extended sick leave pending approved disability retirement, or reimbursable detail to another agency. Employees in nonceiling positions count against personnel ceiling (FTP and/or FTE), except as noted in paragraph e(2) above.

- g. CAREER SERVICE GRADE AUTHORIZATION (CSGA).** The CSGA is a numerical comparison of a Career Service's authorized positions at each GS grade against the number of on-duty employees at that grade. The numerical difference is the component's available headroom, or number of employees that the Career Service can promote or hire at each grade. Employee rotational assignments to other Career Services or mismatches in employee/position subcategories (professional, technical, or clerical) and schedules (GS personnel in non-GS positions or vice versa) affect the CSGA. HR issues a CSGA for each Career Service and Career Subgroup.

~~ADMINISTRATIVE - INTERNAL USE ONLY~~**h. RESPONSIBILITIES****(1) THE D/CIA OR DESIGNEE WILL:**

- (a) Establish guidelines for Deputy Directors, **Chiefs of MSOs**, and Heads of Independent Offices to determine personnel requirements for program and budget submissions.
- (b) Allocate Agency personnel ceiling among directorates, **MSOs**, and independent offices.
- (c) Approve proposals from Deputy Directors, **Chiefs of MSOs**, and Heads of Independent Offices or designees (see paragraph (2)(g) below) for increases in the directorate's, **MSO's** or independent office's authorized position average grade with the advice and guidance of the Comptroller.

**(2) DEPUTY DIRECTORS, CHIEFS OF MSOS, AND HEADS OF INDEPENDENT OFFICES OR DESIGNEES WILL:**

- (a) Administer a position management and personnel controls program within their jurisdictions.
- (b) Include proposed personnel requirements in program and budget submissions according to D/CIA or Comptroller guidelines.
- (c) Allocate D/CIA-issued personnel ceiling among subordinate components on the basis of program priorities and objectives.
- (d) Within 60 calendar days of D/CIA or **Director of Budget** approval of revised personnel ceiling allocations, identify positions to be cut when personnel ceiling decreases or new positions to be established when personnel ceiling increases.
- (e) Advise the **Director of Budget** within 30 days at the latest of any FTE adjustments required by **Director of Budget** changes in the directorate's, **MSO's** or independent office's FTE ceiling, and any internal adjustments made within the directorate's, **MSO's** or independent office's existing FTE ceiling. The Office of **Budget** will promptly notify HR of any FTE adjustments.
- (f) Plan the directorate's, **MSO's** or independent office's composition by grades and occupational skills.
- (g) Submit proposals for significant organizational changes or changes in ceiling through the **Director of Budget** to the D/CIA for approval. Significant organizational changes include establishment or closure of a station or base; the establishment, deletion, or merger of office-level components and independent offices; and changes that increase the directorate's, **MSO's** or independent office's authorized position average grade.
- (h) Determine the need for and make other internal adjustments in personnel ceiling allocations without prior approval. Notify the **Director of Budget** in writing of these adjustments.

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- (i) Develop and propose new or revised staffing complements to the **Director of Budget** as required by the Agency Annual Program and Budget.

**(3) OFFICIALS RESPONSIBLE FOR BUDGET SUBMISSIONS WILL:**

- (a) Include proposed personnel requirements in program and budget submissions using Deputy Director, **Chief of MSO**, or **Director of Budget** guidelines.
- (b) Submit to the appropriate Deputy Director or **Chief of MSO** proposed component staffing complements consistent with the approved Annual Program and Budget. Except under temporary situations approved by the D/CIA, the total number of ceiling positions will not exceed the personnel ceiling of the component concerned. A component chief will advise the Head of another Career Service of any proposal to establish, abolish, or change the Career Service or Career Subgroup indicator or grade of a position with the other career service's designation on the staffing complement.
- (c) Prioritize personnel requirements by function and organizational structure.

**(4) THE CHIEF HR OFFICER OR DESIGNEE WILL:**

- (a) Monitor entrance on duty and transfers of personnel between components to ensure components manage on-duty strength within personnel ceiling.
- (b) Publish CSGAs as guidelines for Career Services and Career Subgroups to determine promotion and hiring headroom.
- (c) Coordinate with the **Director of Budget** to monitor the Agency's personnel controls program.
- (d) Project long-term personnel requirements by numbers, skills, and occupational fields on the basis of information from the **Director of Budget**, directorates, MSOs, and components.

**(5) THE DIRECTOR/BUDGET OR DESIGNEE WILL:**

- (a) Review and submit recommendations to the D/CIA on proposals for significant organizational changes; changes in ceiling that have budgetary, personnel, or program implications; and actions that would increase the Agency's authorized position average grade.
- (b) Notify the **Chief HR Officer** or designee of D/CIA-approved organizational and personnel ceiling changes.
- (c) Ensure a continuing review of personnel levels among Agency components on the basis of program objectives and personnel resource requirements.
- (d) In concert with the **Chief HR Officer** or designee, develop and recommend to the D/CIA policies and procedures to ensure the effective operation of a systematic program of personnel controls and reporting.



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(b) (3)~~ADMINISTRATIVE - INTERNAL USE ONLY~~**Date:** 05/12/97**Category:** 20 - Human Resources      **OPR:** HRM**Title:** AR 20-11 POSITION CLASSIFICATION

*This regulation was written by the Policy Group, Human Resource Management,*

**11. POSITION CLASSIFICATION**

**SYNOPSIS.** This regulation states policies, authorities and responsibilities for the Agency's decentralized position classification program. (NOTE: *Boldfaced text in this regulation indicates revisions.*)

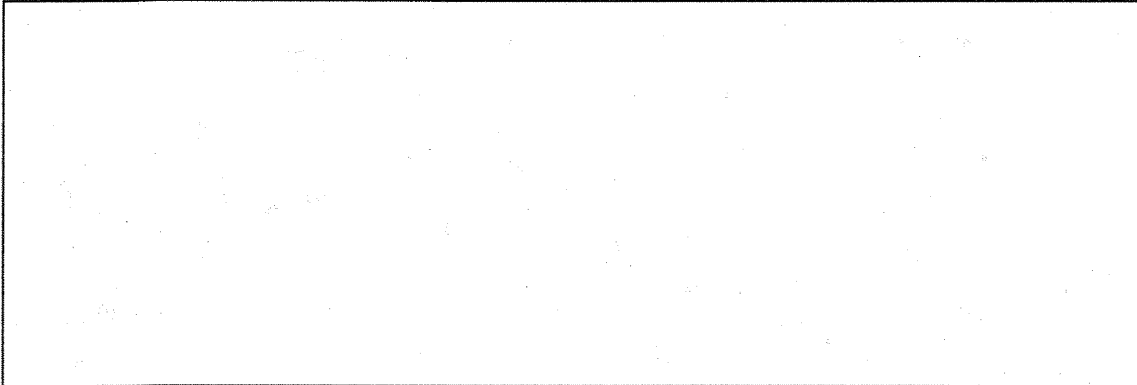
- a. **AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended (50 U. S. C. 403j).
- b. **POLICY.** The objectives of the decentralized position classification program are to maintain internal job and pay equity within occupations Agencywide and provide managers with flexibility and authority, and make them accountable for managing their organizational structures, positions, grade points, and job classifications. The Agency generally applies the principles and concepts of the Federal Government classification system and follows the pay practices below:
- (1) The basic principles and concepts of the **Office of Personnel Management's (OPM) Factor Evaluation System (FES)**, as modified, for classification of Agency General Schedule (GS) positions.
  - (2) The prevailing rate systems for classification of local-area wage positions.
  - (3) Lead agency pay practices for classification of Government Printing (GP) and Graphic Arts (GA) positions.
  - (4) **Lead agency practices** for classification of foreign national (**FBN**) positions of the Foreign Broadcast Information Service (FBIS).
  - (5) The military occupation classification system for Agency positions requiring military personnel.

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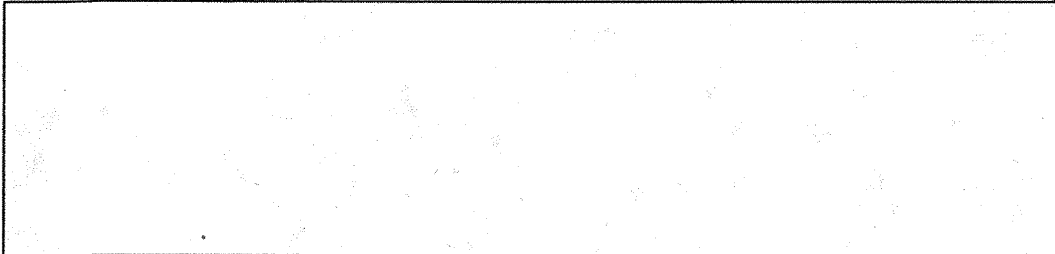
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**c. DEFINITIONS**

- (1) **POSITION.** The aggregate duties and responsibilities an Agency manager assigns to an employee.
- (2) **POSITION CLASSIFICATION.** The designation, evaluation, and approval of positions by salary or wage schedule, position title, occupational code, and grade.

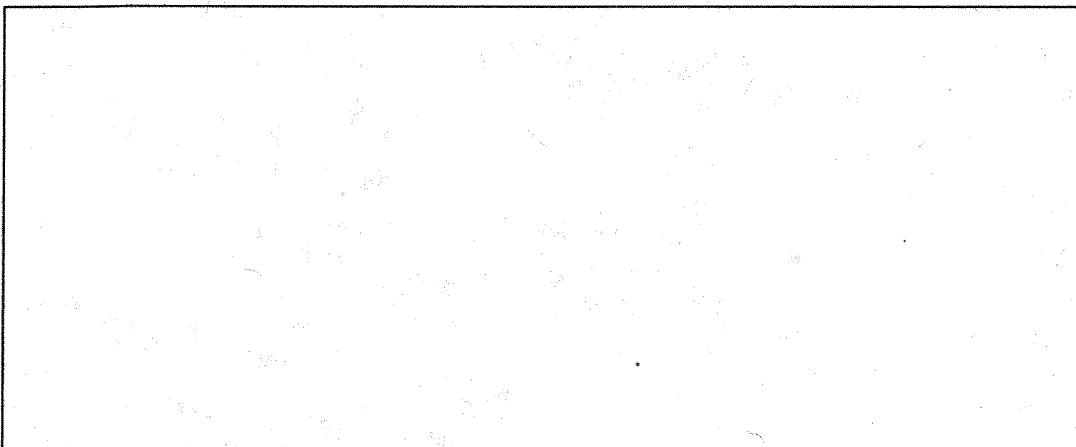


- (6) **AGENCY FES POSITION CLASSIFICATION STANDARD.** The Agency FES criteria established as a standard for benchmark position descriptions used to classify GS positions in an occupational group.



**d. DECENTRALIZED POSITION CLASSIFICATION PROGRAM**

- (1) **Agency managers, assisted by component Human Resource Management (HRM) officers, evaluate positions and determine proper titles, occupational codes, grades, and Career Service designations by applying appropriate generic benchmark position descriptions or lead agency practices as follows:**



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- (3) **HRM** issues revised staffing complements reflecting manager-approved **organizational structure and position classification changes.**

**I. RESPONSIBILITIES**

**(1) HEADS OF INDEPENDENT OFFICES OR HEADS OF CAREER SERVICES WILL:**

- (a) Ensure managers and supervisors **under their jurisdiction** are aware of their responsibility for **applying the principles of the Agency's decentralized position classification and management program to maintain pay equity and align organizational structures and design jobs effectively and efficiently.**
- (b) Ensure **managers and supervisors periodically review generic benchmark position descriptions** for accuracy of occupational coverage and proper levels of work and recommend changes **for the Director, HRM's approval.**

**(2) MANAGERS AND SUPERVISORS WILL:**

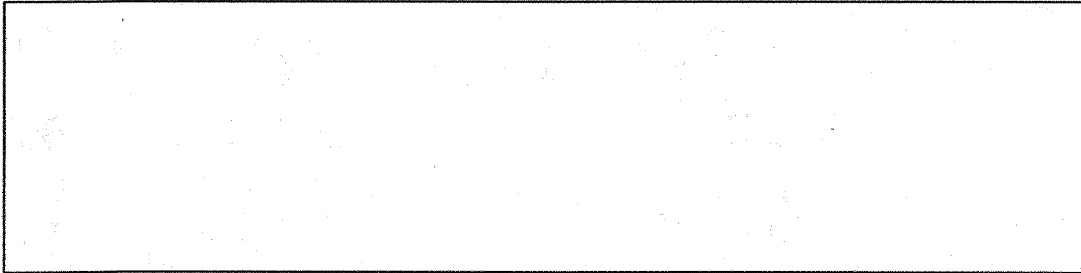
- (a) Be familiar with and apply the principles of the Agency's **decentralized**

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position classification system.

- (b) **Recommend effective and efficient alignment of organizational structures and job designs.**
  - (c) **Recommend sound position classifications.**
  - (d) **Review generic benchmark position descriptions periodically for continued accuracy of occupational coverage and proper levels of work and recommend changes for the Director, HRM's approval.**
- (3) THE DIRECTOR, HRM WILL:**
- (a) **Provide advice and guidance to Agency managers on the position classification program.**
  - (b) **Maintain Agency generic benchmark position description standards.**



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(b) (2)  
(b) (3)**Date:** 02/19/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-12 (U) RECRUITMENT AND APPOINTMENT**REVISION SUMMARY:** 19 February 2002 (0619).

This regulation supersedes HR 20-12 dated 13 March 1991.

HR 20-12 is revised and redesignated\* AR 20-12. This regulation states Agency policy for recruitment, applicant processing, and appointment for staff employment, is revised to update organizational and position titles. This revision reflects the Agency's organizational restructure that resulted from the D/CIA's decision, effective 4 June 2001, to abolish the Directorate of Administration, and establish the Mission Support Offices.

\*This redesignation is part of an ongoing conversion to one set of Agency regulations for both headquarters and the field.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by Policy Team, Human Resources Strategy & Planning Staff, HRM Policy@DA.*

**12. (U) RECRUITMENT AND APPOINTMENT**

**(U) SYNOPSIS.** This regulation describes Agency recruitment, applicant processing, and appointment for staff employment.

- a. **(U) AUTHORITY.** Candidates who are selected for staff employment, as defined in AR 20-2~~2~~, are appointed under the authority granted in the CIA Act of 1949, as amended. Agency appointments are excepted from competitive civil service requirements and do not confer competitive civil service status.

b. **(U) POLICY**

- (1) The Agency identifies and recruits qualified candidates for employment through an

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independent nationwide recruitment system. The **Chief, Recruitment Center (C/RC)** conducts or controls all overt recruitment activity in the United States and has authority to make employment commitments to prospective staff personnel. The Agency is an equal opportunity employer and does not unlawfully discriminate against any applicant on the basis of marital status, age, sex, handicap, race, color, religion, or national origin.

- (2) The applicant evaluation process involves an examination of an applicant's background and lifestyle in detail sufficient to determine that the applicant is not, and is not likely to become, an unacceptable security risk and that he or she is otherwise suitable for Agency employment. The Agency considers a number of issues when conducting this examination, including but not limited to integrity, financial responsibility, emotional stability, substance abuse, and criminal conduct. The careful weighing of any adverse incidents in terms of recency, frequency, circumstances, and maturity of the individual is central to an informed decision. The Agency uses this process, called the "whole person" concept, in determining who should or should not be offered employment. Each case is judged on its own merits. Any doubt concerning an individual's ability to properly handle and protect classified information must be resolved in favor of the national security.
- (3) Sexual conduct may be a relevant consideration, particularly in circumstances where it reflects on an individual's stability, indicates a personality disorder, could result in exposure to direct or indirect pressure arising from susceptibility to undue influence or coercion, or could affect an individual's ability to carry out Agency duties. In examining sexual conduct, all facts that may reflect on its nature and character and its relationship to Agency mission requirements are considered. Each case is evaluated individually in light of the totality of the circumstances involved; there is no blanket policy of rejection or automatic disqualification on the basis of sexual conduct.

**c. (U) RECRUITMENT**

- (1) Recruitment requirements for personnel are developed by the Career Services or operating offices, as appropriate, in collaboration with the **Recruitment Center**. In accordance with the objectives of the Agency's personnel system, these requirements include essential qualifications and, in most cases, potential for long-term service and career development.
- (2) Individuals may apply in person or in writing. The recruitment requirements described in paragraph (1) above may be communicated to potential candidates to elicit applications for employment through the Agency's recruitment program carried on throughout the United States by recruiters who pursue potential sources of personnel in the geographic areas in which they are assigned. Initial screening and evaluation are accomplished through the review of written applications and, if appropriate, personal interviews. Applicants who have the necessary qualifications for employment consideration then are brought to the attention of appropriate officials.
- (3) The **C/RC**, in consultation with appropriate Operating Officials, determines the occupations to be designated in the critical shortage category for the purpose of approving travel and shipment of effects at government expense from the place of

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residence to the first duty post in CONUS. Critical shortage category occupations will be limited to those identified as priority requirements by hiring components and for which suitable candidates are exceptionally difficult to find.

- d. **(U) APPOINTMENT.** The C/RC, as the Agency "appointing officer," appoints all staff personnel into one of the categories defined in AR 20-2. Only the C/RC and designees can give assurances regarding the nature of employment or renewal of appointments. Policies concerning the appointment or contractual engagement of nonstaff personnel are contained in the regulatory issuances pertaining to the following specific categories: (HR 20-70, Detailed Personnel; AR 20-71, Consultants; AR 20-72, Contract Personnel). Authority to appoint contract employees is vested in officers authorized by regulation to execute employment contracts on behalf of the Agency (see AR 20-72). The minimum and maximum limits of age within which an original appointment may be made to an operational position within the Agency may be determined and fixed by, and at the discretion of, the C/RC, pursuant to the authority granted to the Director of Central Intelligence by section 5(f) of the CIA Act, which grants this authority "notwithstanding the provision of any other law."
- e. **(C) OATH OF OFFICE**

- (1) The following officials are delegated the authority to administer without charge or fee the oath required for entrance into the executive branch of the Federal Government or other oaths required by law in connection with employment therein:

Deputy Director of Central Intelligence.

Executive Director

Chief Human Resources Officer

Deputy Chief Human Resources Officers

Chief, Recruitment Center

Officers under the direction of the Chief, Recruitment Center

Chiefs of Station or Base, their senior administrative officers, and their Human Resource Officers.

- (2) The authority to administer oaths of office may be exercised only by the incumbents of the positions specified above and may not be redelegated to other employees.

f. **(U) ENTRANCE-ON-DUTY TESTING PROGRAM**

- (1) Applicants for employment may receive appropriate Agency testing before entrance-on-duty (EOD).

(a) Applicants for clerical positions take the Short Employment Test (SET) or other

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required aptitude testing and appropriate skills tests prior to EOD.

- (b) Applicants for officer positions who are college graduates take the Professional Applicant Test Battery (PATB) before EOD as part of the initial screening process when required to do so by the interested component.
- (2) The PATB is administered, scored, and analyzed by OMS. The SET and clerical skills tests are administered, scored, and analyzed by Human Resources.

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~~CONFIDENTIAL~~(b) (1)  
(b) (2)  
(b) (3)~~CONFIDENTIAL~~**Date:** 04/01/85**Category:** 20 - Personnel**OPR:** OP**Title:** HR 20-13 SPECIAL CONSIDERATIONS IN HIRING OR USING  
THE SERVICES OF CERTAIN INDIVIDUALS (U)

### 13. SPECIAL CONSIDERATIONS IN HIRING OR USING THE SERVICES OF CERTAIN INDIVIDUALS (U)

**SYNOPSIS.** This regulation states policies and procedures for the hiring and extension of employment by Agency components of annuitants of the U. S. Government and details the restrictions on the employment of or contact with members of ACTION and the Peace Corps. This regulation pertains to the hiring of individuals as independent contractors under personal services contracts and the hiring of employees, but does not apply to the hiring of bona fide proprietorships, partnerships, or corporations. (U)

a. **AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403i). (U)

b. **RETIRED AGENCY EMPLOYEES, OTHER RETIRED U.S. GOVERNMENT CIVILIAN EMPLOYEES, AND RETIRED PERSONNEL OF THE UNIFORMED SERVICES**

(1) **POLICY.** With the exception of those individuals who are selected for the Inactive Cadre of the Agency Civilian Reserve Program, the use of Central Intelligence Agency Retirement and Disability System (CIARDS) or Civil Service Retirement System annuitants is discouraged. As a general rule, the Agency does not wish to hire annuitants and will do so only where important intelligence activities will be adversely affected unless it has the services of such individuals, or when necessary to meet Agency requirements which cannot be satisfied in other ways. Specifically:

(a) Annuitants may be hired to meet only those requirements that cannot be filled either by the internal reassignment of Agency employees or by the recruitment of qualified individuals who are not annuitants and who may be expected to

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serve on a career basis with the Agency.

(b) Annuitants may be hired by temporary or reserve appointment or by contract as independent contractors or as contract employees (see HR 20-2 [ ] Categories of Personnel). Requests to hire annuitants as independent contractors or employees will include a statement as to why the requirement cannot be met through the use of an employee who is not an annuitant and will specify the action being taken to rectify the deficiency.

(c) Annuitants who are utilized as independent contractors will not be placed in positions of line authority, nor will the use of annuitants as independent contractors or employees in any way interfere with the orderly career development of employees who are not annuitants.

(Paragraph b(1)(d) is rescinded per AR [ ] dated, 5 November 2001.)

~~(d) An Agency annuitant generally will not be engaged as an independent contractor within 1 year of retirement.~~

(e) An Agency annuitant independent contractor will not be engaged to perform the duties of the position from which he or she retired.

(f) The salary paid an annuitant rehired as an employee will be based on the employee's qualifications and the requirements of the assignment.

(1) The annuity of a civilian retiree normally will be continued but the salary will be reduced by the amount of the annuity, using the hourly rate as the basis for the computation. The rules of this paragraph also apply to CIARDS retirees who are *reemployed* under the provisions of Section 272 of the Central Intelligence Agency Retirement (CIAR) Act of 1964. A CIARDS annuitant who is *recalled* under Section 271 of the CIAR Act of 1964 does not fall within the purview of this regulation.

(2) Rehired personnel of the uniformed services hired by the Agency as employees are subject to the provisions of Section 5532 of Title 5, U.S. Code, pertaining to dual pay. (Paragraphs b(1)(f)(2) thru c(1)(c)(1) Reissued: 27 October 1989)

(Paragraph b(1)(g) is rescinded per AR [ ] dated, 5 November 2001.)

~~(g) For those annuitants engaged under contract as independent contractors, the following will apply:~~

~~(1) The fee(s) will be determined by the nature and value of the services to be rendered, except that a total remuneration paid to an individual during a contract year may not exceed the daily or per annum~~

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~~rate of the current authorized salary for the grade and step at which the individual retired. Exceptions to this policy must be approved by Heads of Career Services, and exceptions to exceed GS-15, step 10, must be approved by the Deputy Director for Planning and Coordination (DDP&C). Total remuneration means the individual's annuity plus all fees~~

~~(2) Operational expenses must be specifically authorized in advance by the appropriate authorizing official.~~

~~(3) An Agency official will be designated to monitor the performance of each independent contractor and to attest annually that the terms of the contract have been met and that full value has been received.~~

(h) Rehired annuitants are subject to the same medical, security, and administrative approvals as apply to Agency nonannuitant personnel.

## (2) **HIRING AND EXTENSION PROCEDURES**

(a) All requests to hire or extend U.S. Government annuitants will be submitted to the Director of Personnel for his approval or referral to higher authority. Contracts to hire Agency annuitants as independent contractors within 1 year after the annuitant's retirement may not be executed without the approval of the DDP&C, except as provided in paragraph (d) below.

(b) A request to extend an annuitant's services must be submitted to the Director of Personnel at least 30 days prior to the expiration of the appointment or contract.

(c) The request to hire or extend an annuitant must contain a provision regarding the proposed period of Agency service. The following guidelines will be applied in both situations:

(1) The length of service for civilian annuitants hired or extended as contract employees and all annuitants being engaged as independent contractors will not exceed a 1-year period.

(2) The length of service for military annuitants hired or extended as contract employees and all annuitants hired by appointment normally will not exceed a 1-year period except that a 13-month period will be considered normal if major employee benefits are contemplated; i.e., Civil Service retirement, Federal health benefits, and FEGLI. In exceptional cases, where such an annuitant possesses unique qualifications, a hiring period of up to 2 years may be requested.

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(d) There are certain annuitants, who, because of the functional nature of their job skills, may be routinely considered and hired to meet Agency personnel needs, subject to Director of Personnel approval. These annuitants help meet Agency requirements which cannot be completely satisfied through the use of other personnel resources; they do not interfere with the orderly progression of employees; and they are, therefore, not required to meet the restriction that an Agency annuitant will not be hired within 1 year following retirement. The specific functional areas in which these annuitants are utilized are as follows:

- (1) Annuitants hired for clerical or technical positions through GS-08 or prevailing rate positions (e.g., Wage Board, Graphic Arts, and Government Printing).
- (2) Annuitants hired to review material relating to FOIA and Privacy Act requirements.
- (3) Independent contractors who serve as Clearance Support Specialists, construction monitors, or technical monitors for the Office of Security.
- (4) Independent contractors of FBIS/Joint Publications Research Service who are compensated on a fee basis for translation work.
- (5) Independent contractors who review OSS files.

(6)

- (7) Independent contractors who perform "one-time" services; e.g., addressing Agency training courses.

(8)

(9)

(10)

- (3) **APPOINTMENT (CAREER STAFF EMPLOYEE).** An exception to the policy of appointing an annuitant as a temporary or reserve employee will be granted only when an individual possesses rare and outstanding qualifications needed by the Agency or is hired in a clerical status. A request for appointment as

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a career staff employee will be forwarded by the Head of the Career Service concerned to the Director of Personnel for approval. (C)

**c. EMPLOYMENT OF MEMBERS AND FORMER MEMBERS OF ACTION AND THE PEACE CORPS.** This regulation prescribes policy applicable only to the Peace Corps.

**(1) POLICY**

- (a) Although the Peace Corps is no longer a component of ACTION, the following provisions will apply to anyone employed by or associated with the international activities of ACTION during the period in which the Peace Corps was a component of ACTION, and will apply in the same manner as such provisions apply to anyone employed by or associated with the Peace Corps.
- (b) Members and trainees of the Peace Corps will not be employed or used in any capacity, with or without remuneration, by the Agency or by an Agency-controlled organization. The term "members of the Peace Corps" means anyone employed by or having a significant relationship with the Peace Corps, except trainees.
- (c) Former members of the Peace Corps may be employed or used by the Agency or by Agency-controlled organizations with the prior approval of the Deputy Director concerned and only in accordance with the following:
  - (1) Except as stated in paragraph (2) below, former members of the Peace Corps may be employed or used by the Agency only if 5 full years have elapsed since separation from the Peace Corps.
  - (2) An Agency-controlled organization may hire former members of the Peace Corps, but only for duties related to the overt purposes of such organization, if at least 24 months have elapsed since separation from the Peace Corps.
- (d) Former trainees whose Peace Corps service included duty or training overseas are subject to the rules governing employment or use of former members of the Peace Corps as stated in paragraph c(1)(b) above. Former trainees who did not serve at any time as members of the Peace Corps and whose Peace Corps service did not include duty or training overseas may be employed or used by the Agency or by organizations under its control at any time following separation from the Peace Corps only with the prior approval of the Deputy Director concerned.
- (e) Former members or trainees of the Peace Corps whose employment or use is

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permitted by paragraphs c(1)(b) or (c) above may not be assigned to or used in a country for which they had been trained or to which they had been assigned while with the Peace Corps.

- (f) Information may be received by the National Collection Division (NCD/DO) or another authorized component from private corporations, and other organizations employing former Peace Corps personnel, notwithstanding the fact that the information may originate with former Peace Corps personnel. However, any direct briefing or debriefing of or contact with former members or trainees of the Peace Corps is subject to the following:

- (1) Prior approval must be obtained from the Deputy Director or Head of Independent Office concerned.
- (2) If the individuals are former members of the Peace Corps, or former trainees whose service included duty or training overseas, 5 years must have elapsed since separation from the Peace Corps.

If contact with former Peace Corps members or former trainees whose Peace Corps service included duty or training overseas should be unavoidable during the required 5-year waiting period, the Deputy Director or Head of Independent Office concerned may request an exception from the Executive Director (EXDIR). Among the possible reasons for such unavoidable contact would be the designation of a former member or trainee as the liaison officer to the NCD or other authorized Agency component. (Revised: 25 January 1994)

## **(2) RESPONSIBILITIES**

- (a) Deputy Directors and Heads of Independent Offices are responsible for ensuring compliance with the policies stated in paragraph c(1) above. They will refer to the EXDIR for policy guidance any question not clearly covered by these policies concerning employment, use, or contact with an individual who is or was formerly a member or trainee of the Peace Corps.
- (b) The Director of Personnel will review any proposal for the employment of a former member or trainee of the Peace Corps in a staff, contract employee, or consultant capacity, or for the assignment of such an individual, and will ensure that the proposal is consistent with the policies set forth above. (U)

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~~SECRET~~(b) (1)  
(b) (2)  
(b) (3)**Date:** 04/08/2002**Category:** 20 - Human Resources      **OPR:** DDO**Title:** AR 20-14 (U) MILITARY RESERVE PROGRAM**REVISION SUMMARY:** 08 April 2002 (0646)

This regulation supersedes AR 20-14, dated 8 March 1996.

AR 20-14 is revised to provide current guidance on the mission, participation, and responsibilities of the Agency's Military Reserve Program.

*Due to the extensive revision of this regulation, boldfaced text has not been used to indicate changes.*

*This regulation was written by Directorate of Operations,*

**14. (U) MILITARY RESERVE PROGRAM**

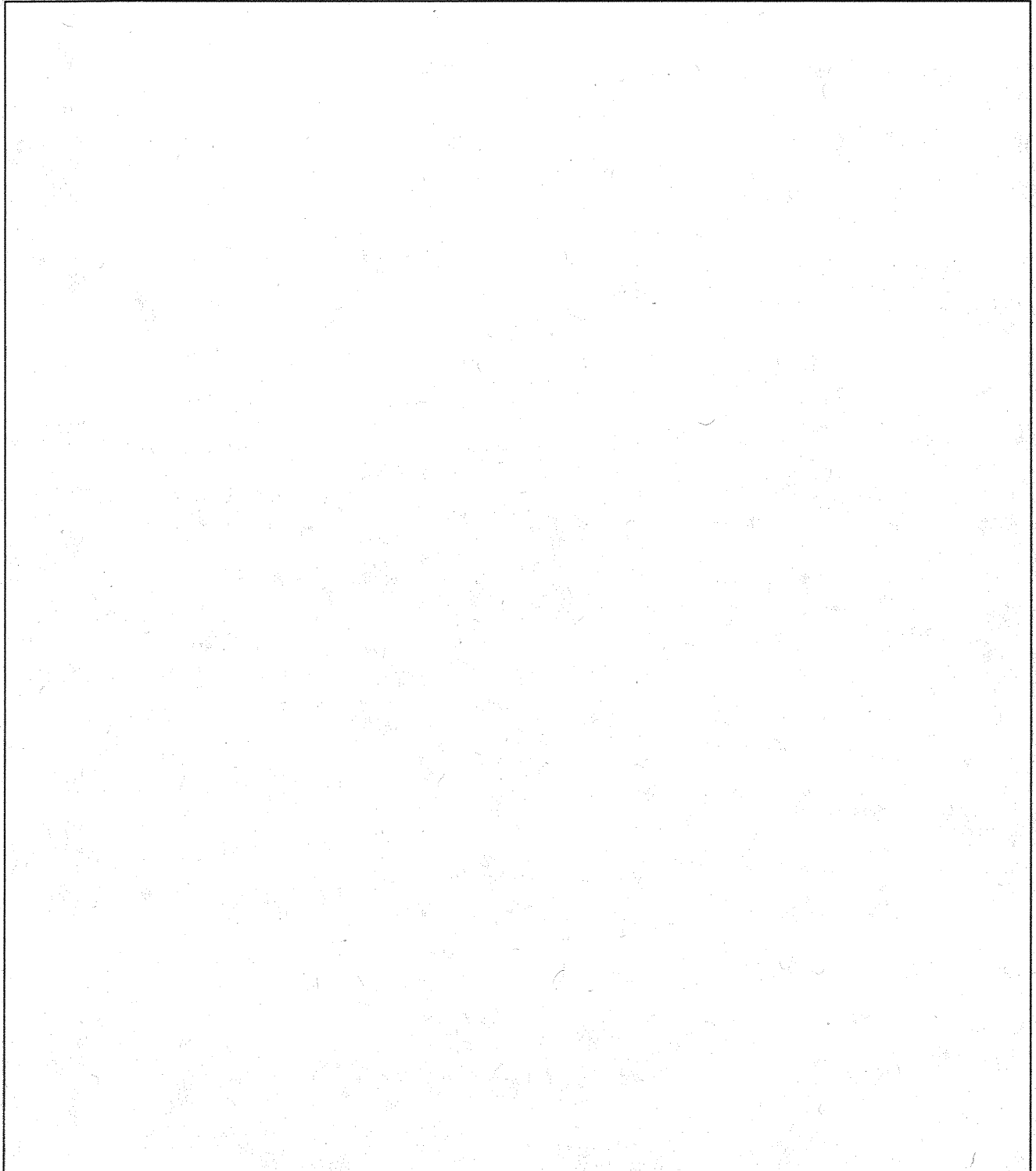
**(U) SYNOPSIS.** This regulation describes the goals and policies for the Agency's military reserve program.

- a. **(S) AUTHORITY.** The National Security Act of 1947, as amended; the CIA Act of 1949, as amended; Executive Order 12333, the Memorandum of Understanding establishing a reserve program, which provides for military reserve participation by employees of the CIA entered into on 9 July 1998 between the Secretary of Defense and the Director of Central Intelligence (D/CIA), and the CIA Military Reserve Program Concept of Operations (CONOPS) for the Joint Reserve Augmentation Detachment (JRAD) dated 28 April 2000.
- b. **(S) MISSION.** The Agency Reserve Program, consisting of Army, Navy, Air Force and Marine Corps reservists, exploits skills and capabilities of the reservists in support of Department of Defense (DoD) intelligence requirements, to include those of the Unified Commands, the Joint Staff, the military departments, defense agencies, and the combat support intelligence agencies, hereafter referred to as supported organizations (SOs). This capability is focused on satisfying peacetime through wartime intelligence requirements identified by the supported commands, and when required, responding to crisis/contingency

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conditions.

- c. (S) **GENERAL.** The Agency's military reserve program provides trained military personnel to augment active component forces with intelligence and operational support within the range of its reservists' military and unique skills. The program:

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(7)

(8)

**d. (C) PARTICIPATION**

- (1) Membership in the Agency's military reserve program is limited to Agency employees who are members of the U.S. Army, Air Force, Navy, or Marine Corps Reserves. The program is open to both overt and covert employees. True nonofficial cover officers who must conceal all affiliation with the U.S. Government are not allowed to participate.

(2)

- (3) To become affiliated with the Agency's military reserve program, military reservists must:

(a) Meet criteria established by their military service.

(b)

- (4) Overt Agency employees are generally allowed to join outside reserve units.

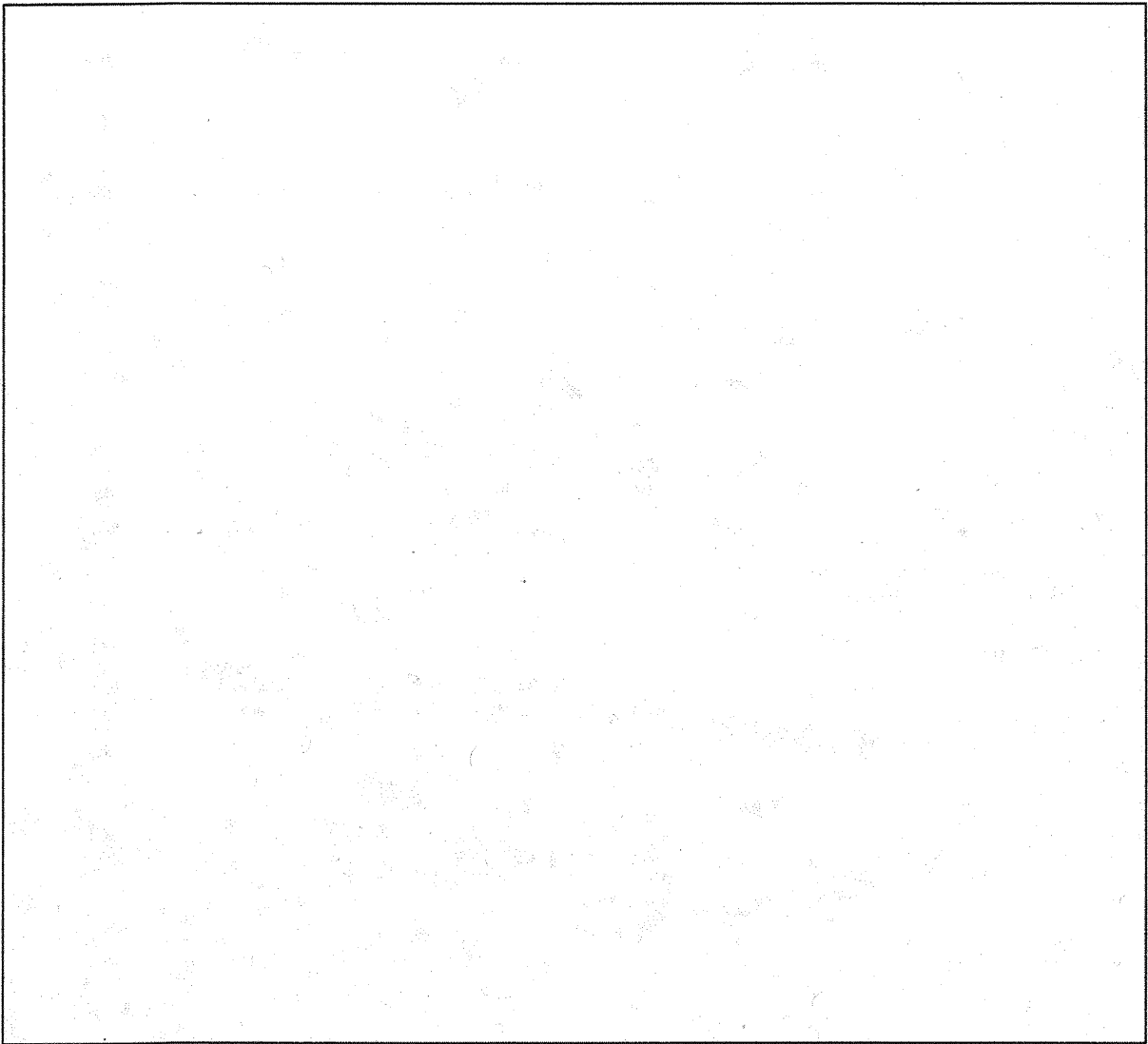
Agency employees who have joined outside reserve units are subject to activation by those units.

**e. (S) RESPONSIBILITIES.**

- (1) The AD/CIA/MS will:

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~~ADMINISTRATIVE - INTERNAL USE ONLY~~(b) (2)  
(b) (3)**Date:** 03/18/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-16 EVALUATION BOARD AND PANEL PROCESS**REVISION SUMMARY:** 18 March 2002 (0615)

This regulation supersedes HR 20-16, dated 17 May 1985.

HR 20-16 incorporates FR 20-16 and is redesignated \*AR 20-16. This regulation is revised to update organizational titles; and incorporates policy that was previously found in AN 20-16-7, "Change in Factors Used by Evaluation Panels" and AN 20-16-8, "HROC Notice 3 - Interim Changes to the Evaluation Process." Policy formerly contained in HR 20-16, Attachments 3 & 4 is no longer valid and are hereby rescinded. This revision also reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

FR 20-16, HR 20-16, Attachments 3 & 4, AN 20-16-7, and AN 20-16-8 are hereby rescinded.

\*This redesignation is part of an ongoing conversion to one set of Agency regulations for both headquarters and the field.

*Boldfaced text in this regulation indicates revisions .*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy@DA.*

**16. EVALUATION BOARD AND PANEL PROCESS**

**SYNOPSIS.** This regulation provides policy guidance for Agency evaluation boards and panels. It describes the composition and responsibilities of the boards and panels, as well as their procedures.

- a. **AUTHORITY.** The authority for the policy prescribed by this regulation is derived from the CIA Act of 1949, as amended.
- b. **GENERAL.** The provisions of this regulation apply to the evaluation of **most Agency** employees. However, Career Service or Subgroup Heads may either maintain a formal panel system for evaluating GS-06 and below employees, or delegate the responsibility to

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supervisors and managers.

**c. POLICY**

- (1) **Agency evaluation boards and panels** are designed to facilitate selection decisions involving employee assignments, advancement, and retention. These systems include evaluations of all factors pertinent to the selection decision. Evaluations performed by Career Service boards and panels are integral parts of the Agency's **human resource** management process and will be based **on the factors contained in Appendix A**. Evaluation of employees assists managers in determining the employee's value to the Agency; promotion and other career actions, such as appropriate work assignments and training; and, if required, adverse actions such as downgrading or termination of employment under AR 20-27.
- (2) Boards and panels are used as the evaluating mechanism to provide an informed and objective assessment of each employee and to eliminate the potential for arbitrary personnel decisions. **Career Services or Subgroups will evaluate all employees at least annually and, at a minimum, will identify those employees recommended for promotion and low performers. Low performers are employees who have significant performance problems compared to other employees in the same grade and career discipline, as applicable.** The intended result of board and/or panel meetings is the development of all employees and promotion of the most qualified employees.
- (3) **Career Services will identify and counsel employees whose present and future assignment opportunities are limited because of insufficient skills, assignment preference, past on-the-job experience, and so forth. Career Services will also make counseling and feedback on evaluations—including strengths, weaknesses, and developmental needs—available to all employees.**
- (4) **Although not required, Career Services or Subgroups may use evaluation categories, numerical rankings, quintile placements, or other groupings when evaluating employees. Each Career Service or Subgroup will communicate to its employees which evaluation mechanism it will use. (See Appendix B for definitions.)**
- (5) **Career Service boards and panels will identify to the Head of their Career Service employees who, in the board or panel's judgment, have significant performance problems compared to other employees in the same grade and career discipline, as applicable. Career Services will notify employees in writing of observed performance deficiencies. When performance deficiencies are sustained, documented, and may result in adverse action, the Career Service will notify Special Activities Staff, Office of Security. Administrative action taken by the Career Service may include counseling or reassignment or recommendations for downgrading or termination (see AR 20-27).**

**d. COMPOSITION OF EVALUATION BOARDS AND PANELS**

- (1) **Evaluation boards and panels will have a minimum of three members and, in**

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**conformance with the Agency's Affirmative Employment Plan, must include female and minority representatives.**

- (2) Members will be at least one grade senior to employees being evaluated; however, Heads of Career Services and Subgroups are encouraged to appoint individuals who are two grades senior to those being evaluated.
- (3) Boards and panels will be broadly based, encompassing employees from the largest number of disciplines feasible, so that members will have some knowledge of the work performed by the individuals being evaluated.
- (4) Membership will be by personal appointment by the Head of the Career Service or Subgroup.
- (5) If security conditions permit, Heads of Career Services and Subgroups **should** make available to Career Service **or Subgroup** members a listing of board and panel members.

**e. RESPONSIBILITIES OF BOARDS AND PANELS**

- (1) Boards and panels will:
  - (a) Review all Career Service or Career Service Subgroup employees in the same grade at least annually and, where appropriate, review by career discipline within the same grade.
  - (b) Evaluate each employee to determine the value of that employee to the Agency.
  - (c) Evaluate **eligible** employees for promotion.
  - (d) On the basis of paragraphs e(1)(a), (b), and (c) above, make recommendations for promotions and, where appropriate, for assignments, senior officer development, training, and career counseling.
- (2) Boards and panels will identify and recommend administrative action for employees whose performance is unsatisfactory or whose value to the Agency is marginal.
- (3) Boards and panels will propose improvements in the Agency's or the Career Services' policies and procedures for evaluating performances.

**f. BRIEFING MATERIALS AND DOCUMENTS FOR EVALUATION OF PERFORMANCE**

- (1) Boards and panels:
  - (a) Will review the personnel files of all employees in the grade under review except where the Head of the Career Service involved has determined that the particular Subgroup involved is sufficiently small or that all of the members of the career board or panel personally know each employee being evaluated and are familiar with that employee's work. The authority to make this determination may not be delegated by the Head of the Career Service. In any case where such a determination is made, review of the personnel files will not be mandatory, but those files must be available for review by the Subgroup boards or panels. Included in the material to be reviewed

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or available for review will be the employee's current Performance Appraisal Report (PAR).

- (b) Should consider the totality of the employee's experience, performance history, or other factors affecting his or her performance. Emphasis should be on the employee's recent performance and the early work record should be viewed in relation to this later performance.
  - (c) Should recognize the employee's right to rebut or otherwise comment on any material in his or her file or any material developed by the boards or panels related to the performance or position of the employee and should give appropriate consideration to such comments.
  - (d) Should consider miscellaneous documentation in an employee's file, such as commendatory letters or letters of reprimand, with other evidence of the employee's performance.
  - (e) Should call to the attention of the Head of the Career Service or Subgroup any significant period of an employee's recent service which is not covered by the PAR's or memoranda in the file.
  - (f) Should contact the appropriate component for additional details when the PAR indicates that the employee was involved in operational activities too sensitive to be described in the PAR.
- (2) Board and panel members will be disqualified at their own request, or by the direction of the Head of the Career Service or Subgroup, in those cases where it is determined that a member cannot evaluate objectively an individual.

**g. BOARD AND PANEL PROCEDURES**

- (1) Specific board and panel procedures will be developed by each Career Service or Subgroup, coordinated with the **Chief Human Resources Officer**, and published by **each** Career Service. Procedures will be reviewed annually by the individual Career Service or Subgroup and amended as required.
- (2) Heads of Career Services and Subgroups will instruct members of boards and panels to preserve the confidential character of the personnel records they use and to not reveal to any unauthorized persons information concerning the deliberations, findings, evaluations, or recommendations of their board and panel. The formal, written report of the findings of boards and panels, which is prepared for the use of the Career Service or Subgroup Head, is of transient value as it pertains to comparisons among members of a particular group and to specific criteria at a given time. It will not be recorded in the employee's official file, but will be maintained in the records of the board or panel for at least 3 years.
- (3) The head of a Career Service will ensure that worksheets have been developed for use by panels under his or her jurisdiction, except that worksheets shall not be required for those career boards or panels of a particular Subgroup which the Head of Career Service has determined is sufficiently small or where all members of the board or panel

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personally know and are familiar with the work of each employee being evaluated. The authority to make such determinations may not be delegated by the Head of the Career Service. Where worksheets are required, those that record the final board and panel decisions on each employee as reported in the formal, written report of the findings will not be available to succeeding boards and panels but must be available to the official responsible for responding to inquiries from employees concerning their standing in the Career Service and for counseling employees. Such worksheets as are required and that support the board and panel decisions should be retained for a period of time sufficient to accommodate counseling of, and inquiries from, both headquarters and field employees. Any board and panel worksheets which may have been required and which concern employees **identified as low performers** will be retained for at least 3 years. Further, with respect to **employees identified as low performers**, if worksheets are not required because the Subgroup has been determined by the Head of the Career Service to fall within the exception noted, each career board or panel in such a subgroup shall be required to write a memorandum **that supports identifying the employee as a low performer**. This memorandum should be retained for 3 years and shall be available to the responsible official for responding to inquiries from employees concerning their standing in the Subgroup and for counseling employees. Worksheet forms or other notes of individual panelists are considered informal records which need not be retained.

**h. EVALUATION AND PROMOTION**

- (1) Boards and panels will be guided by the quantity and quality of the employee's performance and demonstrated capability to assume greater responsibility. The general evaluation factors listed in **Appendix A** can be expanded or combined by Heads of Career Services to designate performance criteria which are specific to the Career Service. When established by the individual Career Services, these specific factors will be coordinated by the Head of the Career Service with the **Chief Human Resources Officer**, published as supplementary guidance to appropriate Career Service evaluation boards and panels, and made available to all Career Service employees.
- (2) Heads of Career Services will ensure that there are time-in-grade guidelines for eligibility for promotion to the next grade. (Note that time-in-grade is a guideline, but not a rigid requirement. It should not be the overriding factor in any promotion decision.) Time-in-grade guidelines may vary within a Career Service to accommodate differences in career disciplines. Career Service time-in-grade guidelines will be coordinated with the **Chief Human Resources Officer**.
- (3) Heads of Career Services and Subgroups will make evaluation boards and panels aware of their responsibilities in meeting the goals and objectives of the Agency-approved **Affirmative Employment Plan**. In evaluating an employee's performance, evaluation boards and panels will comply with all applicable Federal laws and Agency policies designed to prevent discrimination on the basis of race, color, religion, sex, national origin, age, or handicap.

**i. APPROVAL OF FINDINGS**

- (1) Board and panel evaluations are advisory. **Board and panel results** will be approved

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for:

- (a) Selected SIS-3's, SIS-4's, and above, by the Director of the Central Intelligence Agency(D/CIA) or the Deputy Director of the Central Intelligence Agency(DD/CIA).
  - (b) GS-15's through remaining SIS-3's, by the Head of the Career Service.
  - (c) **IS-03** and above secretarial personnel, by the deputy to the Head of the Career Service.
  - (d) GS-14's and below (except as addressed in paragraph (c) above), by the Head of the **Career Service Subgroup** or, as appropriate, the Deputy Director for Operations (DDO).
- (2) The **Chief Human Resources Officer** is responsible for reviewing all promotion requests and approving promotion actions that conform to the provisions of Agency regulations. The officials listed below are responsible for approving promotion requests:
- (a) The D/CIA and the DD/CIA, to and within the SIS.
  - (b) The Head of the Career Service, to GS-15.
  - (c) The deputy to the Head of the Career Service, to **IS-03** and above secretarial personnel.
  - (d) The Head of the **Career Service Subgroup** or, as appropriate, the DDO, to GS-14 and below (except as addressed in paragraph (c) above).
- (3) There may be instances when the approving officer does not accept fully the advice of a board or panel. In these instances, the approving officer will inform the board or panel of the reasons unless the approving officer determines the reasons are of such a sensitive nature that they should not be revealed. Exceptions to board or panel recommendations on promotions to GS-15 and below must be approved by the Head of the Career Service concerned, who will inform the **Chief Human Resources Officer** in writing of all exceptions.



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## APPENDIX A

## FACTORS TO BE USED BY EVALUATION PANELS

## 1. GENERAL

Evaluation factors provide a common language and a frame of reference for members of panels tasked with evaluating a group of employees. They enable panel members to evaluate each employee's performance in light of both job requirements and Career Service expectations. Employees should have the opportunity to know, at the beginning of their evaluation cycle, how their performance will be evaluated at the end of the cycle.

## 2. EVALUATION FACTORS FOR NONMANAGERS

- a. Expertise. An assessment of the degree to which an employee possesses substantive knowledge appropriate for the job the employee has been hired to do and the degree to which the employee is able to apply this knowledge to effective on-the-job performance.
- b. On-the-Job Performance. An assessment of the quality of an employee's performance, as measured against job standards jointly developed by the manager and employee at the beginning of the evaluation cycle.
- c. Communications Skills. The degree to which an employee (within the parameters of the job for which he or she is being evaluated) effectively conveys information with clarity and comprehension when speaking or writing and effectively listens when others are conveying information.
- d. Initiative. The degree to which an employee recognizes an opportunity to exceed job requirements (or identifies a new more effective way to do business), develops innovative but practical action plans for taking advantage of the opportunity, and implements his or her plan while continuing to provide effective customer service and maintain work unit efficiency.
- e. Judgment. The degree to which an employee evaluates available information and makes timely and effective decisions.
- f. Productivity. The degree to which an employee's work product meets the standards of accuracy, quality, completeness, and timeliness jointly established by the employee and manager at the beginning of the evaluation period.
- g. Self-Development. The degree to which an employee is attuned to changing mission requirements, assesses his or her ability to meet those changing needs, and positions himself or herself for the future by initiating training, assignments, or other types of professional growth opportunities.
- h. Versatility. The degree to which an employee demonstrates the willingness and ability to respond to and support changes in the Agency, working conditions, and work assignments.

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- i. Interpersonal Relationships. The degree to which an employee establishes and maintains effective working relationships.
- j. Leadership. The degree to which an employee exhibits behaviors and attitudes which influence, inspire, and set a positive example for others.

**3. EVALUATION FACTORS FOR MANAGERS**

- a. Expertise. An assessment of the degree to which a manager possesses knowledge of management principles and practices appropriate for the job he or she has been hired to do, and the degree to which the manager is able to apply this knowledge to effective on-the-job performance. A Career Service may choose to augment the evaluation of management expertise with an evaluation of substantive expertise, if substantive knowledge is required to perform successfully in the managerial job.
- b. On-the-Job Performance. An assessment of the quality of a manager's performance, as measured against job standards jointly developed by the manager and his or her superiors at the beginning of the evaluation cycle.
- c. Planning and Organization. The degree to which a manager plans, schedules, organizes resources, and ensures accuracy, timeliness, and quality. This is also a measure of the degree to which a manager makes maximum use of subordinates by identifying production deficiencies and developing new procedures, methods, or technologies which facilitate effectiveness.
- d. Development and Evaluation of Subordinate Employees. The degree to which a manager involves subordinates in the performance planning process, accurately assesses strengths and developmental needs of employees, gives timely, specific feedback and helpful coaching, provides challenging assignments and opportunities for development, and prepares written evaluations which are timely and accurate.
- e. Valuing and Managing Diversity. The degree to which a manager views differences as assets, and utilizes these differences to accomplish organizational goals by identifying the balance between developing shared organizational values and valuing diversity, and challenging assumptions that limit opportunities.
- f. Communications Skills. The degree to which a manager effectively conveys information with clarity and comprehension when speaking or writing and effectively listens when others are conveying information.
- g. Initiative. The degree to which a manager, either personally or through the encouragement of subordinate employees, recognizes opportunities to exceed job requirements (or identifies new, more effective ways to do business through use of Total Quality Management practices), develops innovative but practical action plans for taking advantage of opportunities, and implements changes while continuing to provide effective customer service and maintain work unit efficiency.
- h. Judgment. The degree to which a manager evaluates available information and makes timely and effective decisions.
- i. Productivity. The degree to which a manager's work unit meets the standards of accuracy,

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quality, completeness, and timeliness that have been established in consultation with senior management in the component and communicated to the employees in the work unit.

- j. Self-Development. The degree to which a manager is attuned to changing management practices and mission requirements, assesses his or her ability to meet those changing needs, and positions himself or herself for the future by initiating training, assignments, or other types of professional growth opportunities.
- k. Versatility. The degree to which a manager demonstrates the willingness and ability to respond to and champion change in the Agency, as well as changes in working conditions and work assignments.
- l. Not used.
- m. Interpersonal Relationships. The degree to which a manager establishes and maintains effective working relationships at all levels.
- n. Leadership. The degree to which a manager exhibits behaviors and attitudes which influence, inspire, and set a positive example for those in the work unit.

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## Appendix B

### RANKING MECHANISMS

Numerical Rankings. Placement of evaluated employees in a rank order listing of one through n.

Quintile Placement. Distribution of evaluated employees among five equally sized segments.

Comparative Evaluation Categories. Placement of evaluated employees in one of the following four comparative evaluation categories.

Category I. Employees whose performance record and personal attributes indicate a high degree of potential for continued excellent performance and rapid career growth in positions of increasing responsibility. They have experience, knowledge, and talents which presently are clearly exceptional in comparison with their peers.

Category II. Employees whose performance record and personal attributes indicate potential for continued high quality performance and above average career growth in positions of greater responsibility. They have experience, knowledge, and talents presently above those of most of their peers.

Category III. Employees whose performance record and personal attributes are fully satisfactory and who are making a valuable contribution to the Agency's mission. However, to date, they either lack the experience for or have not clearly indicated the potential for assignment to positions of a higher level of responsibility.

Category IV. Employees whose performance record and personal attributes reflect a specific deficiency in, or an inability to meet, important aspects of work requirements which limits their value in their current assignment or career track. Employees in this group may have potential for career growth in other career fields, but their deficiencies are such as to interfere with or preclude improved performance in their current assignment or career track. (These employees must be advised of placement in this group. Counseling, remedial training, reassignment, downgrading, or termination are indicated.)

Other Groupings. Placement of evaluated employees in other groupings, such as top xx percent, low xx percent, etc.

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(b) (2)  
(b) (3)**Date:** 09/29/2005**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-17 (U//AIUO) ASSIGNMENTS**REVISION SUMMARY:** 29 September 2005

This regulation supersedes AR 20-17, dated 17 May 2002.

AR 20-17 is revised to update policy and responsibilities for personnel assignments. This regulation incorporates policy formerly contained in AN 20-17-30. It is also revised to update organizational titles. This revision reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support.

AN 20-17-30 is hereby rescinded.

*Boldfaced text in this regulation indicates revision.*

*This regulation was written by the DS/CSC/HR/Centralized and Deployed Human Resources/Policy Branch, at HR Policy@DA.*

**17. (U) ASSIGNMENTS**

**(U) SYNOPSIS.** This regulation states Agency policy and responsibilities for personnel assignments to include rotational assignments.

**a. (U) AUTHORITY.** National Security Act of 1947 and the Central Intelligence Agency Act of 1949.

**b. (U) POLICY**

- (1) Mission accomplishment is the foremost consideration in personnel assignments.
- (2) Employee development is an essential consideration. Heads of Career Services are accountable for developing and utilizing all employees to their fullest potential and for

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establishing mechanisms to develop leadership ability and professional expertise.

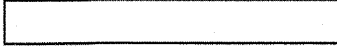
- (3) Heads of Career Services are also accountable for ensuring fair representation of women and minorities at all organizational levels. Mechanisms for doing so can include competitive selection and directed assignments as well as succession planning and career development programs.
- (4) The assignment process should be transparent to employees and flexible enough to allow management to make staffing decisions necessary to meet mission requirements, ensure the development of essential capabilities, and meet diversity goals.

**c. (U) DEFINITIONS**

- (2) **ASSIGNED.** Selected for a position by the Career Service having jurisdiction over the position.

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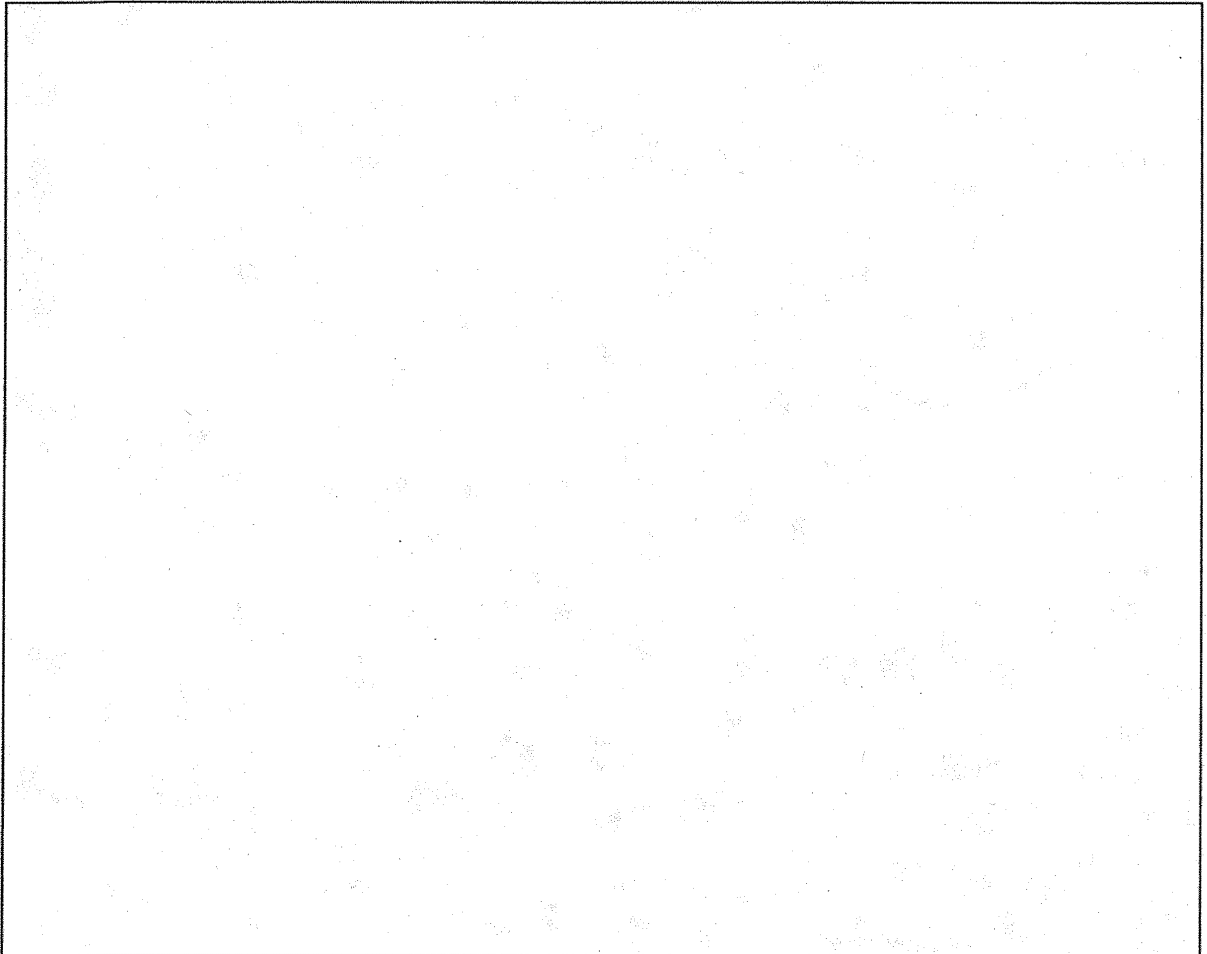
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**d. (U//AIUO) ASSIGNMENTS****(1) Assignments to positions mean that employees are:**

- (a) Performing the type of duties covered by the service designation, grade level, and position title.
- (b) Under the command of the organizational element shown on the official personnel record.
- (c) At the geographic location shown on the official record.

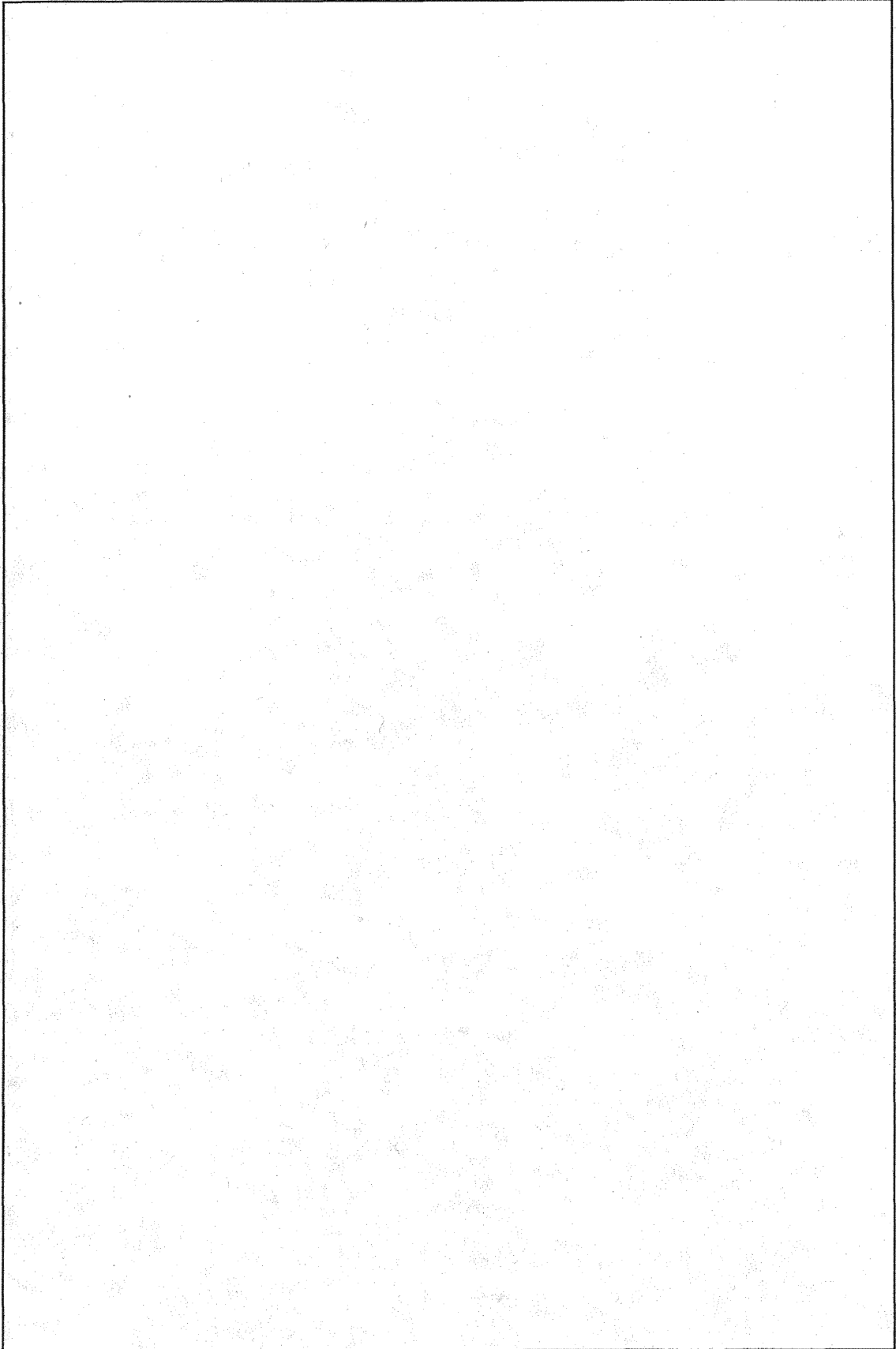
**(2) REASSIGNMENT**

- (a) The standard procedure for filling vacancies is through a competitive process. Career services may use other methods to reassign an employee such as direct assignment depending on mission requirements and the employee's career development. Personnel returning from rotational or overseas assignments must be placed in an appropriate position. Home components should place employees returning from rotational assignments preferably within 45 days of the completion of their rotation.



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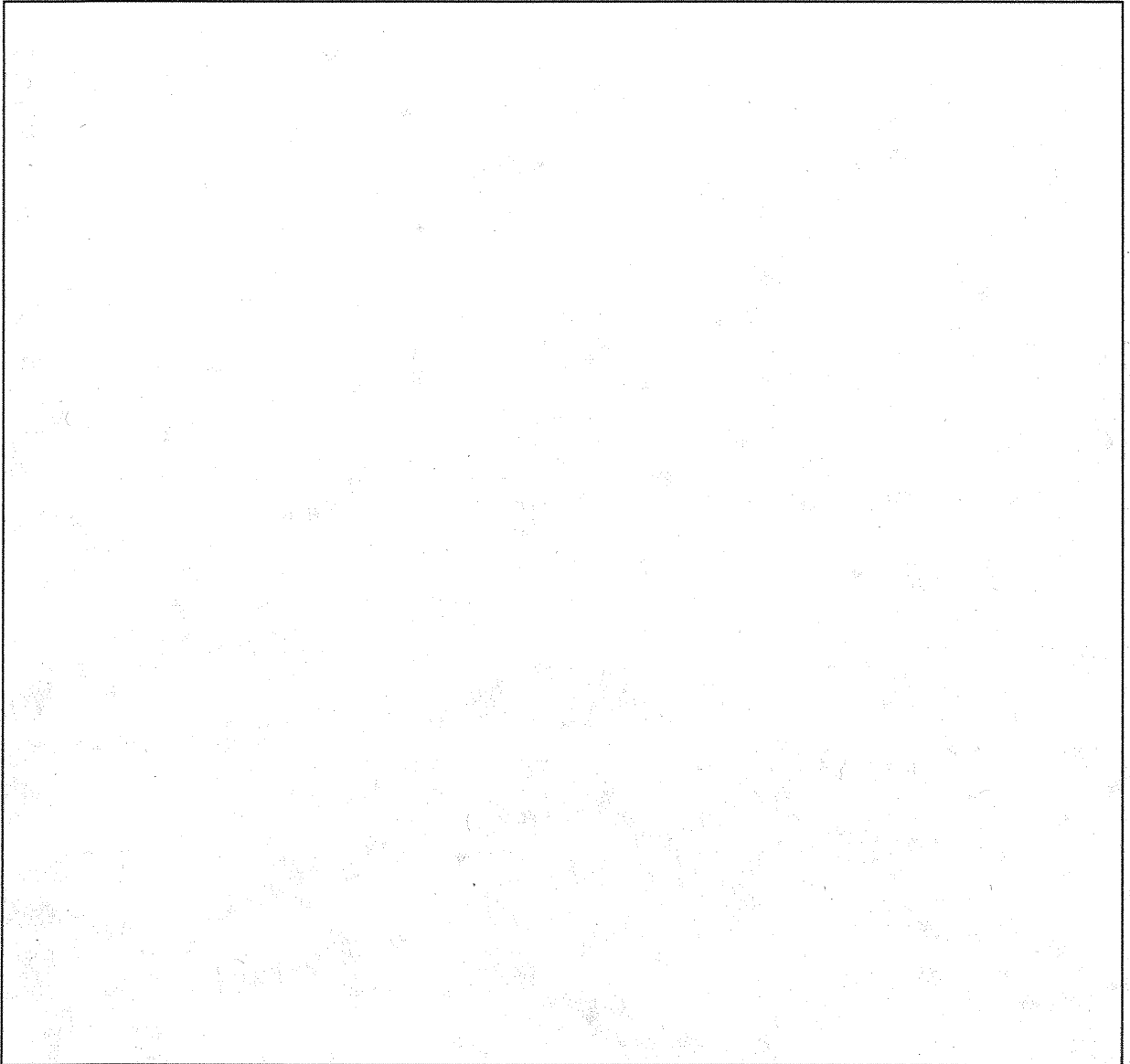
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**(3) ROTATIONAL ASSIGNMENTS**

**(a) Rotational assignment agreements must:**

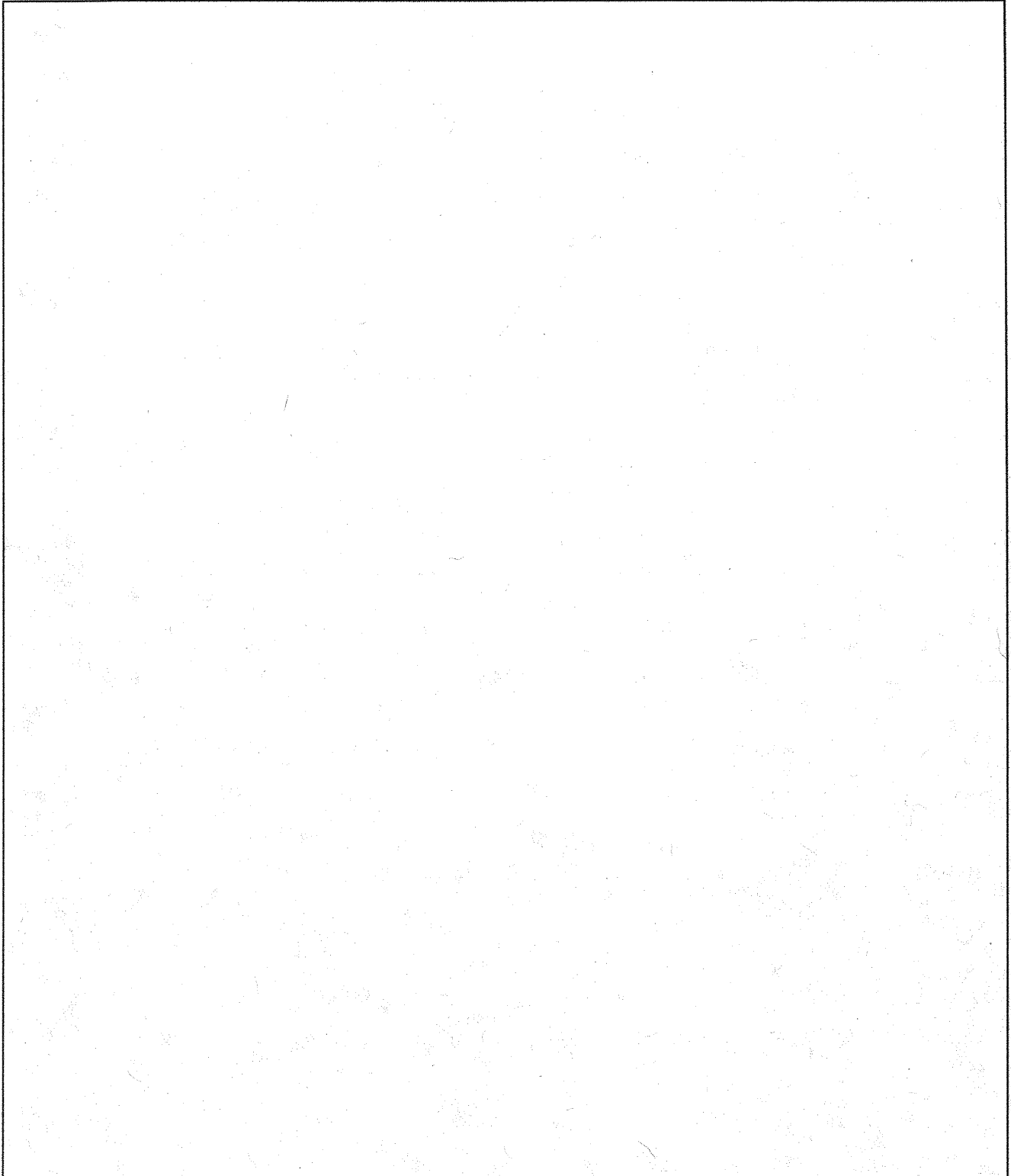
- (1 )** Be completed prior to the assignment and specifically address the purpose of the assignment.
- (2 )** Stipulate that the parent Career Service or Career Service Subgroup will provide the employee feedback at least annually regarding competitiveness for promotion and evaluation rankings.
- (3 )** State that the Head of an employee's Career Service or Career Service Subgroup panel will ensure the employee is considered for advancement opportunities such as promotion, awards, training, and an appropriate position upon return to the

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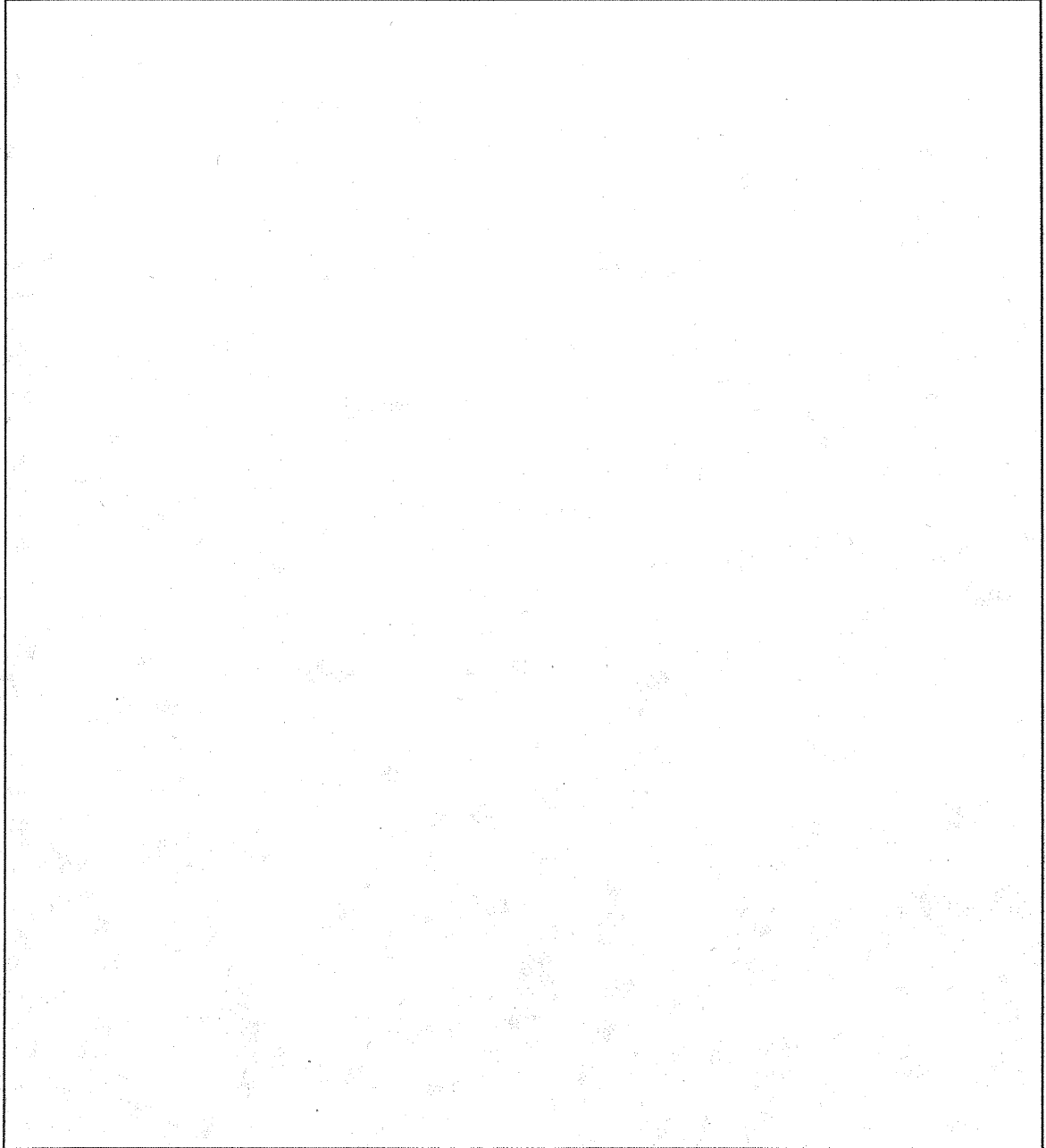
Career Service or Career Service Subgroup.

(4 ) State that the employee will not be disadvantaged by the rotational assignment.



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(4) **ASSIGNMENT TO A POSITION OF HIGHER GRADE.** With the concurrence of the Operating Official or Head of Career Service Subgroup, and approval of the appropriate Deputy Director, or Head of Independent Office, employees may be assigned to positions more than two grades above their personal grade. Employees may occupy a higher graded position when:

- (a) The assignment affords the employee broader developmental opportunities, or
- (b) The employee is the best-qualified person available.

(5) **ASSIGNMENT TO A POSITION OF LOWER GRADE (PERSONAL RANK**

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**ASSIGNMENT).** With the concurrence of the Operating Official or the Head of the Career Service Subgroup and the approval of the appropriate Deputy Director, or Head of Independent Office or single senior designee, an employee may be assigned to a position graded lower than the employee's personal grade for a specified period of time. Such an assignment is known as a "personal rank assignment" (PRA). Employees are not normally assigned to positions more than two grades lower than their grade. Long-term PRAs (longer than two years) should be reviewed to determine whether it is in the Agency's interest to downgrade the employee to the position grade or take action to resolve the disparity between salary and level of work performed.

- (6) **OVERSEAS ASSIGNMENTS.** Career Services determine overseas assignments based on the needs of the service and the employees' qualifications. Each component with overseas positions is responsible for processing its employees for overseas assignments (unless other arrangements have been made with the agreement of involved components). All employees who have been selected for an overseas assignment must complete an Overseas Assignment Questionnaire.

(a) **Legal Restrictions.** Components considering employees for overseas assignments must determine whether the employee is or expects to become involved in litigation. After seeking advice from the Office of General Counsel, components will consider the possibility and nature of employee litigation in determining the employee's overseas suitability.

(b) **Marriage to a Foreign National.** When an employee is married to a foreign national, the component must ensure that steps are being taken toward the spouse's naturalization. Normally, the employee will remain in the United States until the spouse obtains U.S. citizenship; however, under certain circumstances, and with the approval of the **Chief, Security Center**, in conjunction with the Head of the employee's Career Service and the Chief, Counterintelligence Center, the employee may serve in the foreign field on an unaccompanied tour prior to his or her foreign national spouse's obtaining U.S. citizenship. Approval will be contingent on the foreign national spouse's continued legal residence in the United States. Any proposed assignment of the employee to the spouse's country of birth, country of former citizenship, or country of extended residence, or to a country where possible counterintelligence concerns are raised will require approval of the Deputy Director for Operations (DDO).

- (7) **DUAL ASSIGNMENTS.** Components will seek to provide employee couples assignments at the same domestic or overseas field installation. Although each Career Service has responsibility for career development and assignment of its employees, equal consideration should be given to other Career Services' employees when their qualifications meet assignment requirements. In any case, there is no guarantee of suitable positions for both employees. Assignments are made subject to the restrictions on employment of relatives stated in AR 20-9.

(a) **Employee Availability.** Employees subject to field assignments who wish to be considered for dual assignments should forward written requests to the appropriate

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career management officer or other appropriate official.

- (b) **Advance Assignment.** An advance assignment may be made when a position is identified but will not become available until after the employee's arrival at post. Once the advance assignment is made, the employee will be issued individual travel orders (if assigned to a full-time position; part-time employees travel as dependents on the sponsor's travel order). The employee will take annual leave, leave without pay, or enter the Employee Spouse Program until the tour begins. The tour of duty begins the day the employee reports to duty at post.
- (c) **Concurrent Tours.** Components should consider a nonstandard tour for one employee when joint assignments are identified but are not concurrent, to allow tours to end at the same time. These arrangements should be made at the time of assignment and documented in the service agreement.

**(8) ASSIGNMENT FOLLOWING TOURS OF DUTY ABROAD.** Career Services help plan follow-on assignments of their employees serving abroad. Career Services will assist employees in locating their next assignments before they depart from the foreign post. Employees are encouraged to monitor and respond to vacancy notices as they are published. Individuals selected for onward assignments will be notified in a timely manner to facilitate PCS moves. If an onward assignment has not been identified prior to PCS departure, the individual should report to the appropriate component at headquarters to negotiate an assignment. Placement--by directed assignment if necessary--is to occur within 45 days of the employee's return to duty at headquarters.

**e. (U) RESPONSIBILITIES**

**(1) OPERATING OFFICIALS:**

- (a) Anticipate component human resource requirements and notify Heads of Career Services.
- (b) Concur in assignments to positions more than two grades above the employee's current personal grade.
- (c) Concur in assignments to positions graded lower than the employee's current grade.

**(2) HEADS OF CAREER SERVICES OR DESIGNEES:**

- (a) Select personnel for assignment to operating components. Heads of Career Services must notify the Chief, Recruitment Center (Chief/RC), if external recruitment is necessary to meet Career Service needs.
- (b) Ensure employees assigned outside their jurisdiction are included in either the parent or host Career Service or Career Service Subgroup's evaluation and promotion review and that both Career Service or Career Service Subgroups have agreed on parameters for evaluating and promoting employees during such assignments.
- (c) Ensure employees on rotational assignments are provided evaluation and promotion feedback by their parent Career Service or Career Service Subgroup at least annually.
- (d) Review rotational assignment agreements of six months or more at least 90 days prior

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to expiration to determine whether extensions are desirable.

- (e) Facilitate employees' return from rotation, including a directorate or office-level review, to ensure that employees are returned to positions that use or build on experience they have gained.
- (3) The Chief/RC, undertakes external recruitment to meet the Career Services' hiring requirements.
- (4) The Chief, Medical Services, determines employees' medical fitness for assignments (if applicable).
- (5) Component Human Resource Officers and supervisors are responsible for monitoring and advising Operating Officials when action needs to be taken on PRAs.
- (6) Supervisors assign work and evaluate personnel under their jurisdictions and advise the Operating Official or Head of Independent Office and the Head of the appropriate Career Service when an employee is mismatched with job requirements.

**f. APPOINTMENT AND APPROVAL AUTHORITIES**

- (1) The **Director of the Central Intelligence Agency (D/CIA)** appoints the Executive Director, Deputy Executive Director, Deputy Directors, Associate Deputy Directors, Special Assistant for Diversity Plans and Programs, Director of Congressional Affairs, Director of Public Affairs, **Chief of Staff to the D/CIA, Deputy Chief of Staff to the D/CIA, and Senior Advisors to the D/CIA**. The D/CIA also selects the Deputy Inspector General, in consultation with the Inspector General.
- (2) The **D/CIA or Deputy Director of the Central Intelligence Agency (D/CIA)** approves the assignments to Chief of Station, Deputy Chief of Station, Chief of Base, and Chief of Facility **positions** when the officer or **position** is at the SIS level.
- (3) The Executive Director (ExDir) **through the Executive Leadership Review Board (ELRB)** approves the appointments to office directors and deputy office directors, Directorate of Operations (DO) division chiefs and deputy division chiefs, center chiefs and other selected staff chiefs.
- (4) The **Chief, Security Center**, or designee concurs in:
  - (a) Assignments and reassignments to the foreign field.
  - (b) Unaccompanied overseas tours for employees married to foreign nationals.
- (5) Deputy Directors and Heads of Independent Offices (or their designees) approve:
  - (a) Assignments to lower-graded positions.
  - (b) Assignments to positions more than two grades above the employee's personal grade.
- (6) Heads of Career Service Subgroups approve candidates who were not ranked first among qualified applicants.

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(b) (3)**Date:** 02/01/2002**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-18    EMPLOYEE TOURS OF DUTY ABROAD**REVISION SUMMARY:** 01 February 2002 (0574)

This regulation supersedes AR 20-18, dated 8 September 1997.

AR 20-18 is being revised to update organizational and position titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

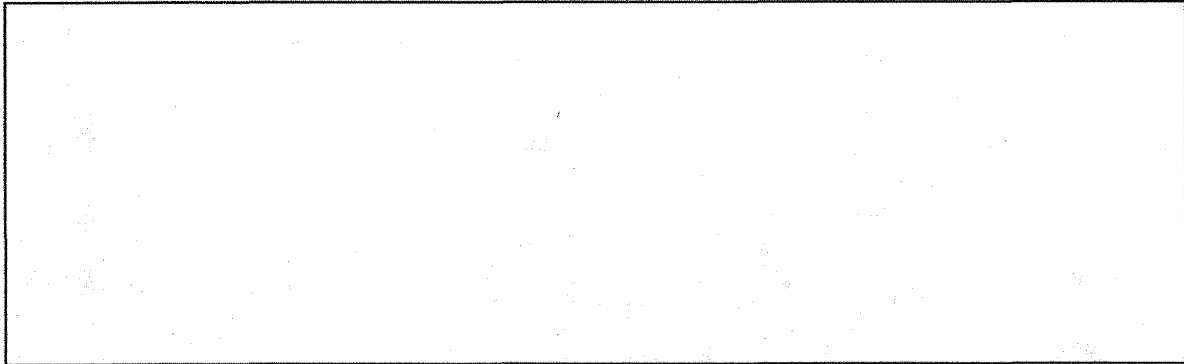
*Boldfaced text in this regulation indicates revisions .*

*This regulation was written by Policy Team, Human Resources Strategy & Planning Staff, HRM Policy@DA.*

**18. EMPLOYEE TOURS OF DUTY ABROAD**

**SYNOPSIS.** This regulation states Agency policy on duty tours at posts abroad, including the rules for computing creditable service abroad. The Agency uses that computation to determine employee entitlements and obligations (or liabilities) under the Service Abroad Agreement and under the eligibility rules for home leave and the CIA Retirement and Disability System and the Federal Employees' Retirement System Special Category.

- a. **AUTHORITY.** Sections 4 and 18, CIA Act of 1949, as amended (50 U.S.C. 403e); CIA Retirement Act, (50 U.S.C. 2001 et seq).
- b. **POLICY.** The Agency assigns employees to posts abroad to serve the Agency's needs. Career Services establish a specific tour of duty for each employee prior to the employee's departure for post.

~~ADMINISTRATIVE - INTERNAL USE ONLY~~**d. TYPES OF TOURS**

- (1) The standard tours of duty abroad are:
  - (a) **Single 18-month tour.** Eighteen months of continuous service abroad, normally at a hardship post, followed by end-of-tour home leave and transfer.
  - (b) **Back-to-back 18-month tours.** Eighteen months of continuous service abroad, normally at a hardship post, followed by home leave and return to the same post for a second 18-month tour. Career Services may convert a single 18-month tour into back-to-back 18-month tours with the employee's consent.
  - (c) **24-month tour.** Two years of continuous service abroad followed by home leave and transfer to a different post.
  - (d) **Back-to-back 24-month tours.** Two years of continuous service abroad followed by home leave and return to post for a second two-year tour. Career Services may convert a single two-year tour into back-to-back two-year tours with the employee's consent.
  - (e) **36-month tour.** Three years of continuous service abroad followed by home leave and transfer.
  - (f) **48-month tour.** Four years of continuous service abroad with midtour home leave and end-of-tour home leave and transfer to a different post. Midtour home leave counts as part of the four years' overseas service. Midtour home leave begins no earlier than 18 months after arrival at post and ends no later than 30 months after arrival at post.
- (2) Nonstandard overseas tours of at least 12 months but not more than 48 months may be approved by the **Chief Human Resources Officer** or designee upon written request by an Operating Official and concurrence of the appropriate Deputy Director or **Chief of Mission Support Office**. Nonstandard overseas tours should be kept to a minimum and approved only to meet requirements that cannot be accommodated through standard tours. A nonstandard tour may be approved for one member of a married employee couple when both are assigned to the same post but their tours are not of equal length.

**e. ADMINISTRATION**



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**(1) COMPUTING CREDITABLE SERVICE ABROAD**

- (a) Creditable service abroad begins on the earliest of the following:
  - (1) Date of arrival at the overseas post on a PCS assignment.
  - (2) Date of entry on duty if the employee is appointed abroad and enters on duty overseas.
  - (3) Date of temporary duty (TDY) arrival at a post abroad if the employee is assigned to perform the TDY enroute to an overseas PCS assignment.
  - (4) Date of TDY arrival at a post abroad if the TDY assignment is converted to a PCS assignment at the same or different overseas post without a break in continuous overseas service.
- (b) Creditable overseas service ends on the later of the following:
  - (1) Departure date from a post abroad for PCS assignment in the United States or end-of-tour home leave travel.
  - (2) Last day of TDY at a post abroad enroute to a PCS assignment in the United States or end-of-tour home leave travel.
- (c) Creditable service ends on the departure date if an employee is assigned PCS to the United States while on midtour home leave from an overseas tour.
- (d) If an employee is transferred PCS to the United States during any other leave or while TDY in the United States, the last day of creditable overseas service is the later of:
  - (1) Departure date from the overseas post for leave in the United States.
  - (2) Last day of TDY at a post abroad enroute to a PCS assignment in the United States.
- (e) Creditable overseas service includes the full days on which the tour begins and ends.
- (f) All periods of paid leave taken during an overseas tour are creditable as service abroad.
- (g) Leave without pay (LWOP) is creditable as service abroad only if:
  - (1) Taken outside the United States during a period of creditable service. LWOP in the United States is not creditable.
  - (2) It does not exceed two weeks for each 12 months of creditable overseas service in a tour.
- (h) Time during which an employee is detailed to or serving in the United States armed forces is creditable if it interrupts continuous overseas service.
- (i) Time away from the overseas post for approved emergencies such as the death or grave illness of immediate family members (see AR  ) is creditable, except as provided in paragraph (g) above. Time spent in the United States for the emergency,

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including travel time, is counted as part of the tour but does not extend the tour or delay home leave eligibility if the employee has completed 18 months of continuous service abroad.

**(2) SERVICE ABROAD AGREEMENT**

- (a) Employees located in the United States must complete Form 3154, *Service Abroad Agreement*, before beginning travel to a post of assignment abroad. The form must be forwarded to Human Resources/**Pay & Benefits (HR/P&B)** for retention.
  - (b) Employees entering on duty abroad must complete a *Service Abroad Agreement*. The form must be forwarded to headquarters for retention.
  - (c) Employees must sign a new Service Abroad Agreement if accepting a new PCS assignment abroad immediately following a PCS assignment abroad (whether or not the first tour has been completed and with or without end-of-tour home leave), or if the tour of duty in the same location is changed.
  - (d) Employees should complete the new Service Abroad Agreement at headquarters if visiting headquarters during or after end-of-tour home leave and before travel to the new overseas PCS assignment.
  - (e) If the Service Abroad Agreement is not completed before arrival at the new PCS assignment, the Chief of Installation will ensure the employee completes and forwards the form to HR within 90 days of arrival at post or advise headquarters of the reason for the delay.
  - (f) The **Chief Human Resources Officer** or designee must approve an employee's permanent place of residence or home leave point in a new Service Abroad Agreement if different from information specified in the agreement completed for the immediately preceding overseas tour. Component human resource officers will review Service Abroad Agreements in accordance with AR 20-30 and AR  . Human Resources will provide the employee with written notification of the decision. Employees should not presume request approval.
- (3) BREACH OF SERVICE ABROAD AGREEMENT.** Employees who breach a Service Abroad Agreement are financially liable in accordance with the agreement and Agency regulations.
- (a) If an employee terminates a permanent assignment outside the United States prior to completing 12 months of creditable service following the date of arrival abroad, the employee must reimburse the government for all expenses incurred in the travel and transportation of the employee, dependents, and household and personal effects to post.
  - (b) If an employee fails to complete the prescribed tour of duty abroad, the employee and dependents are not entitled to payment of return travel and transportation to the United States or expenses incurred in the transportation of household and personal effects. If Agency officials determine early departure is necessary for official reasons or for personal reasons of significant interest to the government, the Agency may

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waive the reimbursement of expenses already incurred or authorize return travel and transportation (whichever is applicable; see AR )

(4) **RETURN PRIOR TO END OF TOUR OF DUTY (SHORT-OF-TOUR DEPARTURE)**

- (a) At the request of an Operating Official, short-of-tour departure requests of 16 days or more that result in an overseas tour of more than 18 months can be approved by the appropriate Deputy Director, **Chief of Mission Support Office** or single senior officer delegated this authority. The concurrence of the **Chief Human Resources Officer** is required only in short-of-tour departure requests that result in an overseas tour of less than 18 months.
- (b) Short-of-tour departures of 15 days or less may be approved by Chiefs of Installation, unless the result is a tour of less than 18 months. Headquarters must approve all departures that result in a tour of less than 18 months because of the effect on employee eligibility for home leave (see AR 20-30 ). These authorities and responsibilities may not be redelegated.
- (c) Short-of-tour departures may be approved only when return prior to the end of the tour of duty is in the government's interest. Operating Officials must explain in writing the circumstances and government interest involved.

**f. RESPONSIBILITIES**

- (1) Deputy Directors and **Chiefs of Mission Support Offices** concur or nonconcur in requests from Operating Officials for nonstandard tours of duty.

**g. APPROVAL AUTHORITY**

- (1) Heads of Career Services or designated single senior officers, may approve:
  - (a) Short-of-tour departures of 16 days or more unless the request results in a tour of duty of less than 18 months, at the request of the Operating Official.
  - (b) Short-of-tour departures of 15 days or less that result in a tour of less than 18 months with the concurrence of the **Chief Human Resources Officer or Deputy Chief Human Resources Officer**.
- (2) The **Chief Human Resources Officer** approves waivers of employee financial obligations incurred in breaches of service abroad agreements (see AR )
- (3) The **Chief Human Resources Officer** or designee approves:
  - (a) Nonstandard overseas tours of at least 12 months but not more than 48 months.
  - (b) An employee's permanent place of residence or home leave point in a new Service Abroad Agreement if different from information specified in the agreement completed for the preceding overseas tour.

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- (4) Chiefs of Installations approve short-of-tour departures of 15 days or less unless the result is a tour of less than 18 months.

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(b) (2)  
(b) (3)

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**Date:** 02/17/2005

**Category:** 20 - Human Resources

**OPR:** HR

**Title:** AR 20-20 THE PERFORMANCE APPRAISAL SYSTEM

**REVISION SUMMARY:** 17 February 2005

This regulation supersedes AR 20-20, dated 16 August 2004.

AR 20-20 is revised to reflect current guidance and policy regarding the performance appraisal system. A modification has been made in paragraph b(1) regarding the definition of a memorandum for the record (MFR). Paragraphs c(1), (2), and (5) reflect a change from the 90-day timeframe on performance documentation to 120 days. Paragraph g changes the single PAR due date from 30 April to the date applicable for each grade as established in an annual Agency Notice. Paragraph i(2) identifies who is an appropriate adjudicator for a PAR rebuttal. Paragraphs e(2), j, and m(2) reflect an organizational structure and position title change from Chief Human Resources Officer to Chief, Office of Human Resources.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Staff, Centralized and Deployed Human Resources, HR Policy@DA.*

**20. (FOUO) THE PERFORMANCE APPRAISAL SYSTEM**

**(U) Table of Contents**

- a. Authority**
- b. Definitions**
- c. Submission of Performance Reports**
- d. Primary Performance Appraisal System Participants**
- e. Performance Objectives and Performance Standards**
- f. Performance Feedback**
- g. Process for Annual PAR Completion**

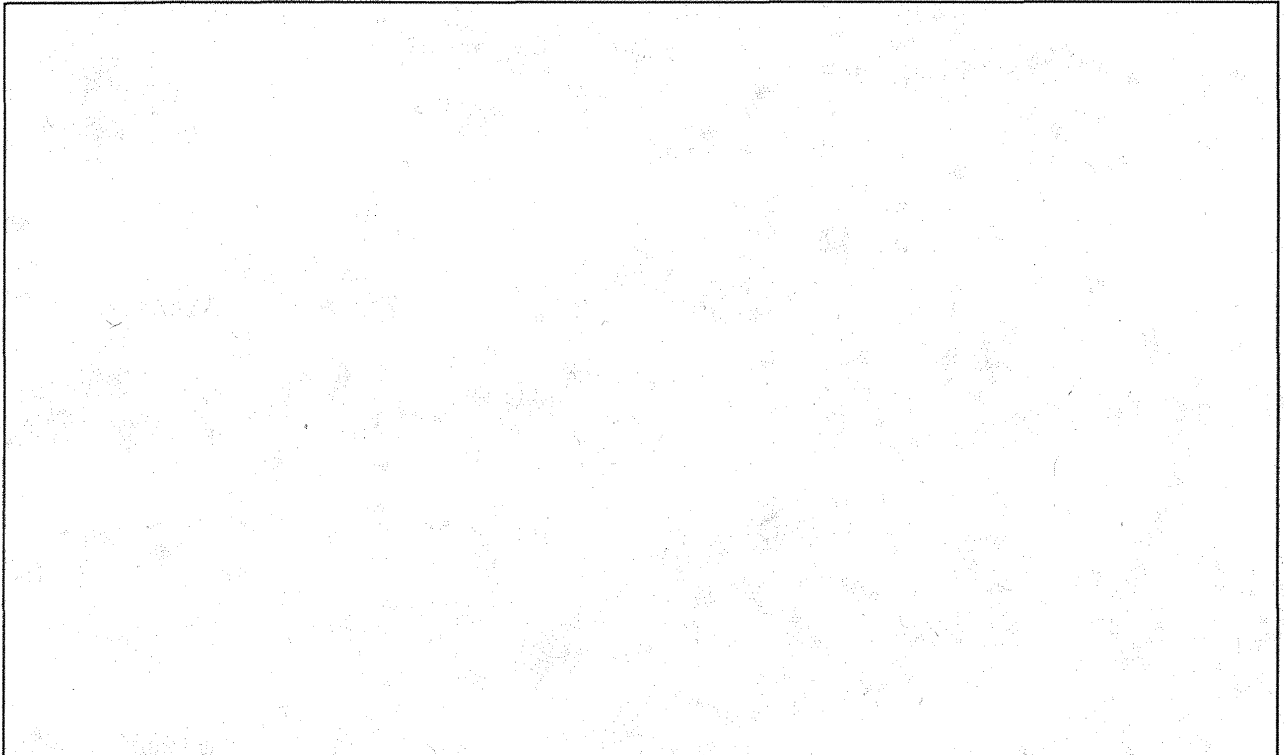
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DATE: JAN 2008

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- h. Incomplete PARs**
  - i. Rebuttals**
  - j. Changing Information in a Closed PAR**
  - k. Relationship to Termination of Employment**
  - l. Not Used**
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- Attachment 1: Midcycle Feedback Form**

**(U) SYNOPSIS.** This regulation describes the automated performance appraisal system (PAS) used by the Agency in evaluating performance documented in the employee's performance appraisal report (PAR). It addresses specifics of the following features:

- (1) Completing a PAR and a memorandum for the record.**
  - (2) Establishing the performance objectives and verifying the performance standards.**
  - (3) Performance feedback.**
  - (4) The consequences for failure to complete a PAR within the established deadlines.**
  - (5) The rebuttal process.**
  - (6) The roles and responsibilities of individuals throughout the PAR rating period.**
- a. (U//FOUO) AUTHORITY.** Section 8 of the CIA Act of 1949, as amended (50 U.S.C. 403j).
- b. (U) DEFINITIONS**



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c. (U//FOUO) SUBMISSION OF PERFORMANCE REPORTS

(1) **The PAR.** Each employee will prepare an annual PAR unless a PAR has been prepared for some other reason within 120 days before the end of the annual rating period. However, employees in investment assignments are exempt from meeting the annual PAR requirement as described in paragraph c(3) below.

(a) **Other Situations That Require a PAR.** During the annual PAR rating period, a PAR must be prepared to evaluate periods of performance of 120 days or more when one of the following situations exist:

- (1) The employee is reassigned.
- (2) The rating official is reassigned or separates from the Agency.
- (3) The employee's performance objectives change due to a significant change in position responsibilities.
- (4) The employee is placed on extended leave without pay (LWOP) or another type of extended leave of absence from the workplace.

(b) **Periods Fewer Than 120 Days.** Employees or supervisors may prepare a PAR for a period of fewer than 120 days if they believe that the lack of such a PAR will adversely affect the employee's evaluation.

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d. (U) **PRIMARY PERFORMANCE APPRAISAL SYSTEM PARTICIPANTS.** Apart from the employee, the primary performance appraisal system participants are the rating official, the reviewing official, and the unit supervisor, if applicable.

- (1) **Rating and Reviewing Official.** Generally, either the rating official or the reviewing official must be a member of the employee's career service. Exceptions or deviations to this requirement are described below. The rating official establishes the employee's performance objectives and provides performance feedback throughout the rating period. Both the rating official and the reviewing official provide comments in the employee's PAR. The rating official and reviewing official will give feedback to the employee on those comments. There may be rare situations where there is no appropriate reviewing official. For example, there may be no appropriate reviewing official for a Special

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Assistant to a Deputy Director.

- (a) **Agency Employees Detailed to Another Federal Agency.** Generally, the employee's immediate supervisor at the host Federal Agency must serve as the rating official and the reviewing official must be a member of the employee's career service. In some cases, the immediate supervisor is a member of the employee's career service. In these cases, the reviewing official does not need to be a member of the employee's career service.
- (b) **Employees on Rotational Assignments.** The rating official will be from the host component and the reviewing official will be from the employee's career service.
- (c) **Special Circumstances.** In limited situations, the organizational structure or nature of the assignment may make it impractical or impossible for the rating official or the reviewing official to be a member of the employee's career service. In these cases the head of the employee's career service may grant exceptions to the requirement for the rating official or reviewing official to be a member of the employee's career service.

e. (U) **PERFORMANCE OBJECTIVES AND PERFORMANCE STANDARDS.** The rating official will establish the performance objectives (in consultation with the unit supervisor, if applicable) and discuss and verify the performance standards with the employee at the beginning of each annual PAR rating period.

- (1) **Performance Objectives.** The performance objectives are developed by the rating official and reviewing official, as well as any other applicable management officials within the employee's chain of command and are aligned to the organizational performance priorities. The objectives must be relevant and applicable to the work expected of each employee.
- (a) **Finalizing the Objectives.** The performance objectives should be finalized in the performance appraisal system within the first 10 business days of the rating period, but no later than 45 calendar days from the start of the rating period.
- (b) **Changing Existing Objectives During a Rating Period.** Each performance

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objective has a beginning and end date. These dates are generally the same as the annual PAR rating period beginning and end date. However, an individual performance objective may change during a rating period and would result in a new beginning and/or end date. Situations in which performance objectives may change include, but are not necessarily limited to, the following:

- (1 ) Significant changes in position responsibilities.
- (2 ) Modifying an existing objective.
- (3 ) Adding a new objective.
- (4 ) Closing a completed objective.
- (5 ) Removing an objective that is no longer relevant.

(2) **Performance Standards.** Performance standards are skills and behaviors required for successful performance in a job. Subject matter experts identify the requisite skills and behaviors after HR professionals have analyzed each job level in an occupation. The **Chief, Office of Human Resources**, is responsible for ensuring that performance standards are current and available for every Agency occupation.

- (a) The performance standards are generally linked to the position title and level for each job within an occupation and represent the behaviors and skills required of an employee assigned to the position.
- (b) There may be instances where the level of work expected of the employee is different than the level of work of the position. In such cases, an appropriate official of the career service, as determined by the Head of the Career Service or Head of Career Service Subgroup, should evaluate what work requirements they expect of the employee and consider changing the position level to match the level of work expected. However, if the evaluation reveals that the position level should not be changed, the rating official may need to change the standards to match the level of work expected of the employee. Instances in which it may be appropriate to change the standards rather than changing the position level may include, but are not limited to, the following:

- (1 ) **Entry-Level or Developmental Employees.** An entry or developmental level employee is assigned to a position at full performance and the employee cannot reasonably be expected to perform at that level.
- (2 ) **Employees Above the Full-Performance Level Assigned to Positions at a Lower Level.** An employee above the full performance level is assigned for a specified period of time to a position below his or her level to fulfill mission critical work requirements.

f. (U//FOUO) **PERFORMANCE FEEDBACK.** Rating officials and unit supervisors are responsible for giving employees feedback on their performance throughout the rating period.

- (1) **General Guidelines.** Feedback should be an assessment of how well the employee is performing against performance objectives and performance standards and the impact of

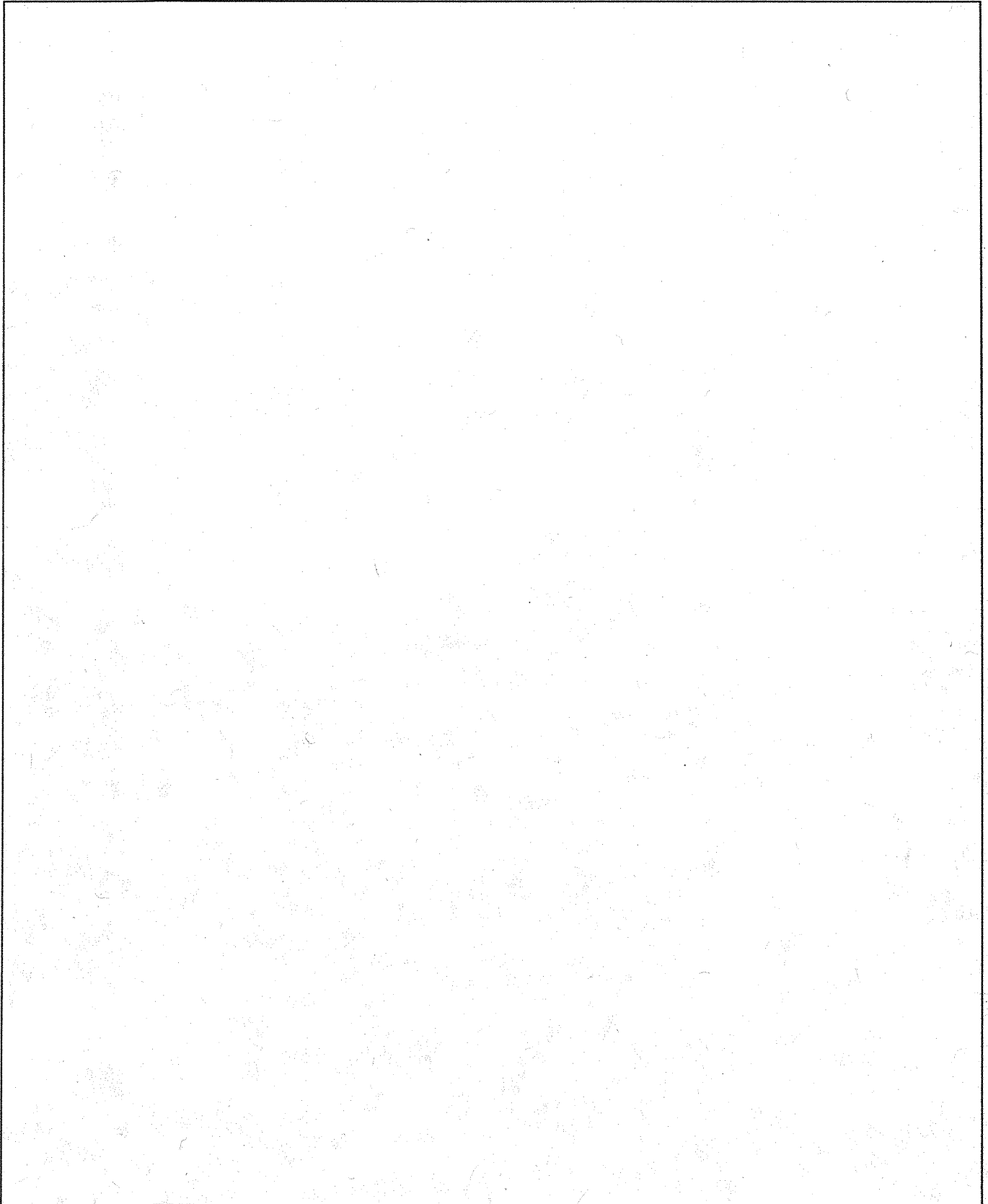
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his or her work on mission requirements. Feedback will be constructive in content and will also acknowledge observed achievements or accomplishments, as appropriate. Rating officials should provide timely feedback after becoming aware of an employee's achievement/accomplishment or of an adverse performance issue. Adverse performance issues may include any information or judgment, written or otherwise, that may adversely affect accomplishment of the organization's mission and the employee's advancement to the next level, assignment, career development, or retention by the Agency.

- (2) **Midcycle Feedback.** The rating official is required to document and present midcycle feedback to the employee. The rating official should seek feedback from the unit supervisor (if applicable) before meeting with the employee to ensure there is a comprehensive understanding of employee performance from all relevant parties that ultimately affects evaluation and documentation of an employee's performance on the PAR.
- (a) Midcycle feedback should occur between 1 August and 31 October each year. If the rating official does not have a valid reason for failing to provide midcycle feedback, the rating official may be subject to disciplinary action as defined in AR 13-3.
- (b) To ensure uniformity in the documentation of midcycle feedback, the rating official will use the midcycle feedback form (Attachment 1). This form is a temporary working document for the rating official's use in providing ongoing feedback throughout the rating period and in completing the annual performance appraisal. Once a PAR is written and acknowledged by the employee, the rating official destroys the feedback form.

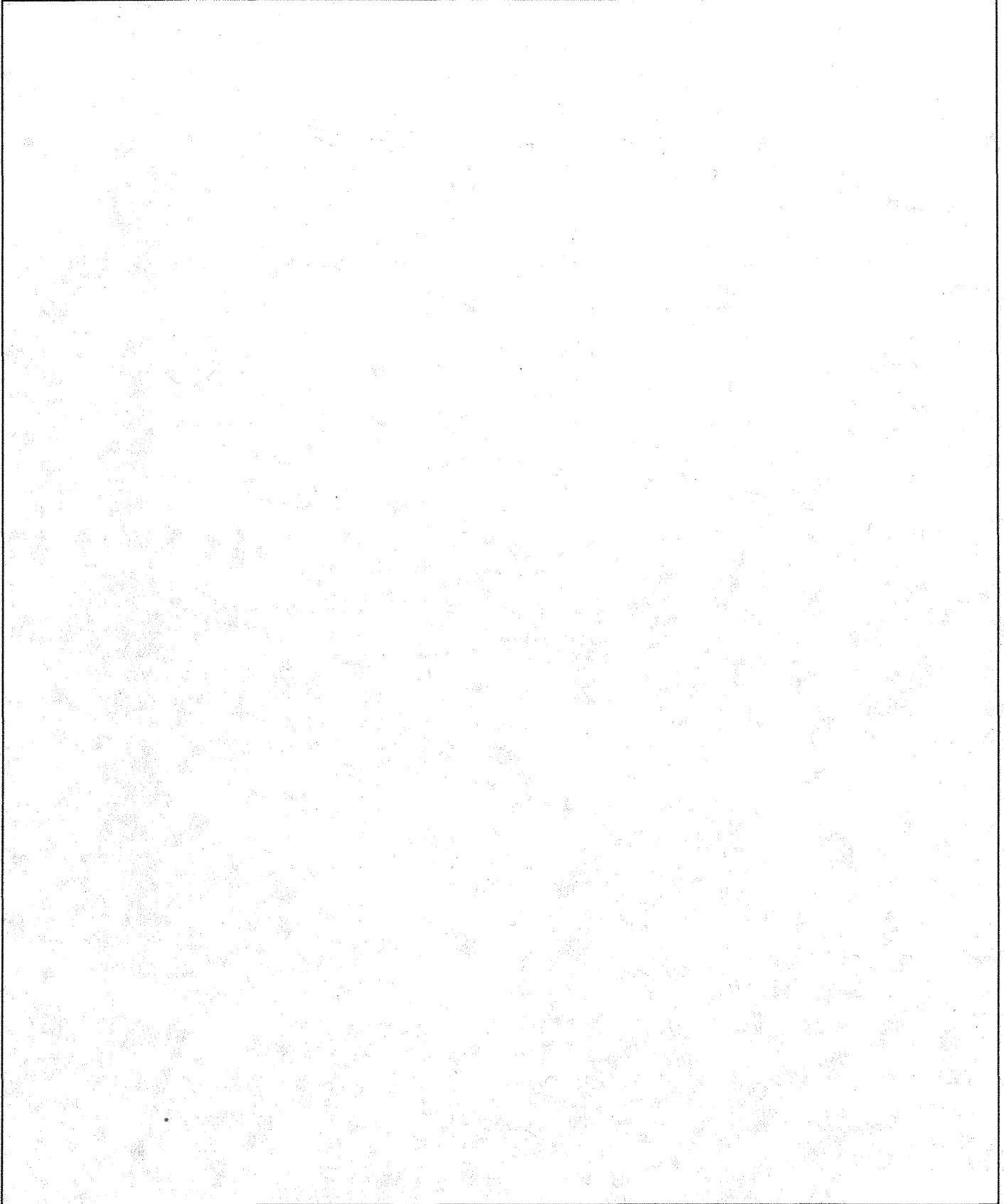
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**m. (U//FOUO) RESPONSIBILITIES**

- (1) **Deputy Directors and Heads of Independent Offices.** Develop organizational performance priorities for their organizations within the context of the Agency's Strategic Direction.
- (2) **Chief, Office of Human Resources**
  - (a) Develops and maintains the policy, the process, and the automated performance appraisal system.
  - (b) Approves performance standards for all occupations.
  - (c) Authorizes changes in information in closed PARs and has delegated this authority to the component human resources (HR) chiefs.
- (3) **Head of Career Service**
  - (a) Verifies the performance standards for occupations in their career service and identifies subject matter experts to assist HR in developing and maintaining the performance standards.
  - (b) Determines whether writing a narrative for performance standard ratings of 3 and 4 is required and applies this decision to all employees within the career service.
  - (c) Identifies adjudicators on PAR rebuttals in accordance with paragraph i details.
- (4) **Reviewing Official**
  - (a) Ensures the compliance of rating officials with rating official responsibilities.
  - (b) Provides substantive comments in the PAR on the performance of each employee under his or her purview and provides feedback to the employee on those comments.
- (5) **Rating Official**
  - (a) Establishes employee performance objectives.

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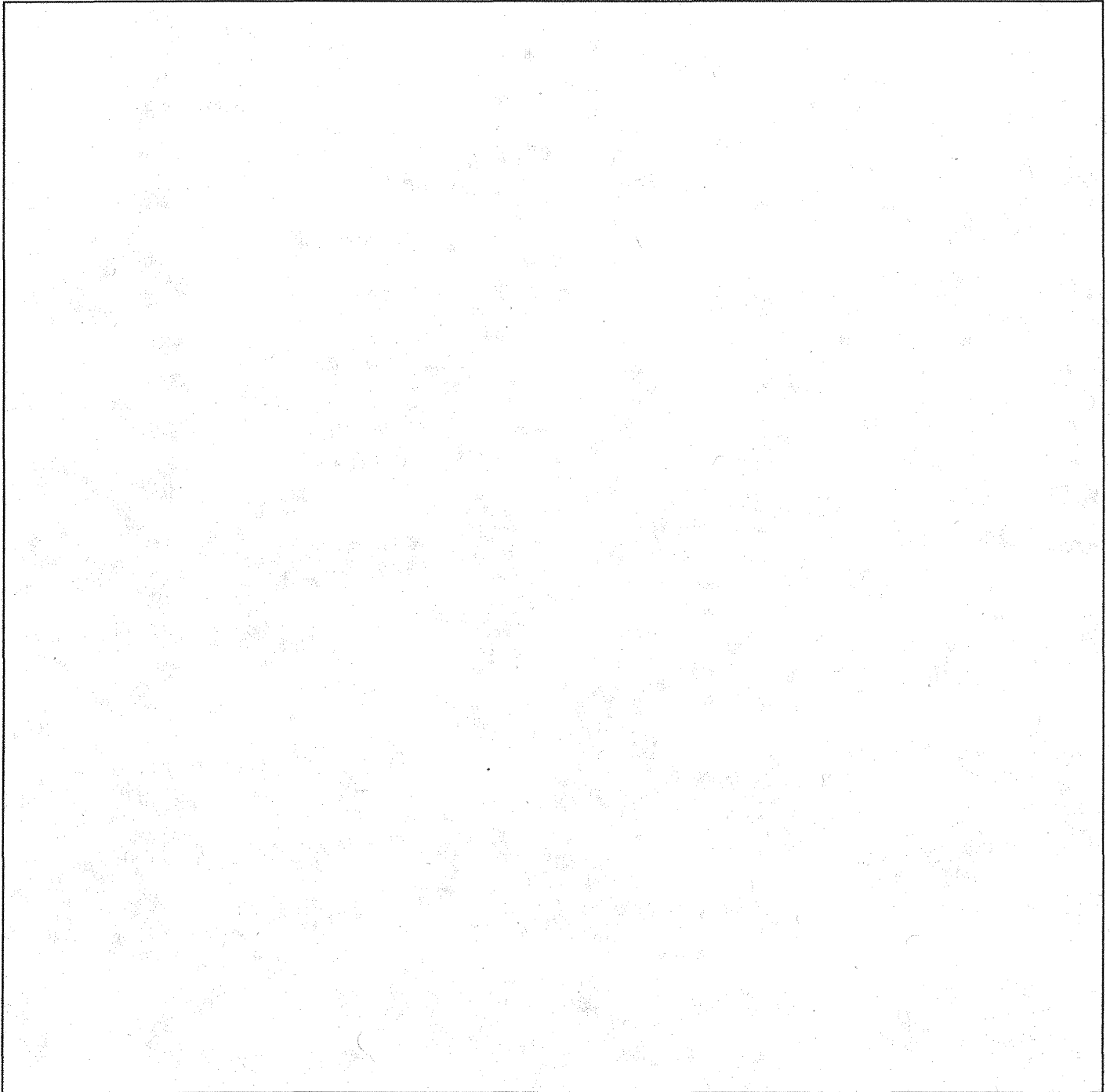
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- (b) Provides formal midcycle feedback as well as performance feedback to employees throughout the rating period.
  - (c) Assesses and evaluates employee accomplishments in accordance with applicable standards and objectives.
  - (d) Assigns performance standard ratings for each common and specialized standard, evaluates performance effectiveness against the performance standards, and assigns an overall performance rating.
  - (e) Ensures that all elements of the PAR are completed on time.
  - (f) Prepares an MFR when applicable.
  - (g) Seeks input from the unit supervisor (if applicable) on an employee's performance throughout the rating period.
- (6) Unit Supervisor (if applicable)**
- (a) Reviews and provides input on employee performance objectives.
  - (b) Provides performance feedback to the employee throughout the rating period.
  - (c) Provides narrative comments in the PAR to document employee performance and ensures that those comments are prepared on a timely basis for completion of the PAR within the established deadline by all applicable officers.
- (7) Component HR Chiefs.** Make authorized changes in an employee's closed PAR.
- (8) Employee**
- (a) Participates in the development of performance objectives.
  - (b) Initiates and/or acts on performance feedback throughout the year.
  - (c) Initiates the PAR and prepares significant accomplishments for the PAR in a timely manner to ensure that the PAR is completed within the established deadline by all applicable officers.

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**(U) Attachment 1**  
**Midcycle Feedback Form**

A large, empty rectangular box with a thin black border, occupying the central portion of the page. It is intended for the content of the Midcycle Feedback Form.

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(b) (3)**Date:** 08/10/2004**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-21 PROMOTIONS**REVISION SUMMARY:** 10 August 2004

This regulation supersedes AR 20-21, dated 1 February 2002.

AR 20-21 has been revised to remove those portions of the regulation that refer to SIS members at levels 1-3. The new SIS system adopted in early July 2004 contains guidance for promotions into and within SIS. We have also removed the uniform promotion schedule contained in the regulation. It was superseded by AN 20-21-10.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, HRM Policy @ DA.*

**21. (U) PROMOTIONS**

**SYNOPSIS.** This regulation states the policy and responsibilities for the promotion of personnel compensated under the Agency's General Schedule (GS) and GS-related special pay scales. This regulation also provides the minimum time-in-grade guidelines for GS-07 through GS-15 employees.

- a. **(U) AUTHORITY.** Section 8 of the CIA Act of 1949, as amended (50 U.S.C. 403j).
- b. **(U) POLICY.** Employees are promoted on the basis of merit and qualifications to perform higher-level responsibilities. Heads of Career Services are responsible for ensuring all employees GS-15 and below are evaluated at least annually. This regulation does not apply to the promotion of employees compensated under prevailing rate pay schedules (see AR 20-31).
- c. **(U//AIUO) BOARDS AND PANELS**

- (1) Evaluation boards and panels determine promotion eligibility for GS-07 through GS-15

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employees. Heads of Career Services may use a formal evaluation board or panel system for employees grade GS-06 and below who are in clerical or technical positions or they may delegate promotion authority to supervisors. Employees at grade GS-06 and above must be promoted in accordance with the uniform promotion schedule (see paragraph e); however, the Head of Career Service may determine the time of evaluation and promotion for GS-05 and below employees.

- (2) The number of employees who may be promoted from among those determined to be eligible by the board or panel is determined on the basis of Career Service promotion headroom, ranking, and time-in-grade. Employees whose evaluation suggests they will be exceptional performers at higher levels of responsibility are not constrained by time-in-grade guidelines if they otherwise are qualified for advancement. Personnel on assignment outside their home component must receive equal consideration for promotion. Heads of Career Services or designees may establish separate areas of competition within their services to differentiate the various career disciplines.
  - (3) Boards and panels recommend promotions to the Heads of Career Services. Exceptions to their recommendations on promotions to grade GS-15 and below require the approval of the Head of Career Service (see AR 20-3 and AR 20-16). The Chief Human Resources Officer will be informed of exceptions to board or panel recommendations.
  - (4) A promotion request must be accompanied by a Performance Appraisal Report (PAR) prepared in accordance with the annual cycle or a more recent report prompted by other requirements (see AR 20-20). Promotion recommendations are not made in PARs, however.
  - (5) Promotions are limited to one-grade advancement. Exceptions must be recommended by the Head of Career Service and approved by the Chief Human Resources Officer or designee.
  - (6) The effective date of a promotion may be delayed up to 90 days if it would benefit the employee. For example, if the employee has been approved for promotion and is due a step increase that would affect the employee's step in the new post-promotion grade, the promotion may be delayed so the employee can receive the step increase with the promotion. The Operating Official must ensure the employee is aware of the possible future negative or positive impact of a delayed promotion date. The employee has the final determination and may request that the promotion not be delayed.
  - (7) AR 20-17, pertaining to personal rank assignment, will be observed. Career Services must provide career panels and boards a list of employees in each grade when evaluations are conducted to ensure all employees are evaluated.
- d. **(U//AIUO) UNIFORM PROMOTION SCHEDULE.** Career Services may promote employees on either an annual or semiannual schedule as **announced by appropriate Agency Notice.**
- e. **(U//AIUO) EXCEPTIONS TO THE UNIFORM PROMOTION SCHEDULE.** Career Service panels may recommend out-of-cycle promotions to Heads of Career Services in recognition of superior achievement. Heads of Career Services may approve out-of-cycle

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promotions.

**f. (U//AIUO) MINIMUM TIME-IN-GRADE GUIDELINES FOR GS-07 THROUGH GS-15.**

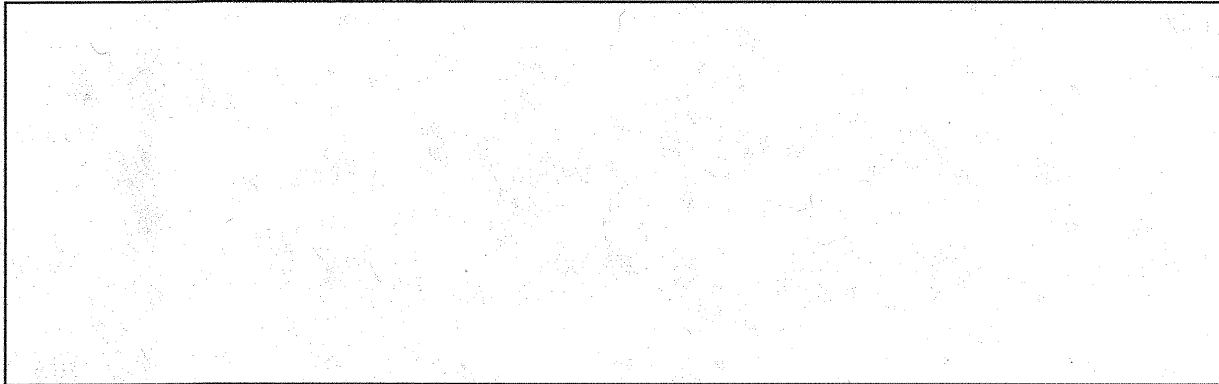
- (1) Agency minimum time-in-grade guidelines for promotion of professional employees paid under the GS and GS-related special pay scales are:

<u>Promotion From</u>	<u>Time In Grade</u>
GS-07	6 months
GS-08	6 months
GS-09	9 months
GS-10	12 months
GS-11	12 months
GS-12	17 months
GS-13	23 months
GS-14	28 months
GS-15	28 months

- (2) Recognizing the diversity of missions and requirements across the directorates and mission support offices, individual Career Services retain the flexibility to depart from these guidelines in exceptional cases. These guidelines are the minimum standards for those employees who meet all the promotion criteria and are performing in a superior manner. Employees should not expect automatic promotions immediately upon satisfying the minimum time-in-grade guidelines.
- (3) All employees' periods of leave, including leave without pay, count toward their minimum time-in-grade for promotion purposes.
- (4) If an employee resigns from any Federal civilian service and is reemployed by the Agency at an equivalent grade or lower (regardless of the length of time the employee was not employed in Federal civilian service) the months spent at that grade prior to resignation are counted as time in grade for promotion purposes.

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**h. (U//AIUO) RESPONSIBILITIES**

- (1) The Executive Director approves or disapproves temporary promotion requests.**
- (2) The Chief Human Resources Officer:**
  - (a) Continuously reviews the Agency's evaluation and promotion programs.**
  - (b) May approve exceptions to the one-grade advancement rule.**
  - (c) May approve retroactive promotions.**
  - (d) Concurs or nonconcurs on temporary promotion requests.**
- (3) Heads of Career Services:**
  - (a) Ensure all employees GS-15 and below are evaluated at least annually.**
  - (b) May recommend exceptions to one-grade advancements to the Chief Human Resources Officer.**
  - (c) May approve out-of-cycle promotions.**
  - (d) Have an obligation to disapprove promotions when they are aware of significant security or counterintelligence issues that have been found to have merit. Any such disapproval will be based on a known record and not solely on the existence of an incomplete investigation.**
- (4) Supervisors prepare timely PARs, which are essential in promotion considerations.**

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~~ADMINISTRATIVE~~ INTERNAL USE ONLY(b) (2)  
(b) (3)**Date:** 01/16/2003**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-22 SENIOR INTELLIGENCE SERVICE**REVISION SUMMARY** 16 January 2003

This regulation supersedes AR 20-22 dated 26 February 2002.

AR 20-22 is revised to remove the requirement that Senior Intelligence Service (SIS) officers selected for the Officer-In-Residence Program be downgraded from SIS to GS -15, step 10. This change in policy was authorized by the D/CIA 7 September 2002, and Congressional notification completed 14 December 2002.

*This revision was initiated by Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy @ DA.*

**22. SENIOR INTELLIGENCE SERVICE**

**SYNOPSIS.** This regulation provides the policy and responsibilities for personnel management of the Senior Intelligence Service and detail related responsibilities of the Director of the Central Intelligence Agency, Deputy Director of the Central Intelligence Agency, Executive Director, Heads of Career Services, Senior Personnel Review Board, Inspector General, and Chief Human Resources Officer (in his role as Chief Human Resources Officer vs. Head of a Career Service).

**a. AUTHORITY.** The National Security Act of 1947, as amended (50 U.S.C. 403, et seq.), and the CIA Act of 1949, as amended (50 U.S.C. 403a, et seq.) 5 CFR 534.405).

**b. POLICY**

- (1) The Senior Intelligence Service (SIS) operates under the direction of the Director of the Central Intelligence Agency (D/CIA), the Deputy Director of the Central Intelligence Agency (DD/CIA), and the Executive Director (EXDIR), ensuring that senior management is of the highest quality and fully responsive to the needs, policies, and goals of the Agency and the Nation. The SIS includes six rank levels starting at SIS-1

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and progressing through SIS-6.

- (2) Equal employment opportunity and affirmative action regulations, policies, and plans apply to all aspects of the SIS program.
- (3) This regulation creates no right to, or interest in, Agency employment. None of the procedures set forth in this regulation apply to any personnel actions carried out under AR

**c. MEMBERSHIP.** Promotion to or within the SIS ranks and direct appointment as an SIS member will be approved as outlined in paragraph d below. Regardless of length of service or SIS level, members will hold SIS rank for such time as the EXDIR, DD/CIA, or D/CIA (as appropriate) determines.

**d. RESPONSIBILITIES**

- (1) The D/CIA:
  - (a) Personally selects the Executive Director, Deputy Executive Director, Deputy Directors, Associate Deputy Directors, Chief, Mission Support Offices (C/MSOs), Deputy Chief, MSOs, Special Assistant to the D/CIA for Diversity Plans and Programs, Director of Congressional Affairs, and Director of Public Affairs. The D/CIA also selects the Deputy Inspector General, in consultation with the Inspector General. Several other senior positions, including the Associate Director of the Central Intelligence Agency for Military Support, Chief of the Technology Management Office, and the Chief of the National HUMINT Requirements Tasking Center, are filled cooperatively with other elements of the national security community.
  - (b) Approves or disapproves nonrecertifications of SIS officers.
  - (c) Approves or disapproves reduction in grade of SIS-4 through SIS-6 officers.
- (2) The D/CIA or DD/CIA may approve:
  - (a) Promotions to SIS-6, including those SIS-6 promotions that differ from Senior Personnel Review Board (SPRB) recommendations and SIS-6 out-of-cycle promotions.
  - (b) Direct appointment (hire) as an SIS member.
  - (c) Assignments of SIS-6 officers and assignments to chief of station, deputy chief of station, chief of base, and chief of facility positions when the officer or position is at the SIS level.
- (3) The EXDIR may:
  - (a) Approve:
    - (1) Promotions from GS-15 to SIS-1 and within the SIS ranks to SIS-5, including promotions to SIS-1 through SIS-5 that differ from SPRB recommendations, and out-of-cycle promotions for these individuals.

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- (2) Recertification of D/CIA Career Service SIS officers except as noted in paragraph d(5)(a) below.
  - (3) Recertification of SIS-4, 5, and 6 officers in all other Career Services, except as noted in paragraph d(5)(b) below.
  - (4) All conditional recertifications.
  - (5) Assignments to the positions of office director, deputy office directors, Directorate of Operations (DO) division chiefs, DO deputy division chiefs, D/CIA center chiefs and deputy chiefs, and selected staff chiefs.
  - (6) Assignments of SIS-5 officers except as outlined in paragraphs d(1)(a) and d(2)(c) above.
  - (7) Removal from SIS or reduction in grade of SIS-1 through SIS-3 employees.
- (b) Recommend nonrecertifications to the D/CIA.
- (4) Heads of Career Services may:
- (a) Recommend promotions to and within the SIS to the SPRB for review; except that the Head of the NRO Corporate Support (NCS) career service may recommend promotions to and within the SIS directly to the D/CIA.
  - (b) Approve recertification for SIS-1, 2, and 3 officers in their respective Career Services except as outlined in d(5)(a) and d(5)(b) below; except that the Head of the NCS may approve recertification for SIS-1, 2, and 3 officers in the NCS except as outlined in d(5)(a) and d(5)(b) below.
  - (c) Recommend to the SPRB conditional recertification and nonrecertification for SIS-1 through SIS-3 officers; except that the Head of the NCS may recommend directly to the D/CIA conditional recertification and nonrecertification for NCS SIS-1 through SIS-3 officers.
  - (d) Recommend to the SPRB recertification, conditional recertification, and nonrecertification for SIS-4 and 5 officers, except as outlined in d(5)(a) and d(5)(b) below; except that the Head of the NCS may recommend directly to the D/CIA recertification, conditional recertification, and nonrecertification for NCS SIS-4 and 5 officers, except as outlined in d(5)(a) and d(5)(b) below.
  - (e) Recommend removal from the SIS or reduction in grade within the SIS by submitting justification via the Director of Security to the EXDIR for SIS-1 through SIS-3 officers and via the EXDIR to the D/CIA for SIS-4 through SIS-6 officers.
  - (f) Approve assignments of SIS-4 and below officers to SIS-4 and below positions except those outlined in paragraphs d(1)(a), d(2)(c), and d(3)(a)(5) above.
  - (g) Nominate, slot, and fund appropriate candidates for the Officer-in-Residence Program.
  - (h) Approve assignments of SIS-4 officers except for those assignments to positions



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specifically reserved to the EXDIR, DD/CIA, or D/CIA.

(5) The Inspector General may approve:

- (a) Recertification of all E Career Service officers at the SIS-1 through 6 levels assigned to the Office of Inspector General.
- (b) In consultation with the appropriate Head of Career Service, recertification of all SIS officers at the SIS-1 through SIS-6 levels who are on rotation to the Office of Inspector General.

(6) Administrative:

- (a) The Directorate and Mission Support Human Resource Officers requests name checks from the Inspector General, the Director of Security, the Chief, Office of Medical Services, the Director of Equal Employment Opportunity, and the Chief, Counterintelligence Center, on promotion recommendations to or within SIS.
- (b) Requests for approval of all SIS assignments, except those which can be approved by the Deputy Director or C/MSO concerned, must contain certification that name checks have been conducted with the Offices of Security and Medical Services, and the Inspector General with no adverse results.

**e. MANAGEMENT OF POSITIONS AND CEILING**

- (1) The D/CIA determines the number of Agency personnel who may hold SIS rank.
- (2) The D/CIA, DD/CIA, or EXDIR allocates SIS personnel ceiling to the Career Services. The D/CIA may hold a portion of the SIS ceiling as an Agency-wide reserve for use at the D/CIA's discretion.

**f. SENIOR PERSONNEL REVIEW BOARD**

- (1) **MEMBERSHIP.** The SPRB is comprised of the EXDIR as chair, the Deputy Executive Director, the three Deputy Directors, the five Chiefs of the Mission Support Offices, the Special Assistant to the D/CIA for Diversity Plans and Programs, the General Counsel who serves as the legal representative, at least one female representative, minority representative, and advocate for employees who are deaf or have disabilities.
- (2) **FUNCTIONS.** The SPRB:
  - (a) Recommends to the EXDIR nominees for selected senior management positions. These include nominees for office directors, Directorate of Operations (DO) division chiefs, D/CIA center chiefs, selected staff chiefs, and selected deputies to these directors or chiefs. A roster of the positions that presently fall under the SPRB may be found in the most current Agency Notice.
  - (b) Approves or disapproves nominations for the Officer-in-Residence Program submitted by the Director, Center for the Study of Intelligence.
  - (c) Recommends promotions from GS-15 to SIS-1 and within the SIS ranks to SIS-5 to the EXDIR for approval twice a year.

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- (d) Recommends SIS-6 promotions to the D/CIA twice a year.
- (e) Reviews annually for recommendation, either to the EXDIR or to the D/CIA (as appropriate), Career Service panel-recommended conditional recertification and nonrecertification of SIS-1 through SIS-3 officers, and recertification, conditional recertification, and nonrecertification of SIS-4 and SIS-5 officers. The Board also reviews recommendations to the EXDIR or D/CIA (as appropriate) of the Inspector General for conditional recertification and nonrecertification of SIS-1 through SIS-5 officers assigned, or on rotation, to the Office of Inspector General.
- (f) At the request of the D/CIA, DD/CIA, or EXDIR, identifies Agency candidates for selected senior positions in other Intelligence Community agencies.

**g. PERFORMANCE APPRAISAL**

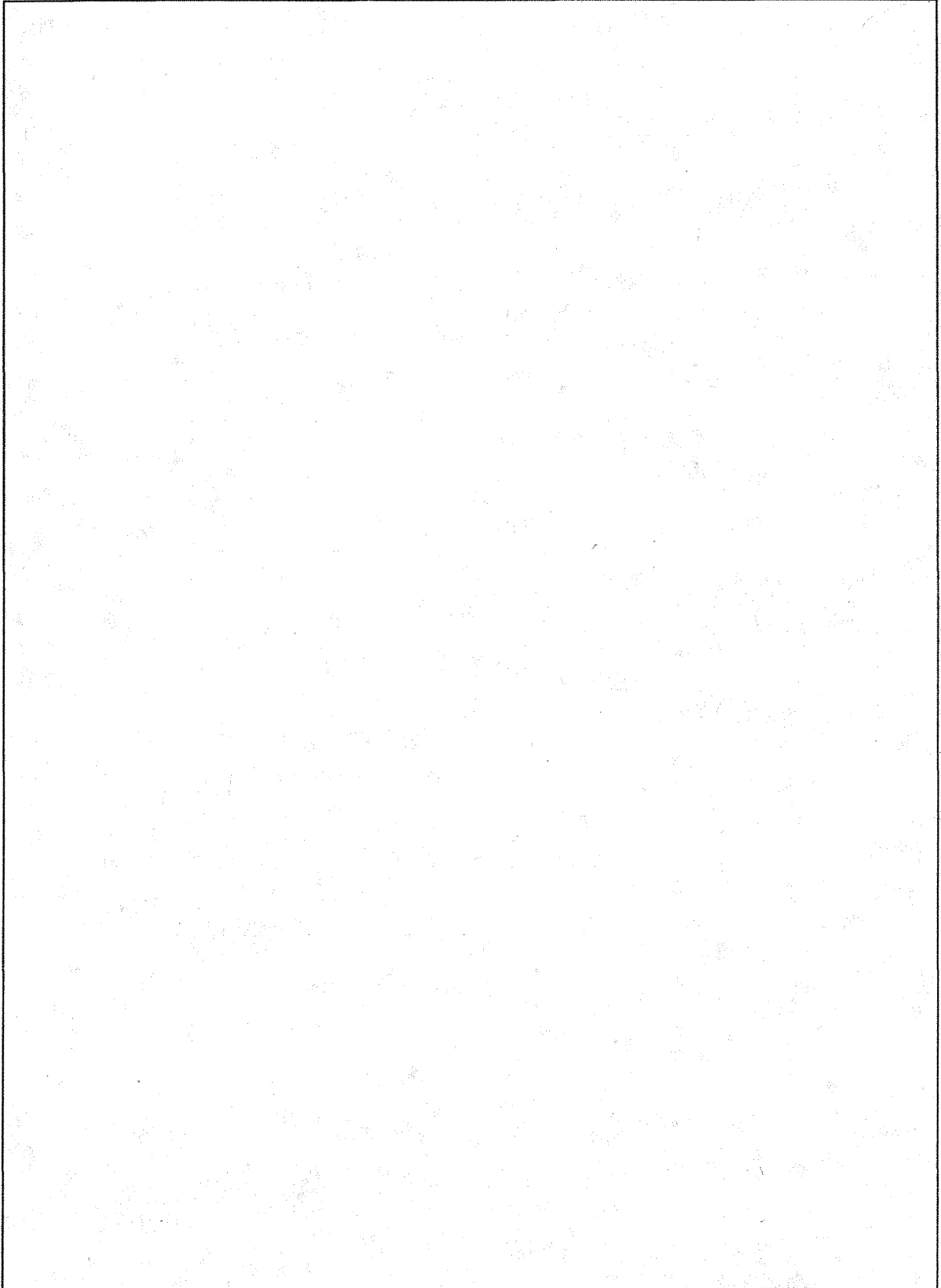
- (1) Supervisors will evaluate SIS members annually (with special reports as otherwise required) in accordance with published schedules, the Agency's performance appraisal system, and specific organizational and individual objectives assigned at the beginning of the annual evaluation period.
- (2) Heads of Career Services will:
  - (a) Counsel SIS members with an overall Performance Appraisal Report (PAR) rating of 3; develop a program to assist the individual in overcoming performance deficiencies; and inform the Director of Security.
  - (b) Refer the cases of SIS members who receive two consecutive overall PAR ratings of 3 or a single annual overall PAR rating of 2 or 1 to the Office of Security, Special Activities Staff with a recommendation for administrative action. (This recommended action may be retention in the SIS under closely observed probation for a specific period of time, removal from the SIS and reduction to GS-15 status and compensation, or termination of employment.) The EXDIR also will be informed when an SIS member receives two consecutive overall PAR ratings of 3 or a single annual overall PAR rating of 2 or 1.

**h. COMPENSATION.** SIS members are not eligible for premium pay; that is, scheduled or unscheduled overtime, compensatory time, Sunday and holiday pay, standby duty pay, and night differential. The D/CIA, DD/CIA, or EXDIR may approve exceptions to this policy. There is one exception to this general policy, SIS members may earn and use compensatory time off for religious purposes. SIS members may receive annual locality pay adjustments.

**i. EXCEPTIONAL PERFORMANCE AWARDS.**

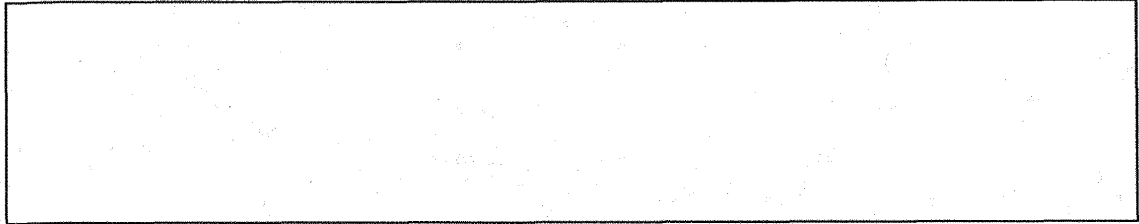
- (1) SIS members are eligible for Exceptional Performance Awards (EPAs) granted in recognition of sustained superior performance or exceptional accomplishments.
- (2) Lump sum cash awards to SIS officers must be publicized Agency-wide and include the specific performance and contributions that the awards recognize.

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**j. EXECUTIVE DEVELOPMENT.** All new SIS officers must participate in the Executive Development Program to enhance their understanding of the Agency's core beliefs and values.

- (1) Under the supervision of the Head of Career Service, the officers participate in:
  - (a) Agency and directorate task forces and boards to help solve real management problems while improving their personal knowledge of the intelligence business.
  - (b) A tailored program of course work to address any gaps in their experience and expertise.
- (2) Heads of Career Services will:
  - (a) Plan assignment successions for all SIS positions using line managers, Career Service Subgroup panels, and Career Service panels (sitting as senior resource boards) to identify candidates. Heads of Career Services perform these planning responsibilities by either individual position or group of positions having similar requirements. Identify a sufficient number of candidates to provide for the orderly development of a pool of qualified employees from which to select future SIS replacements.
  - (b) Ensure that senior development actions are implemented for members of their Career Service, including internal as well as external training and developmental assignments, to better prepare employees for senior responsibilities and to meet the requirements of their Career Service.

**k. SABBATICALS**

- (1) **GENERAL.** A sabbatical is a period of official absence from regular duty status to conduct a program of learning, research, uncompensated work or other activity, that will contribute to an SIS member's development and effectiveness. A sabbatical should relate specifically to the member's present position or Career Service mission or be intended to prepare the member for a change of career field within the Agency. A sabbatical is not a substitute for external training designed to meet specific work requirements, but should be an integral and planned element of the SIS member's career development. The project or activity determines the duration of a sabbatical; which in any case may not exceed 11 months. An SIS member may be granted only one sabbatical in a 10-year period. Members on sabbatical remain on the staffing complement of their sponsoring component or parent Career Service. Upon completion of a sabbatical, the Career Service has an obligation to place the employee in an appropriate position upon his or her return.

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(2) **APPROVAL AUTHORITY.** Sabbaticals may be approved by the D/CIA, DD/CIA, EXDIR, or Head of Career Service concerned.

(3) **REQUIREMENTS**


- (a) Candidates must have a minimum of five years' Agency service, three years of which must have been as a member of the SIS. Time spent as a GS-15 officer in an SIS position is qualifying service for this three-year requirement. SIS members who are eligible for voluntary retirement are not eligible for sabbaticals. (For this purpose, voluntary retirement is defined by Civil Service Retirement System rules regardless of the system in which the employee holds membership.) An SIS member who becomes eligible for voluntary retirement during a sabbatical is entitled to complete the term of the sabbatical.
  - (b) The recipient of a sabbatical must sign a service agreement which requires a minimum of two years' additional Federal service upon completion of the sabbatical. If an employee fails to remain in the Federal service for two years, except for good and sufficient reasons as determined by the D/CIA, DD/CIA, EXDIR, or Head of Career Service concerned, the officer is liable to the U.S. Government for repayment of all sabbatical expenses including salary.
  - (c) The recipient of a sabbatical may be authorized travel expenses, including per diem, if the travel is authorized by applicable law and determined by the approving authority to be essential for the sabbatical.
  - (d) A sabbatical will not result in a deduction in any compensation, annual or sick leave, or credit for time or service to which the SIS member is otherwise entitled. However, any annual or sick leave taken while on a sabbatical should be reported and appropriately charged.
- (4) **WAIVERS.** The D/CIA, DD/CIA, EXDIR, or Head of Career Service concerned may waive eligibility requirements in appropriate circumstances and may waive service agreement obligations based on good and sufficient reasons.

l. Not used.

m. **LEAVE**

- (1) Generally, SIS members are limited to a ceiling of 720 hours of annual leave that may be carried from one leave year to the next. However, SIS members who had an annual leave balance in excess of 720 hours as of 16 October 1994 retain that amount as a personal ceiling provided they maintain that balance at the end of the leave year. If their annual leave balance falls below that balance, their new maximum will be their annual leave balance at the close of the leave year.

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- (3) SIS members reverting to the Agency General Schedule or other pay schedule are entitled to the annual leave balance on record on the day their SIS status is terminated. At the end of each leave year, the SIS maximum leave ceiling (as outlined in paragraph m(l) above) or the actual leave balance, whichever is lower, becomes the new ceiling for the succeeding leave year. As annual leave is used, this maximum ceiling diminishes to the allowable maximum ceiling for the new pay status.
- (4) Heads of Career Services may approve requests by SIS members for leave without pay (LWOP) for periods up to 12 months. The Chief Human Resources Officer may approve requests for LWOP extensions beyond 12 months (see AR 20-30 .

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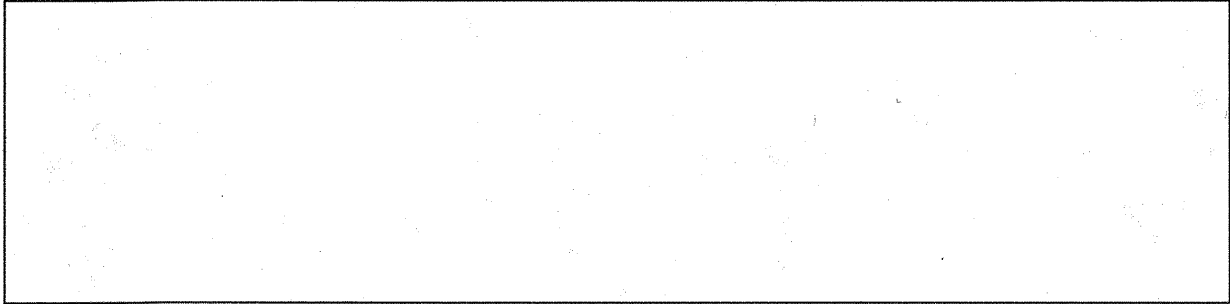
- p. **RETENTION OF SIS ENTITLEMENTS.** This paragraph applies to a member of the SIS appointed by the President to any position in the Central Intelligence Agency or the Office of the Director of the Central Intelligence Agency with the advice and consent of the Senate. The provisions also apply to a member of the SIS appointed by the President to a non-Agency position with the advice and consent of the Senate provided the other agency concurs with these provisions.
- (1) An appointee to any of the positions outlined above who is a member of the SIS may elect to retain some, all, or none of the following SIS entitlements: basic pay,

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exceptional performance awards, severance pay, leave accrual, and retirement. That election will remain in effect for no less than one year, unless the appointee leaves the position sooner.

- (2) Except as provided in paragraph (1) above, an appointee is permitted to make an election for the purposes of adding or dropping coverage no more than once during any 12-month period.



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~~ADMINISTRATIVE - INTERNAL USE ONLY~~(b) (2)  
(b) (3)**Date:** 02/06/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-23 SECRETARIAL CAREER SYSTEM**REVISION SUMMARY:** 06 February 2002 (0605)

This regulation supersedes HR 20-23, dated 20 July 1987.

HR 20-23 incorporates FR 20-23 and is redesignated\* AR 20-23. This regulation updates Agency policy for management of employees in the secretarial career field and updates organizational titles. This revision also reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

FR 20-23 is hereby rescinded.

\*This redesignation is part of an ongoing conversion to one set of Agency regulations for both headquarters and the field.

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by Human Resources Policy, HRM Policy@DA.*

**23. SECRETARIAL CAREER SYSTEM**

**SYNOPSIS.** This regulation outlines Agency policy for management of employees in the secretarial career field.

- a. **AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403j).
- b. **POLICY.** It is the Agency's policy to attract and retain the most highly qualified secretaries through use of a modified pay-for-performance system which includes enhanced opportunities for career development, training, and job enrichment.
- c. **GENERAL.** The Intelligence Secretary Pay Schedule (IS) and its field counterpart (ISO)

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each consist of four levels as follows:

Secretarial trainee -IS-01 or ISO-01  
Secretary -IS-02 or ISO-02  
Senior Secretary -IS-03 or ISO-03  
Executive Secretary -IS-04 or ISO-04

Each of the above levels contains 20 incremental steps.

**d. WITHIN-LEVEL INCREASES**

- (1) During the first 2 years of Agency employment, IS-01 and IS-02 secretaries who have been certified by their supervisor to be performing at a fully satisfactory level may receive a one-increment pay increase every 6 months to reflect their rapid increase in value as they obtain relevant Agency experience. IS-01 and IS-02 secretaries with 2 or more years of Agency service and IS-03 and IS-04 secretaries are eligible each year for a one-increment pay increase based on their supervisor's certification that their performance is fully satisfactory.
- (2) Employees whose performance is not considered to be fully satisfactory will be denied incremental increases in accordance with Agency procedures for withholding General Schedule periodic step increases or may be subject to other administrative measures in accordance with existing policy and regulations.

- e. PAY SCHEDULE ADJUSTMENTS.** The Intelligence Secretary Pay Schedule will be revised whenever legislative pay adjustments are granted for the General Schedule. Secretarial employees' pay will be adjusted automatically to the revised schedule.

- f. EVALUATION SYSTEM.** Career Subgroup and/or Career Service panels are responsible for the annual evaluation and ranking of all secretaries and for recommending promotions and performance awards. The panels will take into consideration experience, skills, performance, and training.

**(1) COMPOSITION**

- (a) Panel membership for IS-01 and IS-02 secretaries is determined by the Head of the Career Subgroup and includes secretarial representatives senior in rank to those being evaluated.
- (b) Panel membership for IS-03 secretaries is determined by the Head of the Career Service and includes IS-04 secretarial representation.
- (c) Panel membership for IS-04 secretaries is determined by the Head of the Career Service and includes senior officer representatives from the Career Service.

**(2) RESPONSIBILITIES**

- (a) Component-level panels will:
  - (1) Evaluate IS-01 secretaries and make recommendations for promotion to the Head of the Career Subgroup for approval.
  - (2) Evaluate and rank IS-02 secretaries for promotion and make recommendations to

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the Head of the Career Subgroup.

(b) Career Service panels will:

- (1) Review component-level recommendations for promotion to IS-03 and prepare a composite Career Service ranking list for the approval of the Head of the Career Service.
- (2) Evaluate and rank IS-04 secretaries and forward nominations for performance awards to the Head of the Career Service for approval.

**g. PROMOTION.** Promotion to a higher level is based on an evaluation which includes performance criteria defined in the secretarial profiles; for example, experience, skills, training, and consideration of time in level. The time-in-level guidelines are:

IS-01 - 1 year  
IS-02 - 2 years  
IS-03 - 3 years

- h. AWARDS** Secretaries are eligible for Exceptional Accomplishment Awards and for the Secretary of the Year Award.
- i. JOB ENRICHMENT.** Secretarial positions at the senior and executive levels (IS-03 and IS-04) have been expanded to provide secretaries significantly increased responsibilities and authorities.
- j. CIA SECRETARIAL MANAGEMENT ADVISORY GROUP (S/MAG).** The CIA S/MAG, composed of executive secretaries, will assess and monitor the Secretarial Career System and provide reports on the status of the occupation to the Chief Human Resources Officer, including recommendations for necessary adjustments. The board also will monitor training requirements and recommend additional courses as needed. In addition, members of the board may participate in recruitment efforts and, if desired, develop a mentor system for secretaries.

**k. RESPONSIBILITIES**

- (1) The **Chief Human Resources Officer** is responsible for the administration of the Secretarial Career System. The **Chief Human Resources Officer** will monitor and advise on compensation and position classification, awards, advancements, and compliance with policy and regulations to determine the effectiveness of the Secretarial Career System and to recommend and implement adjustments as required.
- (2) Heads of Career Services will:
  - (a) Lead and support the job enrichment program.
  - (b) Designate panel members for Career Service panels.
  - (c) Monitor training and experience requirements for secretarial advancement.
  - (d) Approve promotions to IS-03 and IS-04.

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(3) Heads of Career Subgroups will:

- (a) Manage the job enrichment program for the subgroup.
- (b) Designate panel members for Career Subgroup panels.
- (c) Monitor training and experience requirements for secretarial advancement.
- (d) Approve promotions to IS-02.

(4) The CIA S/MAG will:

- (a) Assess and monitor the Secretarial Career System.
- (b) Provide periodic reports on the status of the occupation.
- (c) Recommend adjustments in the Secretarial Career System to the **Chief Human Resources Officer** as necessary.

(5) The Inspector General will:

- (a) Inspect and assess the Secretarial Career System every 2 years.
- (b) Evaluate the system with respect to equity and consistency in implementation and subsequent administration throughout the Agency.
- (c) Provide reports to the **Chief Human Resources Officer** and the Executive Director as appropriate.

(6) The **Chief, Office of Training & Development** will:

- (a) Assess training needs.
- (b) Develop and conduct training courses to meet the needs of the Secretarial Career System.

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## ADMINISTRATIVE - INTERNAL USE ONLY

(b) (2)  
(b) (3)**Date:** 08/23/2004**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-24    THREE-YEAR TRIAL PERIOD**SUMMARY:** 7 August 2002 (0710)

This regulation supersedes HR 20-24, dated 19 January 1993.

HR 20-24, incorporates FR [ ] completely rewritten, and redesignated\* AR 20-24 to provide current policy on the three-year trial period certification process used by the Agency.

\*This redesignation is part of an ongoing conversion to one set of Agency Regulations for both headquarters and the field.

[ ] hereby rescinded.

*Because this regulation is completed rewritten, boldfaced text has not been used.*

*This revision was initiated by Policy Staff, Centralized and Deployed Human Resources, HR Policy @ DA.*

**24. THREE-YEAR TRIAL PERIOD**

**SYNOPSIS.** This regulation describes the three-year trial period certification process used by the Agency and some of the suitability factors to be considered by managers

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that may bear on the ultimate decision regarding an employee's retention at the end of the trial period.

- a. **AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403j) and sections 103 (c)(5) and 104(g) of the National Security Act of 1947 (50 U.S.C. 404 (c)(5) and 405 (g)).
- b. **GENERAL.** The three-year trial period is an important time for both the employee and the Agency. For the employee, it provides an opportunity to evaluate the Agency as an employer, to become familiar with security considerations, and to learn the Agency's culture and work ethic. For the Agency, it provides the first-line supervisor and senior management with an opportunity to evaluate the new employee in the working environment. Even though performance is a key factor in this evaluation, supervisors must also focus on other suitability issues relevant to the employee's successful completion of the trial period as defined in section e(1) below.
- c. **POLICY**
  - (1) Nothing in this regulation shall be construed to modify or in any way limit the discretionary authority of the Agency to terminate the employment of any individual, pursuant to the procedures set forth in AR  and AR .
  - (2) Employees should be made aware on a timely basis, consistent with counterintelligence and security requirements, of any information or judgment, written or otherwise, concerning their suitability that may adversely affect their retention by the Agency.
- d. **RESPONSIBILITIES**
  - (1) Managers, particularly first-line supervisors, are responsible for monitoring the progress of trial period employees in terms of adjusting to Agency employment and in achieving the appropriate level of job performance. Supervisors are also expected to provide frequent feedback to new employees during the initial three-year period, documenting feedback and counseling sessions, as appropriate.
  - (2) The Human Resources (HR) Mission Support Office (MSO) is responsible for administering and tracking the effectiveness of the Three-Year Trial Period program.
  - (3) The Career Service Sub-Group having cognizance over an employee reaching the end of the trial period is responsible for initiating the trial period certification process by completing the "Career Service Recommendation for Trial Period Certification" (Form 4380) and the "Trial Period Certification Checklist for Suitability Factors" (Form 4380A).
  - (4) When an employee changes Career Services or Sub-Groups during the final year of the trial period, the gaining Career Service Sub-Group will be responsible for initiating the three-year trial period certification process; however when an employee changes Career Services or Sub-Groups on or after the 30-month point in the trial, the original Career Service Sub-Group must initiate the trial period certification process.
- e. **CERTIFICATION.** Certification out of the three-year trial period includes a management, security, and medical review, and generally requires a favorable certification from the

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employee's Career Service Sub-Group, the Office of Security (OS), and the Office of Medical Services (OMS).

(1) Supervisors must monitor and address factors concerning suitability, when known, that may bear on the ultimate decision regarding an employee's retention at the end of the trial period. Beyond the key factor of job performance, other considerations include:

- (a) Inappropriate or immature behavior, gross personal deficiencies, or striking lifestyle changes.
- (b) Severe indebtedness exhibited, for example, by living beyond one's financial means, by collection agencies seeking payment, by garnishment of wages, or by delinquent official accountings.
- (c) Unsuitable work habits as evidenced by an inability to get along with coworkers, returning short-of-tour for cause, marginal work performance, reprimands, suspensions, or other disciplinary actions.
- (d) A lack of reliability evidenced, for example, by habitual tardiness or excessive use of unscheduled leave.
- (e) Lack of security discipline as evidenced by poor security habits; mishandling of classified information; a persistent history of security incidents; unreported, unauthorized, or inappropriate close and continuing contacts with foreign nationals.
- (f) Outside activities that result in an employee becoming a subject of interest or target of suspicion to a law enforcement agency or other governmental investigative body, as indicated by arrest, receipt of a warrant or summons, indictment, court appearance, or other similar possible evidence of criminal conduct or civil law violation.
- (g) Lack of potential for advancement to the full performance level or professional growth as an Agency employee.

(2) The presence of one or more of these factors is not necessarily disqualifying but may be an indication that a more careful look at the employee is needed and that counseling may be appropriate. In such cases, supervisors should seek advice and guidance from component human resource (HR) officers and/or the OS Special Activities Staff (SAS) at the earliest opportunity after identifying any concerns regarding security, performance, or conduct.

(3)

(4) PARs prepared for employees during the three-year trial period must include a recommendation for or against continued employment with the Agency. If security, conduct, or performance factors relevant to continued employment are known to the supervisor, the factors considered in making the recommendation should be documented in the appropriate section of the PAR. The supervisor also should explain to the

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employee how these factors relate to the employee's performance.

- (5) Prior to the conclusion of the three-year trial period (or before the conclusion of an extended trial period), the Career Service Sub-Group will initiate the trial period certification process by completing the "Career Service Recommendation for Three-Year Trial Period Certification" (Form 4380) and the "Trial Period Certification Checklist for Suitability Factors (Form 4380A) and forwarding them to Strategy and Planning (S&P) in the HR MSO. The Career Service Sub-Group recommendation will become part of the overall trial period evaluation which includes management, security, and medical reviews. S&P will coordinate with OS and OMS to initiate the security and medical evaluations. The extent of trial period security and medical evaluation will be based on information in the employee's records and/or issues identified by management. OS and OMS will forward their certification decisions to S&P. Upon receipt of positive certifications from the employee's Career Service Sub-Group, OS, and OMS, S&P will enter the personnel action to change the employee from trial period to career status. S&P will notify the employee, the Career Service Sub-Group, OS, and OMS once all certifications have been received and the personnel action to change the employee's status has been processed. At any time before the personnel action to change the employee's status has been processed, the employee's Career Service Sub-Group, OS, or OMS may rescind a prior certification, based on newly acquired information regarding security or suitability issues.
  - (6) If an employee does not receive full security processing, to include a polygraph and an updated background investigation, during the end of trial period evaluation, such processing will generally occur at some point after three years but before five years from the date of the employee's entry on duty.
- f. TRIAL PERIOD EXTENSION.** The employee's Career Service Sub-Group or the Personnel Evaluation Board (PEB) may recommend to the Chief Human Resources Officer that the employee's trial period be extended for a specified period of time, not to exceed 12 months, when the employee has received PARs that indicate the employee has not fully performed the duties for which he or she was appointed, when the employee has made a significant change in his or her career track or occupation during the last year of the trial period, or when suitability issues exist that militate against certification at the end of the trial period. OS may also recommend to the Chief Human Resources Officer that an employee's trial period be extended, not to exceed 12 months, on the basis of security issues.
- (1) An employee whose trial period has been extended must be notified in writing by his or her Career Service Sub-Group or, if appropriate, by SAS of the length and reasons for such an extension, and that extension of the trial period does not create any property or similar interests in Agency employment. If the extension is due to security, suitability, or performance issues, the Career Service Sub-Group or SAS notification shall also advise the employee that he or she has the option of resigning from the Agency. The written notification should be signed by the employee as acknowledgement of the action being taken. If the employee declines to acknowledge the notification, the Career Service Sub-Group or SAS should so indicate on the document. Refusal of the employee to sign the notification does not invalidate the extension of the trial period.

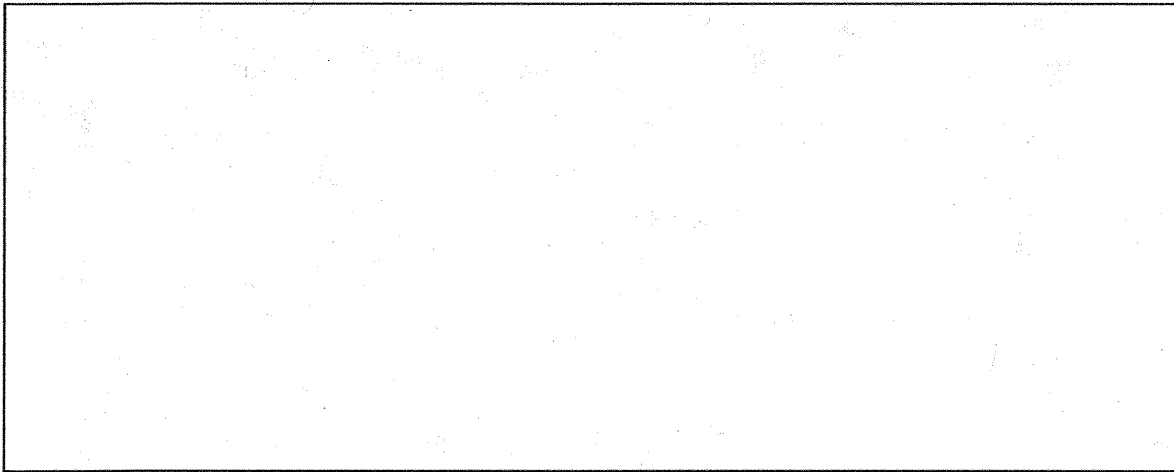


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- (2) Prior to the conclusion of an extended trial period, the Career Service Sub-Group will complete the "Career Service Recommendation for Three-Year Trial Period Certification" (Form 4380) and forward it to HR/S&P. HR/S&P will coordinate with OS and OMS to initiate necessary security and medical evaluations.
- g. ROLE OF THE PERSONNEL EVALUATION BOARD (PEB).** The PEB plays a role in the three-year trial period or extended trial period certification process under the following circumstances:
- (1) If at any time during the three-year trial period the Head of the employee's Career Service Sub-Group determines that the employee's performance, conduct, or security practices are unsatisfactory, the Head of the Career Service Sub-Group may request that the PEB be convened.
  - (2) In the event that the employee's Career Service Sub-Group, OS, and/or OMS do not recommend certification out of the three-year trial period, the case shall be referred to the PEB.
  - (3) In the event that the employee's Career Service Sub-Group, OS, and/or OMS do not recommend certification out of an extended trial period, the case shall be referred to the PEB.

In all cases, the PEB shall evaluate the employee for continuation or termination of Agency employment pursuant to the provisions set forth in AR 13-5.

**h.**



/s/  
A. B. Krongard  
Executive Director

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~~SECRET~~(b) (1)  
(b) (2)  
(b) (3)~~SECRET~~**Date:** 05/23/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-25 (U) FLEXIPLACE**REVISION SUMMARY:** 23 May 2002 (0672)

This regulation supersedes AR 20-25 dated, 21 June 1999.

AR 20-25 is revised to update organizational titles. This organizational restructuring is a result of the DCI's decision, effective 4 June 2001, to abolish the Directorate of Administration and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, HR Policy @ DA.*

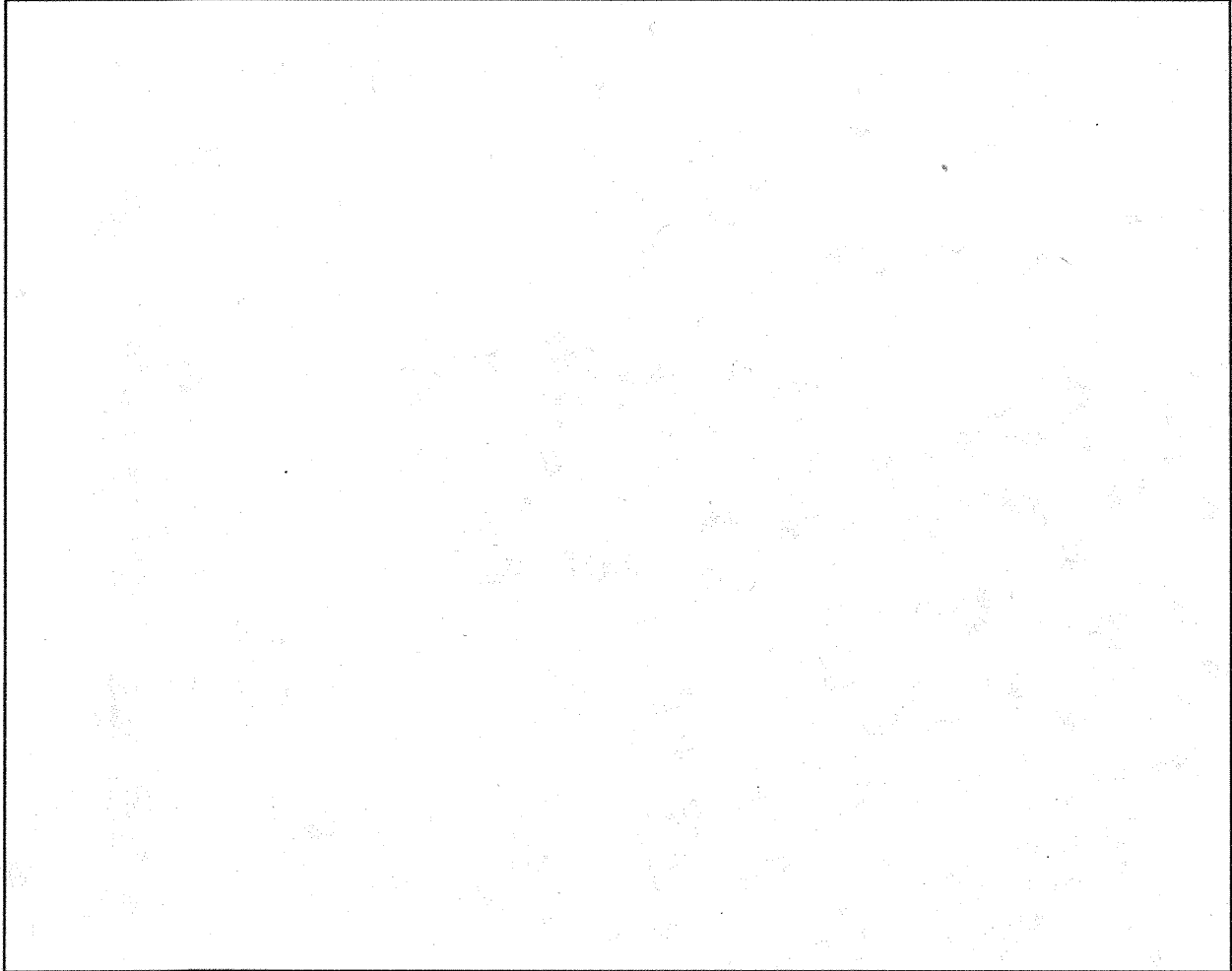
**25. (U) FLEXIPLACE**

**(S) SYNOPSIS.** This regulation establishes Agency policy on Flexiplace arrangements. The Flexiplace Program creates the opportunity for employees to work at home

- a. (U) AUTHORITY.** The National Security Act of 1947, as amended; the CIA Act of 1949, as amended; 59 Fed. Reg. 36017 (1994); and other applicable law.
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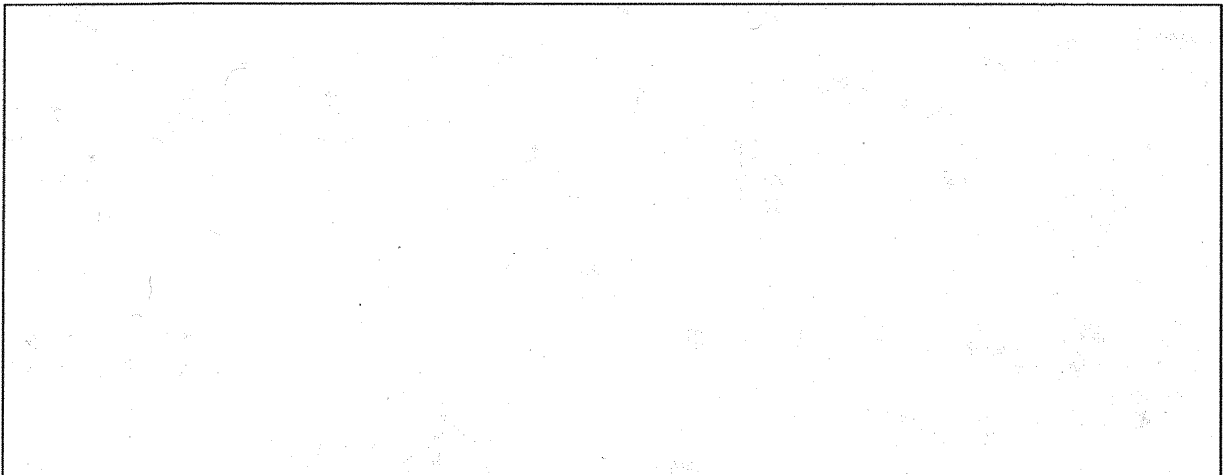
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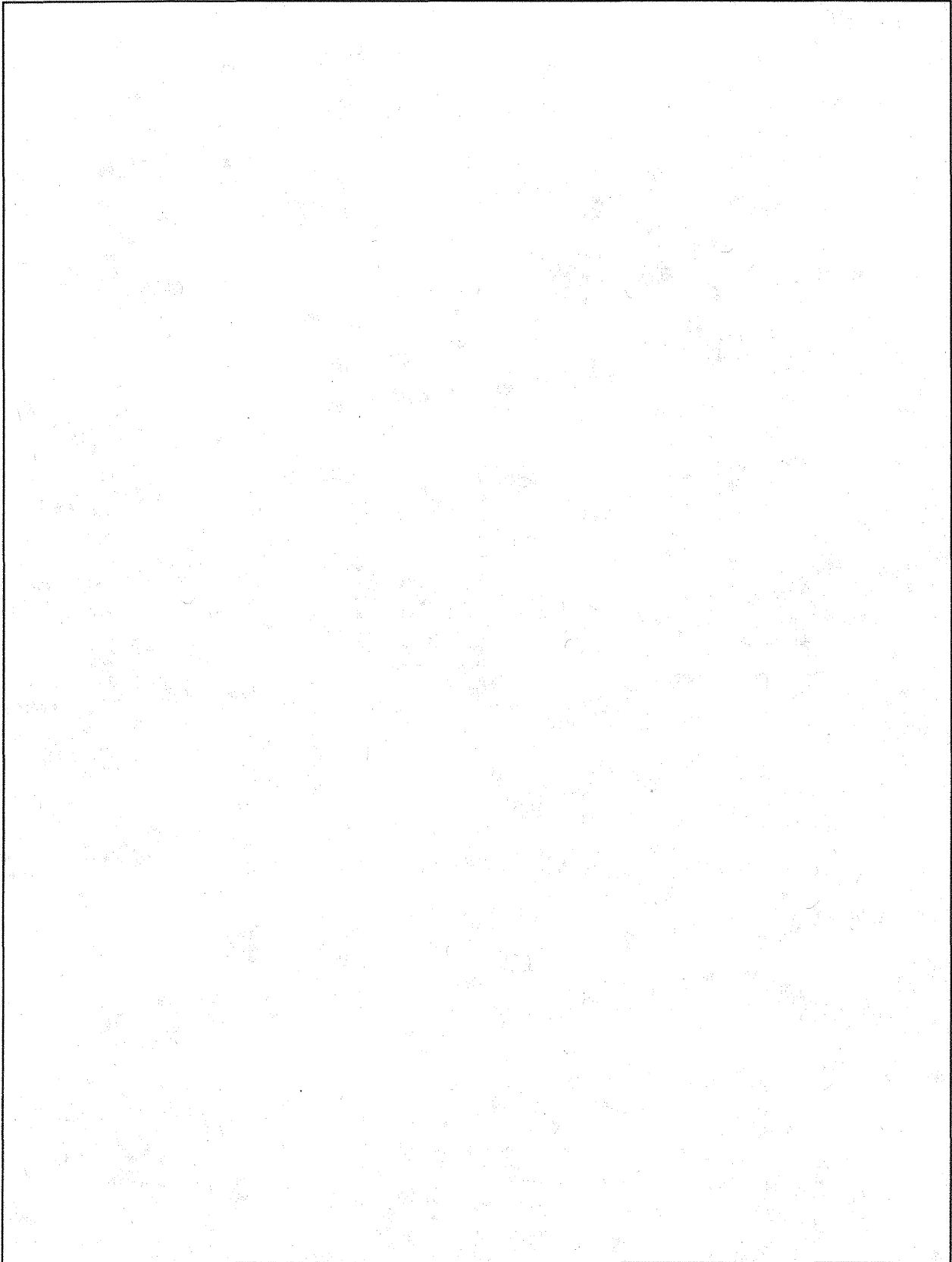
d. **(S) ADMINISTRATIVE POLICY.** The following policy sets basic administrative guidelines for Agency managers and employees to adhere to when implementing the Flexiplace Program:

(1) Flexiplace is a management option rather than an employee right.



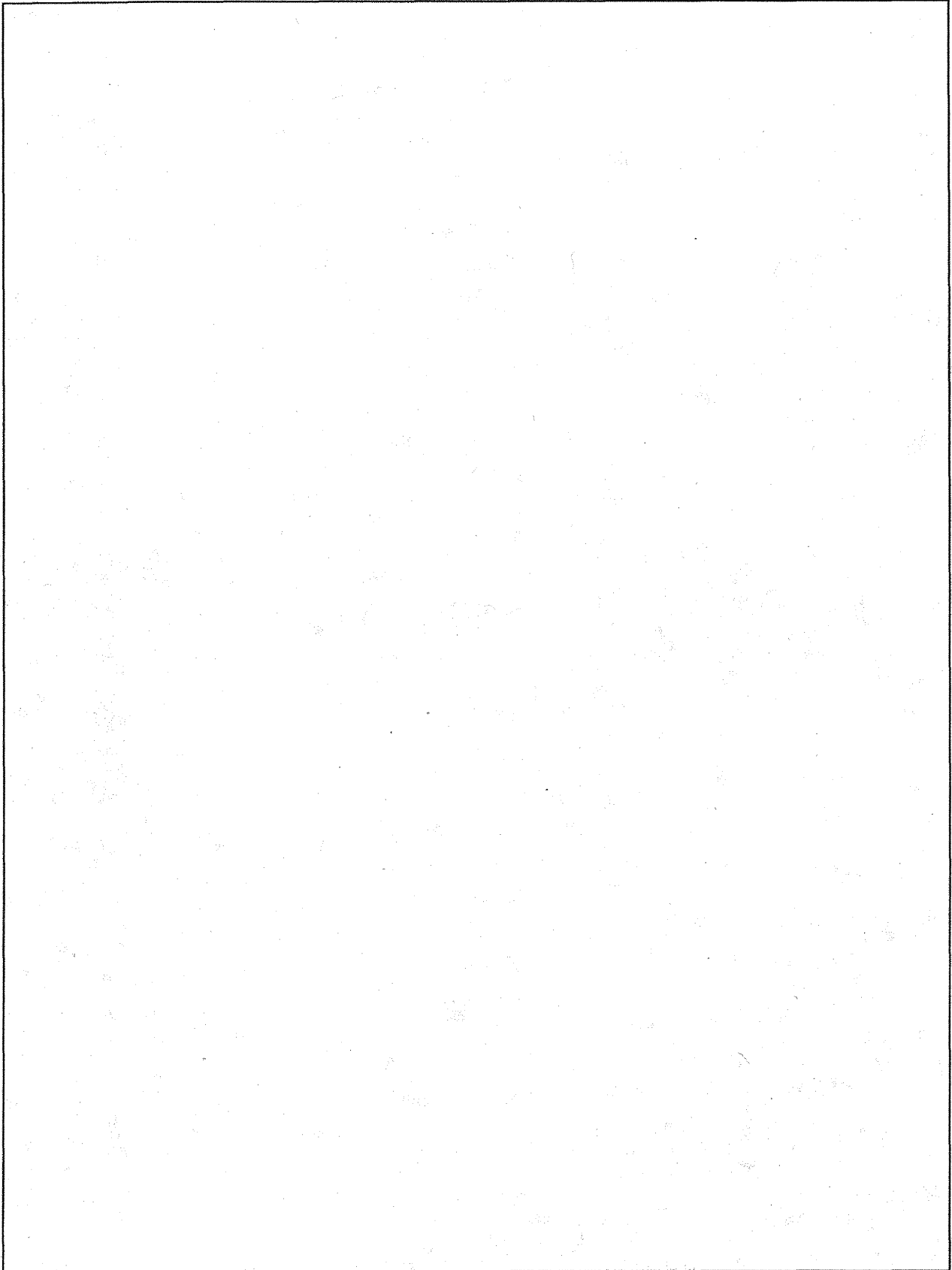
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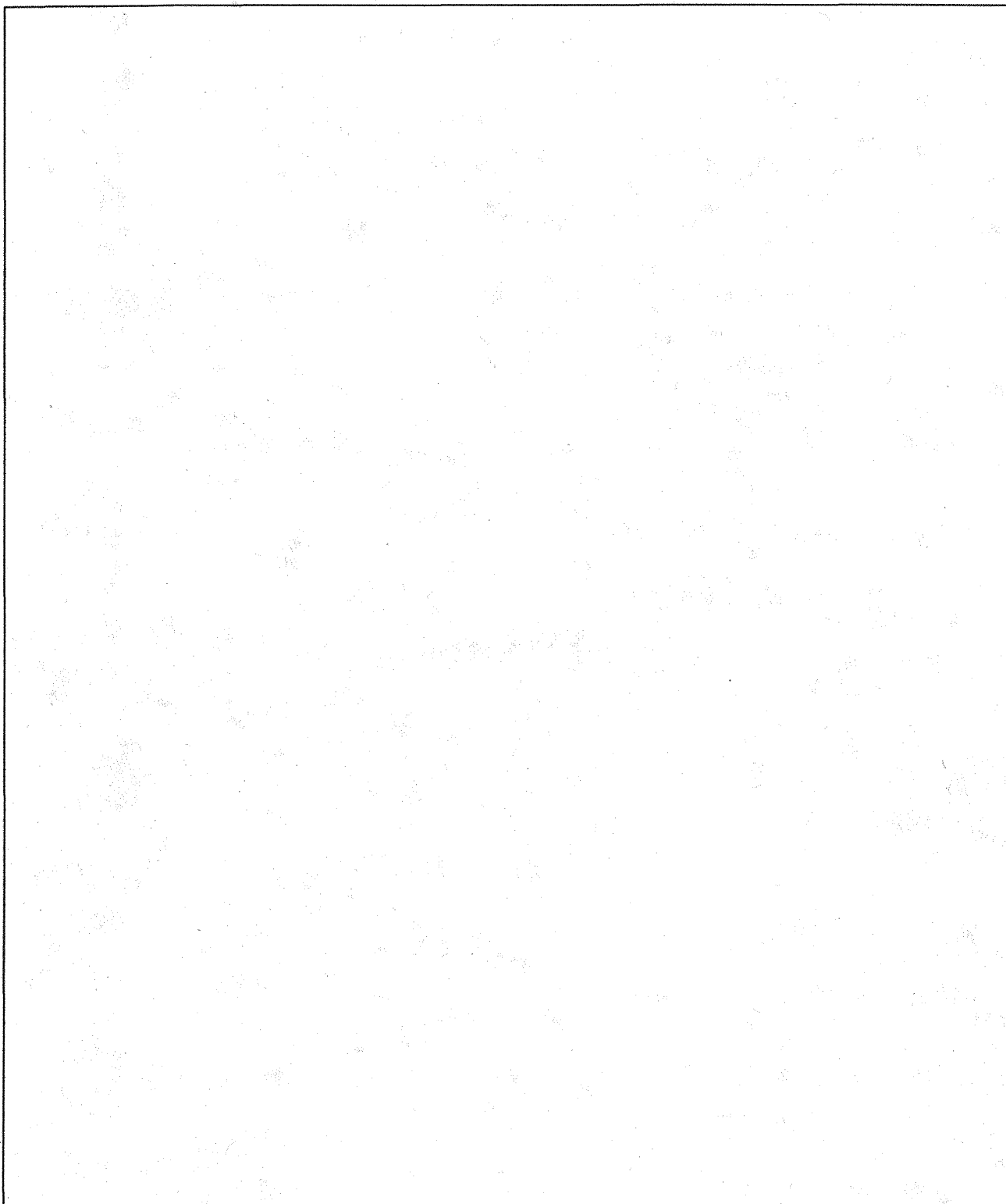
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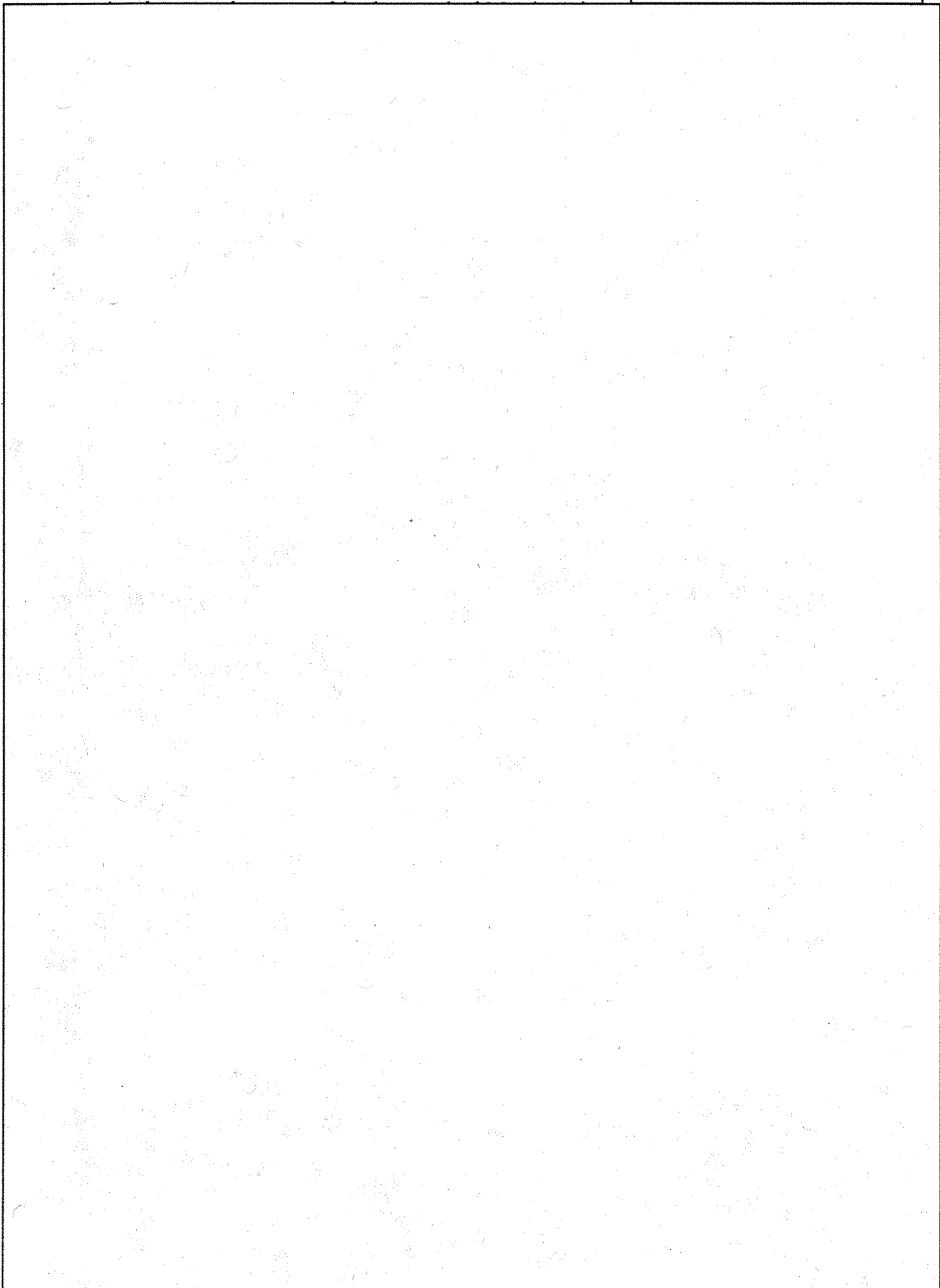
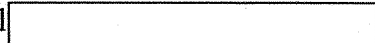
**h. (S) EMPLOYEE AND MANAGEMENT RESPONSIBILITIES**

- (1) **EMPLOYEE.** Employees may not begin working under a Flexiplace arrangement

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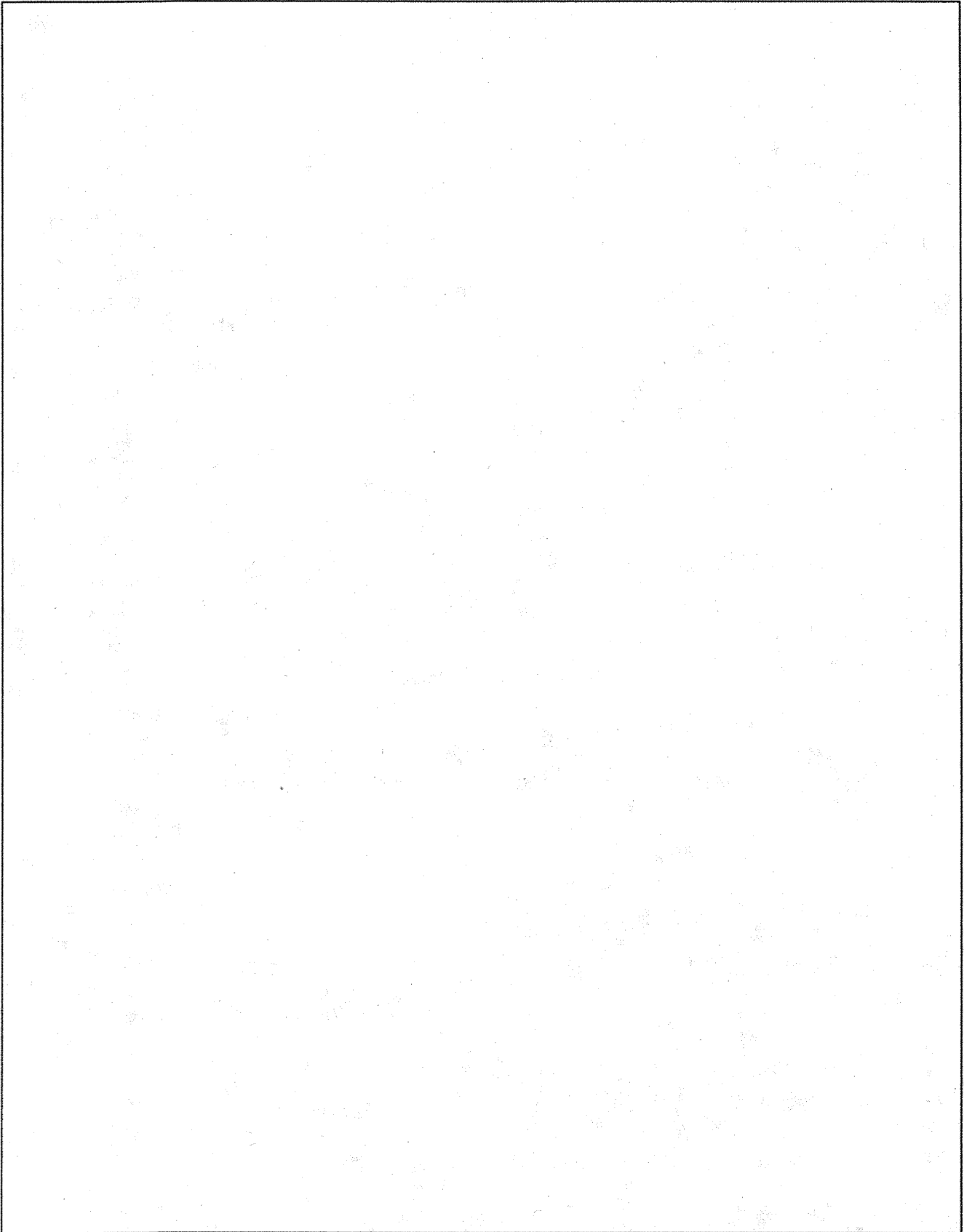
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without the approval of the appropriate authorizing official



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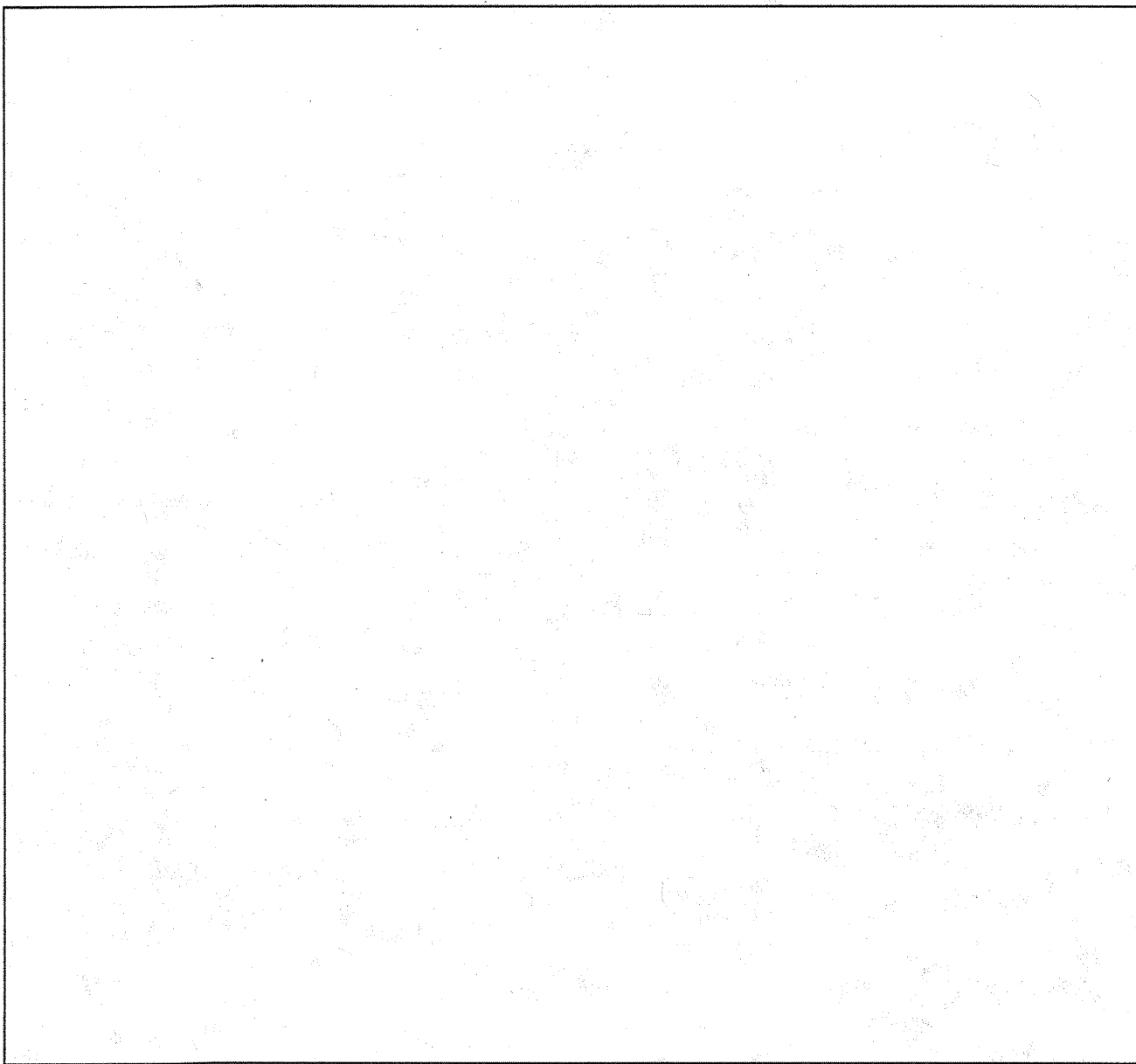
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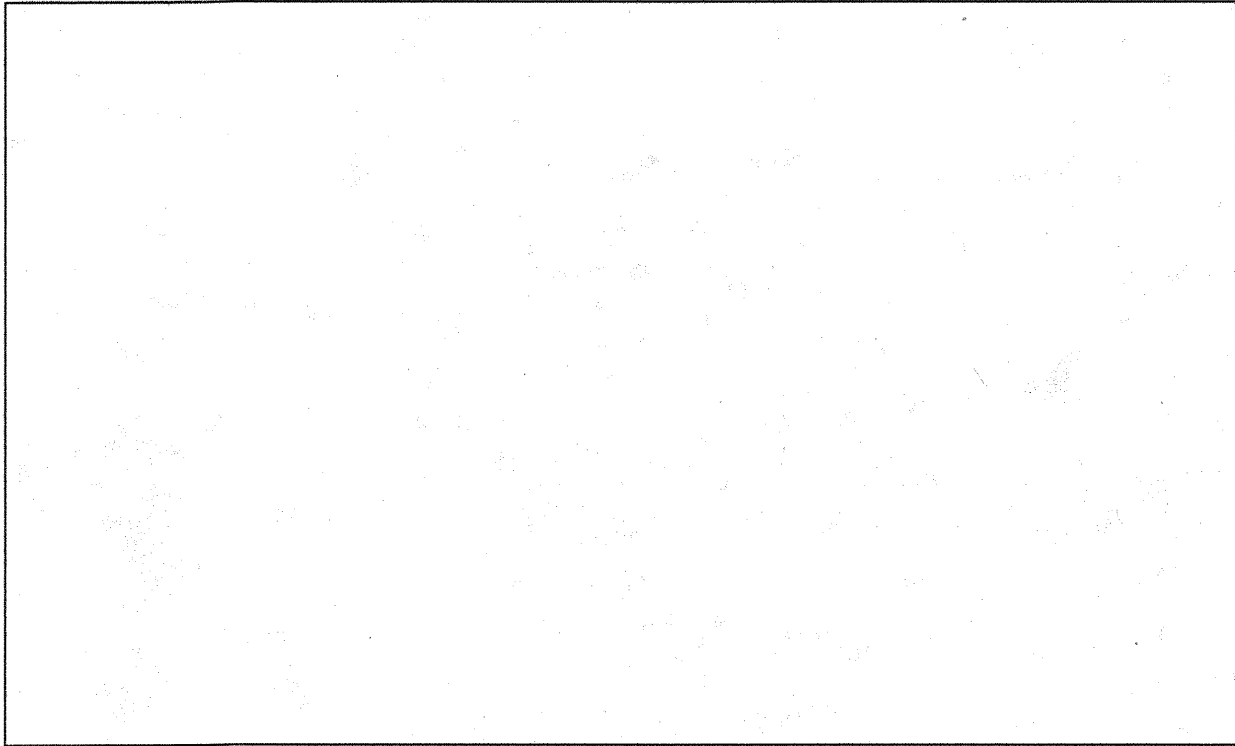


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(b) (3)**Date:** 06/20/2006**Category:** 20 - Human Resources **OPR:** HR**Title:** AR 20-28 VOLUNTARY SEPARATIONS**REVISION SUMMARY:** 20 June 2006

This regulation supersedes AR 20-28, dated 16 September 2005.

AR 20-28 is revised in order to delete information pertaining to the United Services Employment and Reemployment Rights Act (USERRA). This information is now incorporated into AR 20-6. This revision also reflects the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by DS/CSC/HR/Strategy and Programs Group/HR Policy Staff, HR Policy@DA.*

**28. (U) VOLUNTARY SEPARATIONS**

**(U//AIUO) SYNOPSIS.** This regulation states policy and responsibilities concerning employees who voluntarily resign or retire from the Agency. It also includes guidance on employment verification, disclosure of Agency affiliation to prospective employers, and exit processing.

**a. (U) AUTHORITY.** Sections 6 and 8 of the Central Intelligence Agency Act of 1949, 50 U.S.C. §§ 403g and 403j, as amended.

**b. (U//AIUO) POLICY****(1) GENERAL**

**(a)** An employee who intends to resign or retire from the Agency must give at least two weeks written notice, if possible.

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- (b) The effective date of resignation or retirement is the last day the employee is present for duty, except in the following circumstances:
- (1) An employee who resigns or retires while on leave of absence (including leave without pay) ordinarily will specify the resignation or retirement date. A request to have a resignation retroactively effective is subject to review by Human Resources (HR). In no case may the resignation be effective earlier than the date the employee specifies. Employees who retire while on leave without pay must meet the creditable service requirements of their retirement system. If the employee sets an effective date that includes a period for which leave has not been approved, that period is either charged to annual leave or considered as absence without leave (AWOL) at the Agency's discretion.
  - (2) The actual resignation or retirement date may be extended to grant the unused leave when an employee resigns or retires in circumstances where the granting of accrued annual or sick leave is proper. Granting annual leave immediately prior to separation, when it is known in advance that the employee is to be separated, is limited to cases where exigencies of the service require such action (for instance, when the Agency determines that the employee's absence is necessary to protect the health or safety of the employee or others in the office). (See AR 13-1.)
  - (3) An employee whose termination has been proposed may be given the opportunity to resign or, if qualified, retire at any time before the effective date of the termination.
- (2) **SEPARATION WITH REEMPLOYMENT RIGHTS.** An employee normally resigns when leaving to accept employment with another Federal department or agency without a break in service. The separation is effective on the day before the new appointment. An Agency employee may be separated with the grant of a reemployment right upon Chief, Human Resources (C/HR) approval and mutual agreement between the hiring and the losing agency. This right is for a fixed term unless otherwise specified by the C/HR and may be exercised by the employee's timely application for reemployment.
- (3) **PREPARATION OF RESUMES OR APPLICATIONS**
- (a) Any employee may seek guidance from the Center for Career Transition, HR, on resume preparation.
  - (b) All employees separating from the Agency must be made aware of the following:
    - (1) Separating employees may:
      - (a) Discuss in generic terms applicable experience, language capability, and foreign area knowledge.
      - (b) Discuss beginning and ending salaries.
      - (c) Use regional terms to identify geographic areas where the employee has worked, such as the United States, Europe, East Asia, or Latin America.
      - (d) Discuss clearances in general terms, avoiding references to special

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compartmented accesses.

- (e) Discuss non-Agency-unique training.
- (2) Separating employees may not disclose classified or sensitive information when describing Agency employment, including:
  - (a) Information regarding intelligence sources and methods or liaison activities or relationships.
  - (b) Agency-unique pay grades ([REDACTED])  
[REDACTED]
  - (c) The location of any covert Agency facilities.
  - (d) Components below the office level (in the **National Clandestine Service** [NCS] list only the "**National Clandestine Service**" [cover permitting]).
  - (e) Any specific or otherwise sensitive budget data or specific number of employees supervised.

(4) **VERIFICATION OF EMPLOYMENT**

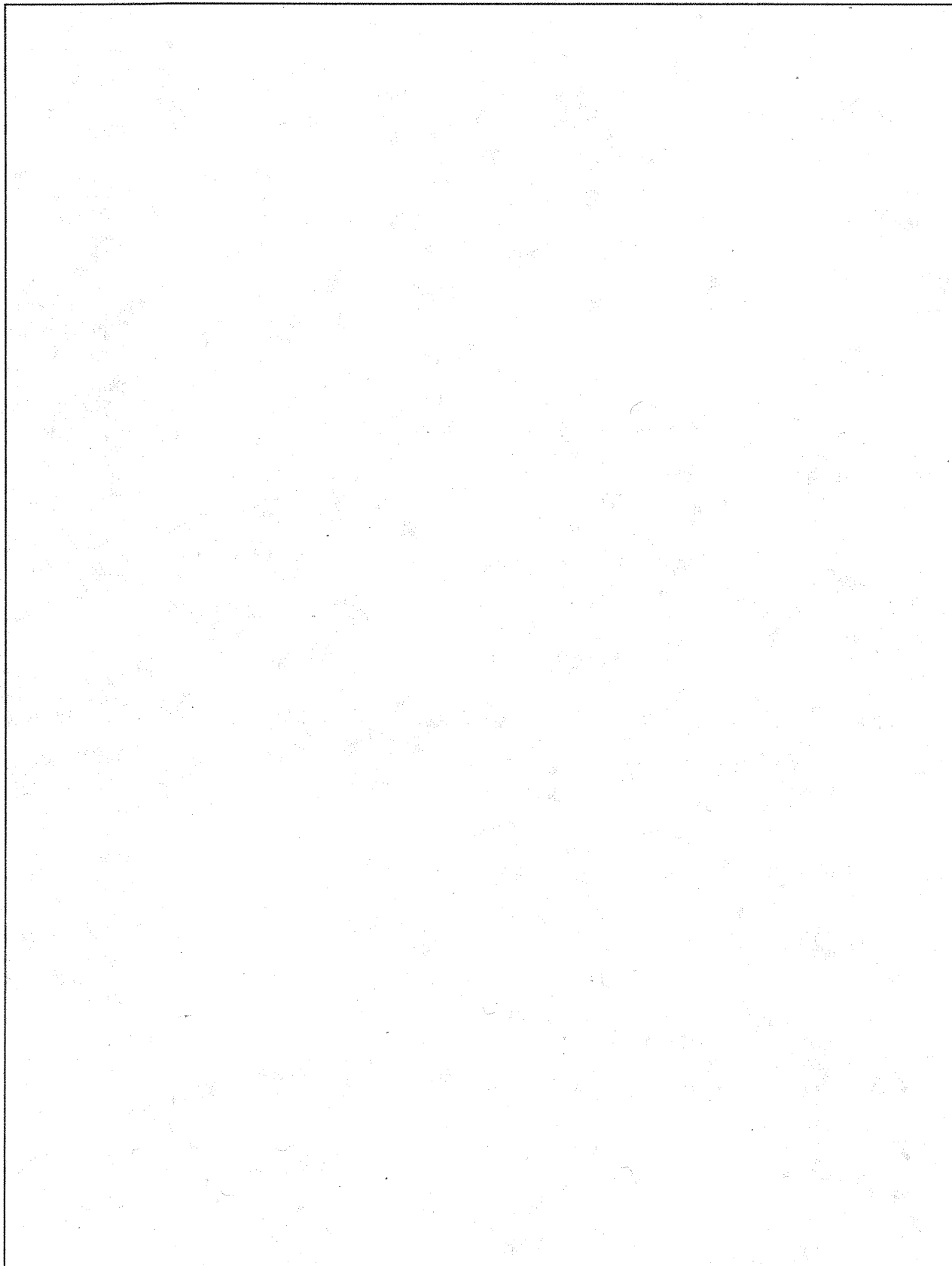
- (a) To protect the privacy and confidentiality of personal information, only written employment verification requests will be accepted. All requests must include a signed release statement from the employee. Separating employees should not provide the names of supervisors or other Agency employees. The supervisor is always listed as the "Chief, Human Resources." A separating overt employee may request current fax numbers from HR/Pay & Benefits or use the following mailing address for verification of employment:

Central Intelligence Agency  
Human Resources  
Washington, D.C. 20505  
ATTENTION: Employment Verification

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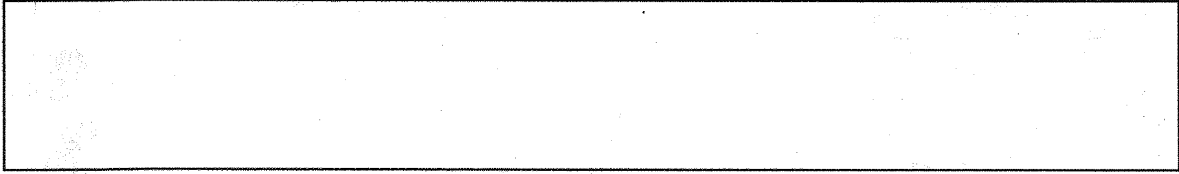


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**Date:** 08/24/2006**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-29 HOURS OF WORK AND PREMIUM PAY**REVISION SUMMARY:** 24 August 2006

This regulation supersedes AR 20-29, dated 12 September 2003.

AR 20-29 is revised to reflect the deletion of Hazardous Duty pay from paragraph 9 of this regulation. Hazardous Duty pay was replaced by Operational Risk Allowance (ORA). The description and parameters of ORA have been included in the revised version of AR ☐ "Standardized Differences and Allowances." This revision also reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support. In addition, this revision reflects the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service and remove "Deputy Director" designation from the other Directorates and replace it with "Director".

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by HR Policy@DA.*

**29. (U) HOURS OF WORK AND PREMIUM PAY**

**(U//AIUO) SYNOPSIS.** This regulation defines the basic workweek and the variations thereof, including alternative work schedules, that may be used in the Agency. Adopting, where appropriate, provisions of the Fair Labor Standards Act and title 5 of the United States Code, the regulation sets forth the eligibility for, the methods of computing, and the limitations on compensation for overtime, night, Sunday, and holiday work, and for standby duty and administratively uncontrollable overtime (AUO) work. Time and attendance records must be certified and authorized by a U.S. Government employee. The responsibilities of supervisors, Operating Officials, and other senior officials in certifying and controlling premium pay are detailed throughout the regulation. The regulation

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**also prescribes the eligibility for, and the accrual and settlement of, compensatory time. Additional information regarding premium pay and differentials for employees compensated under the Prevailing Rate Systems may be found in subpart E of part 532 of title 5, Code of Federal Regulations.**

**a. (U//AIUO) GENERAL**

- (1) The Agency conducts some of its most important and critical work under conditions over which it has no control. These conditions include the course of world events, the needs of government policymakers, and unpredictable changes in consumer requirements for timely intelligence. Within the constraints imposed by these conditions, hours of work for Agency employees will be established and administered in a manner that provides a normal work life. However, Agency personnel must be sufficiently flexible to adjust their work schedules as required.
- (2) Agency managers and supervisors are responsible for effectively managing the resources and activities of the Agency. It is an important part of this responsibility to ensure that work involving premium pay, particularly overtime, is authorized and performed only when necessary. Every employee, supervisor, and manager has an individual responsibility for ensuring that Agency funds are spent wisely, effectively, and in accordance with applicable laws and regulations.
- (3) An employee's time and attendance record should be certified or authorized by the employee's supervisor or a higher responsible official in the employee's chain of command, absent an exception based on extraordinary circumstances (such as illness, unavailability, and so forth). Official time and attendance reports will record time actually worked in relation to the scheduled workweek of the activity concerned. Any abuse of the pay system will not be tolerated and could result in severe administrative action, including termination of employment, and/or criminal prosecution by the Department of Justice. All employees are obligated to report suspected abuse of the Agency's Time and Attendance System to the Office of Inspector General (OIG) through normal chain-of-command channels or, where confidentiality is a concern, directly to the  **OIG.**

**b. (U//AIUO) WORK AND WORK SCHEDULES**

- (1) **STANDARD BASIC WORKWEEK.** Operating Officials and Heads of Independent Offices will schedule standard basic workweeks for full-time and part-time employees in components under their jurisdictions in accordance with the following standards:
  - (a) Duty hours are regular, scheduled in advance, and cover a period of not less than one week.
  - (b) For full-time employees, the basic 40-hour workweek consists of five consecutive duty days, usually Monday through Friday, with the same working hours in each day.
  - (c) For part-time employees, workweeks specific to each employee will be established consisting of not fewer than 16 hours and generally not more than 32 hours. Work hours must be scheduled in advance and can be for a portion of each day or for certain days each week. Regular work schedules in excess of 32 hours or less than 16 hours

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per week require the approval of the **Director** or Head of Independent Office concerned or designee.

- (d) The basic non-overtime workday does not exceed eight hours.
  - (e) Federal holidays do not affect the designation of the basic workweek. Part-time employees will be paid only for holidays occurring on a day when they normally would be scheduled to work.
  - (f) Breaks in excess of one hour are not scheduled in any basic workday.
- (2) **NONSTANDARD WORK SCHEDULE.** The nonstandard work schedule is a tour of duty that varies from the standard basic work schedule in order to cover operations staffed on a 24-hour basis. The non-overtime scheduled work hours equal 80 hours in a two-week period. A nonstandard work schedule may be implemented when an Operating Official or Head of Independent Office determines that adherence to a standard work schedule would either seriously handicap the unit in carrying out its functions or substantially increase its operating costs. The basic work requirement is 80 hours per biweekly pay period for full-time employees and generally between 32 and 64 hours per biweekly pay period for part-time employees (unless otherwise approved by the **Director** or Head of independent Office concerned or designee). Whenever possible, two consecutive days off will be scheduled in each workweek. At a minimum, one regular day off (preferably Sunday) will be provided. A nonstandard workweek may not extend over more than six days of an administrative workweek, which is a period of seven consecutive calendar days.
- (3) **ALTERNATIVE WORK SCHEDULES.** Operating Officials and Heads of Independent Offices may establish alternative work schedules in the interests of enhancing employee productivity and morale. Under this system, the employee's biweekly schedule may be established with varying daily or weekly work hours. Although alternative work schedules differ from the standard workweek, they are still considered scheduled tours of duty for purposes of computing premium pay and hours of duty. The basic work requirement is 80 hours per biweekly pay period for full-time employees and generally between 32 and 64 hours per biweekly pay period for part-time employees (unless otherwise approved by the **Director** or Head of Independent Office concerned or designee). When an alternative work schedule is implemented or adjusted, a Personnel Action must be prepared to establish the appropriate Fair Labor Standards Act (FLSA) code and record the new schedule in the "Remarks" section. There are two basic types of alternative work schedules:
- (a) **Compressed Work Schedules.** On a compressed work schedule, employees fulfill their basic biweekly work requirement in less than ten workdays. Examples of compressed work schedules for full-time employees include working eight 9-hour days and one 8-hour day per pay period or working eight 10-hour days per pay period. On these schedules, days off will be taken on the same day of the week in each pay period. A supervisor may approve one-time changes to an employee's regularly scheduled non-workday to accommodate training, travel, or other operational requirements. Such changes to the days worked—but not the type of schedule—do

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not require personnel actions or modifications to the ELECTRON "Work Tour Summary." Instead supervisors should record the actual days worked in the ELECTRON "T&A Summary." If multiple-day training, TDY travel, or other operational reasons preclude rescheduling the non-workday during the pay period, the employee should be placed on a standard or other appropriate work schedule for the duration of the pay period.

**(b) Flexible Work Schedules**

- (1) On a flexible work schedule, the workday is divided into core hours and flexible hours. Core hours refer to that portion of the day established by management during which the employee must be present at work. Flexible hours, established by management, are those portions of the day during which the employee has the option to select and/or vary arrival and departure times. Managers are encouraged to take advantage of the latitude afforded within the flexible schedule format to best achieve office objectives and accommodate employee needs. Examples of flexible work schedules include:
  - (a) **Flexitour.** Employees select permanent daily arrival and departure times within the established flexible hours.
  - (b) **Gliding schedule.** Employees vary their daily arrival and departure times.
  - (c) **Maxiflex.** Employees vary the length of the workday or the workweek by working core hours on fewer than ten workdays.
- (2) Subject to the limitations described below, employees on a flexible schedule can work credit hours at their option. Credit hours are hours of work in excess of an employee's basic tour of duty work requirement, which the employee elects to work, in order to vary the length of a workday or workweek. For example, an employee might work an extra hour on Monday so that he or she can work one less hour on Tuesday. Managers may limit the number of credit hours worked on a daily, weekly, or biweekly basis and may set the timeframe within which an employee may use credit hours. However, credit hours must be used in the pay period earned; they cannot be carried over to a subsequent pay period. An employee may not be paid overtime, Sunday, or holiday pay for credit hours.

**See the Handbook on Alternative Work Schedules in CIALink, HR Access for additional guidance.**

**(4) INDIVIDUAL WORK SCHEDULES**

- (a) Operating Officials and Heads of Independent Offices may establish work schedules for individuals that differ from the basic workweeks of their components when necessary to:
  - (1) Carry out the missions of those components;
  - (2) Enable the individuals concerned to take educational courses not constituting official training which will equip them for more effective work in the Agency; or

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- (3) Accommodate individual hardship when deemed appropriate and not detrimental to office production or service. Such individual schedules will entail not fewer than 40 hours per workweek for full-time employees, and generally from 16 to 32 hours per workweek for part-time employees (unless otherwise approved by the **Director** or Head of Independent Office concerned or designee). This authority does not extend to work schedules proposed for operations staffed on a 24-hour basis that involve regularly scheduled tours of duty exceeding eight hours a day or that involve seven or more consecutive working days.
- (b) The duties of each Agency employee include availability for performance of security or operational service on an "as required" basis (during or after regular working hours), to enable the Agency to carry out its intelligence missions and functions, whether or not the employee's position description specifies this job duty. This availability for supplemental security or operational tasks does not entail any new restrictions on the movement or activities of Agency employees and does not create any entitlement to standby duty pay or other such additional compensation. When possible, this supplemental security or operational work will be assigned to employees on a voluntary basis, particularly if overtime will be required.
- (5) **MEAL BREAKS.** The daily schedule for full-time employees, and part-time employees who work five or more hours in a day, must include a non-compensable half hour for a meal break, which does not count toward the hours of work for the day or the week and which may not be scheduled at the end of the daily work period. If a manager allows a meal break in excess of a half hour, the employee's workday must be extended by that excess amount to compensate for the time not worked.
- (6) **LEAVE.** Annual and sick leave will be charged against an employee's established work schedule.
- c. (U//AIUO) **PREMIUM PAY.** The Agency generally has adopted the premium pay provisions of title 5, United States Code, with modifications made as deemed necessary to carry out Agency functions. Premium pay is additional compensation for overtime, night, Sunday, and holiday work; administratively uncontrollable overtime (AUO) work; and regularly scheduled standby duty. Employees at the GS-15 level and below are normally eligible for premium pay. SIS members are not eligible for premium pay; that is, scheduled or unscheduled overtime, compensatory time, Sunday and holiday pay, standby duty pay, and night differential. The Director of the Central Intelligence Agency (D/CIA), the Deputy Director of the Central Intelligence Agency (DD/CIA), or the **Associate Deputy Director of the Central Intelligence Agency (ADD/CIA)** may approve exceptions to this policy. There is one exception to this general policy--SIS members may earn and use compensatory time off for religious purposes.
- (1) **AGGREGATE PAY LIMITATION.** Premium pay can be paid only to the extent that it does not cause an employee's aggregate rate of pay (basic pay plus premium pay) for any biweekly pay period to exceed the greater of the maximum rate for GS-15 or level V of the Executive Schedule (including any applicable locality pay and any special rate of pay). This maximum pay limitation does not apply to overtime pay due an employee

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under FLSA.

- (2) **OVERTIME WORK AND COMPENSATION.** The Agency has administratively adopted, and follows where appropriate, the overtime provisions of both title 5 of the United States Code and FLSA, as amended, in determining eligibility for overtime compensation and in computing overtime payments. The overtime provisions of FLSA apply to staff, contract, and local-hire employees, other than those specifically exempted, who are compensated under the General Schedule (GS), the GS-related schedules, the Prevailing Rate Systems, and local pay schedules. The designation of employees as nonexempt or exempt from the overtime provisions of FLSA is determined primarily by the position duties actually performed by the employee. Requests for determinations as to appropriate FLSA designation should be forwarded to **Chief, Human Resources, Strategy and Programs Group (C/HR/SPG)**.

(a) **Definitions**

- (1) *FLSA nonexempt* refers to employees covered by the overtime provisions of FLSA.
- (2) *FLSA exempt* refers to employees not covered by the overtime provisions of FLSA. FLSA exempt employees are compensated for overtime work under Agency policies adopted generally from the overtime provisions of title 5, United States Code.
- (3) *Directed Overtime* is overtime work that has been officially ordered or approved in advance by Heads of Independent Offices, Operating Officials, or other senior officials to whom such authority has been delegated by **Directors**. Directed overtime includes regular overtime and irregular or occasional overtime.
- (4) *Suffered or Permitted Work* is overtime work performed by an FLSA nonexempt employee that has not been ordered or approved, but which the employee's supervisor knows or has reason to believe is being performed, and has an opportunity to prevent from being performed.
- (5) *Regular Overtime* is overtime work that is scheduled in advance of the employee's administrative workweek as part of that workweek.
- (6) *Irregular or Occasional Overtime* is overtime work that is not scheduled in advance of the employee's administrative workweek.
- (7) *Hours of Work*, for purposes of overtime pay under FLSA, is all time during which an employee is required to be on duty and all time during which an employee is suffered or permitted to work for the benefit of the Agency. Hours in a paid non-work status are hours of work. Meal breaks are not hours of work.
- (8) *Overtime Work* for FLSA exempt employees in a standard basic workweek is work performed in excess of eight hours in a day or 40 hours in a workweek that is officially ordered or approved. Hours of work in excess of eight in a day are not included in computing hours of work in excess of 40 in a workweek.
- (9) *Overtime Work* for FLSA nonexempt employees in a standard basic workweek is

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work performed in excess of eight hours in a day or 40 hours in a workweek that is officially ordered or approved, except that suffered or permitted work will be counted as overtime only if it exceeds 40 hours in a workweek. If suffered or permitted overtime work is reported in the same week as leave without pay (LWOP), the suffered or permitted overtime will be converted to regular time until the required 40 hours of regular time are met.

- (10) *Overtime Hours* for employees on flexible work schedules are hours of work performed in excess of eight hours in a day or 40 hours in a workweek that are officially ordered in advance but do not include credit hours.
- (11) *Overtime Hours* for employees on compressed work schedules are hours of work performed in excess of the specified daily or weekly hours that constitute the compressed schedule. In the case of a part-time employee on a compressed schedule, overtime pay will begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

**(b) Policy**

- (1) All levels of management are expected to exercise sound judgment in planning work requirements and schedules so that overtime work is not normally required.
- (2) Employees have no right to be authorized or permitted to work overtime. Approving or permitting overtime for individual employees is subject to management discretion, within the bounds of the law. It is within management's authority and prerogative to select any appropriate employee to meet a particular overtime requirement. Additionally, management can and should decline to authorize or permit overtime work if management has reason to believe the overtime:
  - (a) Is or would be a risk to cover, security, or an employee's health and/or safety;
  - (b) Is adversely affecting or would adversely affect an employee's nonovertime job performance; or
  - (c) In the case of overtime for another component, is interfering or would interfere with the employee's availability for the parent office's overtime requirements.

These reasons for declining to approve or permit overtime are not all-inclusive, and there may be other valid grounds for such managerial decisions. In exercising these authorities and making these determinations, management may not violate equal employment opportunity laws or retaliate against employees because they have exercised constitutional, statutory, or other legal rights.

- (3) Overtime work generally will be authorized only to meet unforeseen developments or circumstances. Funds must be available for all overtime work.
- (4) Overtime work scheduled on a regular basis must have prior approval of the

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appropriate Operating Official or Head of Independent Office.

- (5) Irregular or occasional overtime work may be authorized prior to performance or after performance by Heads of Independent Offices, Operating Officials, or other senior officials to whom such authority has been delegated by **Directors**.
- (6) Overtime work performed by FLSA exempt employees that is not specifically directed will not be processed for overtime payments nor, if otherwise applicable, for compensatory time in lieu thereof.
- (7) Overtime work performed by FLSA nonexempt employees, excluding certain suffered or permitted hours of work performed in the same week as LWOP, will be processed for overtime payments or, in the case of irregular or occasional overtime and at the request of the employee, for compensatory time in lieu thereof.
- (8) For call-back duty, an employee is entitled to a minimum of two hours of overtime compensation for irregular or occasional overtime work performed either on a day when work was not scheduled for the employee or when required to return to the duty station (or to another Agency duty station) after having departed at the end of the scheduled daily tour of duty. Employees performing scheduled or unscheduled periods of overtime work that represent a continuation of their regularly scheduled tour of duty for that day are not entitled to the minimum two hours of overtime, even if the overtime work is performed at a duty station different from their regular duty site. These employees are entitled to overtime compensation, only for time actually worked.
- (9) Generally, overtime work performed in an "exempt" area is not compensable under FLSA. An exempt area is any foreign country or any territory under the jurisdiction of the United States other than a state of the United States, the District of Columbia, [REDACTED]  
[REDACTED]  
[REDACTED] Employees permanently stationed in an FLSA exempt area are compensated for overtime work under the provisions of title 5, United States Code. However, when an FLSA nonexempt employee performs work during an administrative workweek in both a geographic area covered by FLSA and in an exempt area, the FLSA overtime provisions apply to the entire workweek, including the work performed in the exempt area.
- (10) For both FLSA exempt and FLSA nonexempt employees, leave with pay will not affect the employee's eligibility for overtime pay.

**(c) Compensation for Overtime**

**(1) Policy**

- (a) FLSA exempt employees at the GS-15 level and below who perform directed overtime work will receive overtime pay up to the maximum allowable. See paragraph c(1), Aggregate Pay Limitation, above. Under certain conditions, these employees may take compensatory time off in lieu of payment for

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irregular or occasional overtime.

- (b) FLSA nonexempt employees who perform directed overtime work (in excess of eight hours in a day or 40 hours in a week) or suffered or permitted work (in excess of 40 hours in a week) will receive overtime pay computed solely under FLSA. However, they may request compensatory time in lieu of payment for irregular or occasional overtime.
- (c) Overtime worked between 6 p.m. and 6 a.m. is night work if the overtime is part of the employee's regularly scheduled workweek and, therefore, must be compensated at night differential rates in addition to the overtime rates.
- (d) Employees who perform overtime work on a Sunday or a holiday will be paid for that overtime at the same rate as for overtime work performed on another day.

(2) Overtime Pay

- (a) For FLSA exempt employees, the overtime hourly pay rate is one and one-half times the hourly rate of basic pay but will not exceed one and one-half times the hourly rate of the minimum rate of basic pay for GS-10. Basic pay includes any applicable locality pay and any special rate of pay.
- (b) For FLSA nonexempt employees who are not entitled to any form of premium pay other than FLSA overtime pay, the FLSA overtime hourly pay rate is one and one-half times the hourly regular rate of pay. For all other FLSA nonexempt employees, the overtime entitlement is:
  - (i) The straight time rate of pay times all overtime hours worked; plus
  - (ii) Half the employee's hourly regular rate of pay times all overtime hours worked.
    - (aa) "Straight time rate of pay" is equal to the employee's rate of basic pay, unless the employee is paid AUO or standby duty, in which case the straight time rate of pay is equal to basic pay plus AUO pay or standby duty pay divided by the hours for which the basic pay plus AUO pay or standby pay are intended.
    - (bb) "Hourly regular rate of pay" is determined by dividing the employee's total remuneration by the total number of hours of work in the workweek for which such compensation was paid.
    - (cc) "Total remuneration" is the total amount of all compensation paid to an employee; for example, basic pay, night pay differential, Sunday pay, AUO pay, standby duty pay, environmental differential or hazard pay, and straight time pay for overtime.
- (c) Overtime compensation for FLSA exempt employees will be computed on the basis of quarter hours of work. Time increments of less than one-quarter hour will be forfeited.

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- (d) FLSA nonexempt employees will be compensated for regular overtime work on a quarter-hour basis. A quarter hour will be the fraction of an hour used to compute overtime payments for irregular or occasional or suffered or permitted overtime work as well. Time increments of less than a quarter hour will be disqualified for overtime payments.

(3) Compensatory Time

- (a) Eligibility. FLSA exempt employees who perform directed irregular or occasional overtime work may be granted compensatory time in lieu of overtime pay if they request it by the end of the pay period in which the overtime work was performed. FLSA exempt employees whose rates of basic pay exceed the maximum rate for GS-10 may be required to take compensatory time off in lieu of payment for irregular or occasional overtime work performed. FLSA nonexempt employees may also request compensatory time in lieu of payment for an equal amount of irregular or occasional overtime work, but may not be required to take compensatory time off in lieu of payment.
- (b) Accrual. The number of hours of compensatory time accrued is equal to the number of hours of irregular or occasional overtime worked. For FLSA exempt employees, compensatory time can be granted in lieu of payment for overtime only to the extent that the value of the overtime hours credited to compensatory time, if computed at overtime rates, would not cause the employee's aggregate pay to exceed the maximum biweekly rate of pay for GS-15 (including any applicable locality pay and any special rate of pay).
- (c) Use. The timeframe in which employees are required to use compensatory time is four quarters following the end of the leave quarter in which they earn it. At the end of the four quarters, FLSA exempt employees will forfeit any unused compensatory time and FLSA nonexempt employees will receive payment for any unused compensatory time.
- (d) Payment
  - (i) FLSA exempt employees may carry unused compensatory time to new assignments subject to the time limits outlined above. FLSA exempt employees do not receive payment for unused compensatory time once the time limit has expired.
  - (ii) If an employee's FLSA designation changes to FLSA nonexempt, compensatory time remains on the books until the end of the fourth leave quarter following the leave quarter in which it was earned. Compensatory time earned by the employee prior to the change to FLSA nonexempt status is forfeited if it is not used during the time limits outlined in paragraph c(2)(c) above. Unused compensatory time earned after the change in designation to FLSA nonexempt status will be paid in accordance with paragraph c(2)(d)(iii).

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- (iii) FLSA nonexempt employees who have not used their compensatory time by the end of the period specified in paragraph (c) above will be paid for the overtime work at the FLSA overtime rate that applied when the work was performed. Payment will also be made for compensatory time balances when the employee's FLSA designation changes from nonexempt to exempt.
- (iv) If an FLSA exempt or FLSA nonexempt employee should die or be involuntarily separated, payment will be made for any compensatory time credited to the employee.

**(d) Responsibilities for Overtime Administration**

- (1) Operating Officials and Heads of Independent Offices are responsible for allocating and approving overtime funds and for monitoring overtime policies and practices within their jurisdictions to ensure that they are administered with consistency and equity.
  - (2) Senior officials will ensure that overtime pay they authorize is in accordance with the policies and provisions prescribed.
  - (3) The **Comptroller** is responsible for reviewing the use of overtime within the Agency.
  - (4) Supervisors are responsible for ensuring that overtime work is not performed by employees designated *nonexempt* from the overtime provisions of FLSA, except when such overtime has been authorized by a designated senior official. They are also responsible for maintaining complete and accurate records of all time worked for all of their employees.
  - (5) The **C/HR** is responsible for providing advice and guidance in the interpretation and application of overtime policies and provisions and for adjudicating internal complaint cases when requested.
- (3) NIGHT WORK AND COMPENSATION.** Night work is regularly scheduled work between 6 p.m. and 6 a.m. An employee who performs night work will be paid night pay differential for that work at a rate equal to 10 percent of basic pay (including any applicable locality pay and any special rate of pay) for all whole hours of regularly scheduled night work.
- (a) Regularly scheduled work is work scheduled for a particular employee in advance of that employee's administrative workweek.
  - (b) An employee performing overtime night work is entitled to night pay differential in addition to overtime pay if the overtime night work is scheduled for that employee in advance of his or her administrative workweek. Employees who perform irregular or occasional overtime work at night are not entitled to night pay differential.
  - (c) An employee is entitled to night pay differential when temporarily assigned during the administrative workweek to a daily tour of duty that includes night work. This temporary change in a daily tour of duty within the employee's regularly scheduled

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administrative workweek is distinguished from a period of irregular or occasional overtime work in addition to the employee's regularly scheduled administrative workweek.

- (d) Night pay differential is payable for regularly scheduled hours of night work when an employee is absent during these hours due to a holiday or is in an official travel status, whether or not performing actual duty. It is payable for periods of paid leave totaling less than eight hours during any biweekly pay period. Payment of night differential is not authorized for any period of paid leave when the total leave in a biweekly pay period is eight hours or more, or for any period covered by a lump sum leave payment.
- (e) There are special night pay differential provisions for employees on a *flexible work* schedule:
  - (1) If the tour of duty includes eight or more hours available for work during daytime hours (6 a.m. to 6 p.m.), the employee is not entitled to night pay differential, even if the employee elects a time of arrival or departure during hours for which night pay is normally required.
  - (2) If the core hours are during daytime hours but the tour of duty includes fewer than eight daytime hours, the employee is entitled to night pay differential for the difference between eight hours and the available number of daytime hours in the tour of duty.
  - (3) If the core hours include hours of night work, the employee is entitled to night pay differential for any non-overtime work performed between 6 p.m. and 6 a.m.
- (f) Night differential is paid in addition to overtime, Sunday, or holiday pay. It is not included in the rate of basic pay used to compute overtime (except for FLSA-nonexempt employees), Sunday, or holiday pay.
- (g) Prevailing rate employees will be paid for night shift differential in accordance with the provisions of 5 CFR 532.505.

**(4) SUNDAY WORK AND COMPENSATION**

- (a) Sunday premium pay is paid to employees on work schedules that include a regularly scheduled eight-hour period of non-overtime work any part of which is performed on Sunday. It is paid at a rate equal to 25 percent of the employee's rate of basic pay (including any applicable locality pay and any special rate of pay) for each hour of Sunday work that is not in excess of eight hours. Sunday premium pay is paid only for whole hours of work.
- (b) Employees on nonstandard or compressed work schedules that include a regularly scheduled tour of duty, any part of which is on Sunday, will be paid Sunday premium pay for all non-overtime work performed during the entire tour of duty.
- (c) Part-time employees are entitled to Sunday premium pay if they are required to perform work on Sunday as part of their regular work schedule, where such Sunday

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work is necessary to achieve Agency missions and functions. Requests for Sunday premium pay for part-time employees must be submitted through the appropriate Operating Official or Head of Independent Office to the C/HR for approval on a case-by-case basis. The **Chief, Human Resources Staff, NCS**, is authorized to approve Sunday premium pay for part-time employees located in Muslim countries.

- (d) If an employee works during two different regularly scheduled tours, both of which overlap the same Sunday (such as Saturday into Sunday and Sunday into Monday), the employee may earn Sunday premium pay for hours worked in both tours, not to exceed the number of hours specified in paragraphs (a) and (b) above.
  - (e) Premium pay for Sunday work is in addition to premium pay for holiday, overtime, or night work, but is not included in the rate of basic pay of FLSA *exempt* employees when computing such other premium pay.
  - (f) Employees, including prevailing rate (wage grade) employees, whose tours of duty include a regularly scheduled period of non-overtime work on Sunday, will not be paid Sunday premium pay unless they actually perform work on Sunday. Federal law prohibits the payment of Sunday premium pay to employees during any period when no work is performed, including holidays and periods of paid leave, excused absence with pay, compensatory time off, credit hours, or time off as an incentive or performance award.
  - (g) Prevailing rate employees will be paid for Sunday work in accordance with the provisions of 5 CFR 532.509. In the Agency, "prevailing rate employees" includes those employees paid under the Federal Wage System and the Government Printing schedules.
- (5) **HOLIDAY WORK AND COMPENSATION.** The following days designated by Federal statute or Executive order as national holidays in the Federal service are observed by the Agency:
- |                                    |                          |
|------------------------------------|--------------------------|
| New Year's Day                     | 1 January                |
| Martin Luther King, Jr.'s Birthday | 3rd Monday in January    |
| Washington's Birthday              | 3rd Monday in February   |
| Memorial Day                       | Last Monday in May       |
| Independence Day                   | 4 July                   |
| Labor Day                          | 1st Monday in September  |
| Columbus Day                       | 2nd Monday in October    |
| Veterans' Day                      | 11 November              |
| Thanksgiving Day                   | 4th Thursday in November |
| Christmas Day                      | 25 December              |
- (a) The following rules apply when holidays fall on non-workdays:

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- (1) When the basic workweek is Monday through Friday, the workday immediately preceding a Saturday holiday or the workday immediately following a Sunday holiday is considered a holiday.
- (2) The following provisions apply when the basic workweek is other than Monday through Friday (includes alternative work schedules and nonstandard work schedules):
  - (a) When a holiday occurs on a workday within the basic workweek, that day is considered the regular holiday.
  - (b) When a holiday occurs on a Sunday non-workday, the next workday is considered the holiday.
  - (c) When a holiday occurs on any other non-workday, the preceding workday is considered the holiday.
- (3) **Observance of Certain Holidays at Duty Posts Outside the United States.**  
Whenever Monday is designated as a Federal holiday, the first regularly scheduled workday in that workweek is the holiday for an employee working overseas whose basic workweek includes Monday, but is not the typical Monday through Friday work schedule that is found in the United States.
- (4) Managers may approve "in-lieu-of" holidays for employees on compressed work schedules at any time during the same pay period in which the holiday occurs or during the pay period immediately preceding or following the pay period in which the holiday occurs. This allows a six-week window within which to reschedule employees' "in-lieu-of" holidays. This provision is intended to increase management flexibility in covering organizational or operational requirements around holidays as well as providing greater scheduling latitude for the employees involved. This is a management-driven option and unless the manager and the employee have decided that the "in-lieu-of" holiday can be moved, the provisions listed in paragraph (2) above apply when the basic workweek is other than Monday through Friday.
- (5) A part-time employee is not entitled to an "in-lieu-of" day for a holiday that falls outside the employee's scheduled tour of duty.
- (b) Holiday work is non-overtime work, not exceeding eight hours for standard or flexible schedules, authorized and performed on a designated holiday during an employee's regular duty hours. For an employee on a nonstandard or compressed work schedule, holiday work includes all work not in excess of the employee's regularly scheduled hours for that day. An employee paid for work performed on a holiday is not entitled to an "in-lieu-of" holiday. Holiday work may be authorized by Heads of Independent Offices, Operating Officials, or other senior officials to whom such authority has been delegated by **Directors**.
- (c) Work performed on a holiday before or after regular duty hours is considered overtime work.

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- (d) Work on holidays will be kept to a minimum, consistent with work requirements, and will be authorized only when such requirements cannot be satisfactorily completed within regularly scheduled duty hours.
- (e) The following will govern the method of compensation:
- (1) Premium pay for holiday work is equal to twice the employee's rate of basic pay (including any applicable locality pay and any special rate of pay) for that holiday work not exceeding eight hours or, in the case of an employee on a compressed schedule, the employee's regularly scheduled hours for that day.
  - (2) Any employee who is required to perform work for one or more periods on a holiday during regular duty hours will be paid for at least two hours of work for each such period.
  - (3) If a holiday falls on a day a part-time employee is scheduled to work and the employee does not work, the employee is paid for the number of hours scheduled for that day. If the part-time employee works during his or her scheduled hours on a holiday, the employee is entitled to holiday premium pay only for those hours scheduled.
  - (4) Holiday pay is in addition to premium pay for overtime, Sunday, or night work. It is not included in the hourly regular rate of basic pay used to compute overtime pay (except for FLSA nonexempt employees), Sunday pay, or night pay differential.
  - (5) Prevailing rate employees will be paid for holiday work in accordance with the provisions of 5 CFR 532.507.

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(7) **RELIGIOUS OBSERVANCES.** Employees whose personal religious beliefs lead to abstention from work during certain periods for religious observances may ask to work overtime in exchange for compensatory time off. This time off generally must be earned prior to its use by working an equivalent amount of compensatory overtime. Although generally not eligible for compensatory time, SIS officers may earn and use compensatory time for religious observances. Approval of time off for religious observances will be granted to the extent that modifications in work schedules do not interfere with the accomplishment of the Agency's mission. The premium pay provisions of this regulation, including the limitations for persons in certain grades, do not apply to compensatory overtime worked for this purpose. Direct supervisors are responsible for control of the program. Compensatory overtime and compensatory time off under this provision must be reported on time and attendance records.

(8) **EFFECT OF TRAINING AND TRAVEL ON PREMIUM PAY ENTITLEMENT**

(a) **Training**

- (1) For FLSA exempt employees, hours spent in Agency-sponsored training may not be considered as work hours for purposes of title 5 overtime compensation, holiday pay, night pay differential, or Sunday premium pay. Requests for exceptions to this policy will be forwarded through normal channels to **Chief, Human Resources, Strategy and Programs Group, Policy Staff (C/HR/SPG/PS)** for approval.
- (2) An FLSA nonexempt employee must be paid overtime for time spent in training beyond regular working hours, *if the employee has been directed to participate in such training* by management and if the training is for any of the following purposes:
  - (a) To bring an employee's performance in his or her current position up to an acceptable level.
  - (b) To provide the employee with the knowledge or skills to perform new duties and responsibilities in his or her current position.
  - (c) To participate in an apprenticeship or internship training program, provided productive work is performed during such period.
- (3) FLSA nonexempt employees who spend time in the following types of training outside regular working hours will not receive overtime compensation:
  - (a) Training to raise an employee's performance in his or her current position above an acceptable level; or

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- (b) Training to provide an employee additional knowledge or skills for reassignment or advancement to a position of a higher grade. This includes any developmental training or upward mobility training, even if such training is directed.
- (4) For FLSA nonexempt employees, preparatory time outside the employee's regular work hours is considered to be hours of work only if such preparation is closely related and indispensable to satisfactory completion of a training program that meets the conditions for overtime compensation outlined in paragraph (2) above. If management, after consultation with component training officers or appropriate Central Intelligence Agency University officials, determines that allowance for preparatory time is appropriate, employees should be advised of the time allowed for preparation before commencement of the training program. An employee may voluntarily spend additional time in preparation for training. However, such additional time in excess of the predetermined allowance is not compensable hours of work. Additionally, preparatory time spent for training in an apprenticeship or internship program is not compensable hours of work, unless productive work is performed.
- (5) The fact that the Agency has authorized the expenditure of government funds for training is irrelevant to a determination as to whether the employee may be paid overtime while in a training status.
- (6) No holiday, night differential, or Sunday premium pay will be paid to any employee for a special tour of duty which is solely the result of rescheduling the basic workweek to permit the employee to pursue outside study at the employee's own expense.

**(b) Travel**

- (1) Time spent in a travel status away from the official duty station of an employee is not hours of work unless:
  - (a) The time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or
  - (b) The travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under such arduous conditions that the travel is inseparable from work, or (iv) results from an event that could not be scheduled or controlled administratively.
- (2) For purposes of determining overtime pay for work in excess of 40 hours in a workweek, time spent by a *nonexempt* employee in a travel status is hours of work in accordance with paragraph (1) above and also if:
  - (a) The employee is required to drive a vehicle or perform other work while traveling;

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- (b) The employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
- (c) The employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours.

**(9) PAY DIFFERENTIAL FOR EXPOSURE TO HAZARDS, PHYSICAL HARDSHIPS, AND WORKING CONDITIONS OF AN UNUSUALLY SEVERE NATURE**

- (a) The Agency will adhere to Federal pay regulations, schedules, and rates of compensation as they apply to environmental differentials paid to prevailing rate employees who are exposed to hazards, physical hardships, and working conditions of an unusually severe nature. Please see AR

- (b) For hazardous duties involving Agency-unique aspects not considered in the establishment of the government-wide schedule of environmental differentials, **C/HR/SPG/PS** will determine, on a case-by-case basis, the applicability and compensation rate of these differentials.

**(c) Procedures**

- (1) Operating Officials and supervisory personnel are responsible for recognizing duties or situations of employees for which an environmental pay differential (for prevailing rate employees) is authorized under Federal pay regulations.
- (2) Requests for such payment should be submitted through the appropriate **Director** or Head of Independent Office to **C/HR/SPG/PS** for approval. These requests can be for a specific employee or for all employees assigned to a particular station who are engaged in performing similar duties.
- (3) Once the proposal is approved, Operating Officials and supervisory personnel will certify the hours when an employee's duties or working conditions qualify for an environmental pay differential.
- (4) A copy of the approved proposal will be kept on file in the originating component.

**(10) ANNUAL PREMIUM PAY FOR ADMINISTRATIVELY UNCONTROLLABLE OVERTIME WORK**

- (a) Annual premium pay for AUO work is a form of premium pay designed to compensate an employee assigned to, and performing the duties of, an approved position in which the hours of work cannot be controlled administratively and which requires substantial amounts of irregular, unscheduled overtime duty, with the employee generally being responsible for recognizing, without supervision,

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circumstances which require the employee to be on duty. The circumstance requiring an employee to remain on duty must be a definite, official, and special requirement of the position. The employee must remain on duty not merely because it is desirable to do so but because of compelling reasons inherently related to continuance of duties and of such a nature that failure to carry on would constitute negligence.

- (b) An employee receiving AUO pay may not be compensated for directed irregular or occasional overtime but may be compensated for any regularly scheduled overtime, night, holiday, or Sunday work.
- (c) Authorized AUO will be paid at a specified rate of not less than 10 percent nor more than 25 percent of that part of the employee's basic compensation that does not exceed the minimum rate of basic pay for GS-10 (including any applicable locality pay and any special rate of pay).
- (d) Employees will not be entitled to AUO if, over a period of time, such premium pay would total more than would other forms of premium pay that otherwise would be payable to the employee for the hours of duty required in the position, exclusive of regular overtime work and work at night, on Sundays, and on holidays.
- (e) AUO premium pay may be paid to Agency employees serving:
  - (1) (S)
  - (2) In various Directorate of Intelligence (DI) positions as identified by the DI.
  - (3) In a limited number of positions in the Directorate of Science and Technology and **the Directorate of Support** where the nature of the work has consistently met the criteria for AUO premium pay.
- (f) Employees who are at an overseas or domestic field station for less than a full two-week pay period are not eligible for AUO.
- (g) Premium pay for AUO may start the first pay period after the employee qualifies for AUO and ends when the employee ceases to meet one or more of the eligibility requirements. It will also cease for any pay period in which the minimum AUO work requirement of three hours per week is not met.
- (h) Prevailing rate employees are not eligible for AUO.

- (j) Annual premium pay for positions not listed in paragraph (3)(e) above must have the

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concurrence of the appropriate **Director** or Head of Independent Office and the approval of the **C/HR**. The request will include all pertinent information, such as the frequency and duration of the irregular or occasional overtime work required; names of employees performing such work; the nature of the work that prevents hours of duty from being controlled administratively; and the necessity for employees being responsible for recognizing, without supervision, circumstances which require them to remain on duty. Such proposals will not be approved on a retroactive basis.

- (k) AUO is considered additional compensation and is not part of an employee's basic pay.

**(11) ANNUAL PREMIUM PAY FOR REGULARLY SCHEDULED STANDBY DUTY**

- (a) Annual premium pay for regularly scheduled standby duty is a form of premium pay designed to compensate an employee in a position requiring the employee to remain regularly at, or within the confines of, the duty station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work.
- (b) Premium pay for regularly scheduled standby duty is paid on an annual basis in lieu of premium pay for regularly scheduled overtime, night, holiday, and Sunday work. An employee receiving regularly scheduled standby duty pay may be compensated for irregular, unscheduled overtime work in excess of the employee's regularly scheduled administrative workweek.
- (c) Authorized annual premium pay for regularly scheduled standby duty is set at a rate not less than 5 percent nor more than 25 percent of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS-10 (including any applicable locality pay and any special rate of pay). The appropriate rate for each employee or group of employees is determined by considering all relevant factors, including type of work schedule, hours of actual work, hours required to be in a standby status, and conditions that make the work more onerous. The percentage of premium pay authorized will be increased 2.5 percent when an employee is required to perform work on 20 to 40 Sundays a year, and increased 5 percent when the employee is required to perform work on 41 or more Sundays a year. However, the total percentage of premium pay may not exceed the 25 percent maximum.
- (d) The following requirements and conditions must be met for entitlement to annual premium pay for regularly scheduled standby duty:
  - (1) The employee must be officially ordered to remain at the duty station on a standby basis during hours that are included in the employee's tour of duty, which must be established on a regularly recurring basis over a substantial period of time and for which at least 25 percent of the time is spent in a standby status and not in a work status.
  - (2) The standby duty must be associated with the regularly assigned duties of the employee, either as a continuation of regular work which includes standby time, or as a requirement to stand by at the employee's post to perform regularly

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assigned duties if the necessity arises.

- (3) The standby duty must be performed at, or within the confines of, the employee's duty station. This may include nonresidential quarters provided by the Agency specifically for use of employees required to stand by in readiness to perform actual work when the need arises. This also may include the employee's residential quarters, when designated by the Agency as the duty station and when the employee's mobility and activities are narrowly restricted.
- (4) The annual premium pay for standby duty must be:
  - (a) More than other forms of premium pay which otherwise would be payable to the employee for the hours of actual work customarily required in the position, excluding standby time during which no work is performed; and
  - (b) Less than other forms of premium pay which otherwise would be payable to the employee for the hours of duty required in the position, including standby time during which no work is performed.
- (e) Requests for annual premium pay for regularly scheduled standby duty must have the concurrence of the appropriate Director or Head of Independent Office and the approval of the C/HR. The request must include full information regarding the employee's tour of duty; that is, the number of hours of actual work required and how it is distributed throughout the tour of duty; the number of hours in a standby status required and the extent to which the employee's mobility and activities are restricted during standby periods; and the extent to which the assignment is made more onerous by night, holiday, or Sunday duty or by hours of duty beyond eight in a day or 40 in a week.
- (f) Annual premium pay for regularly scheduled standby duty is included as part of the employee's basic rate of pay, which is used to compute retirement and group life insurance deductions.
- (g) Prevailing rate employees are not eligible for annual premium pay for regularly scheduled standby duty.

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(b) (1)  
(b) (2)  
(b) (3)

**Date:** 01/21/2000

**Category:** 20 - Human Resource Management

**OPR:** OPR

**Title:** AR 20-30 LEAVE AND OTHER ABSENCES

**PEN AND INK CHANGE:** 21 November 2001

Policy on special leave of absence, which was formerly referenced in AR 20-48, has been moved to paragraph c(16) of this regulation. Boldfaced text indicates this revision. Boldfaced text indicates this revision.

**REVISION SUMMARY:** 21 January 2000

This regulation supersedes AR 20-30, dated 21 August 1998.

AR 20-30 is revised to provide current policy regarding Leave and Other Absences. Specifically, changes have been made to paragraphs c and f. Paragraph c(3) reflects a change in the number of days of paid leave allowed each year (in addition to sick and annual leave) for organ donors. Paragraph f(2) and (4) reflect the change from Headquarters approval to Headquarters notification for Absence from Duty of Chiefs of Station and Base.

A reference has also been updated, and the remainder of the regulation has been revalidated.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by Policy Group, Human Resource Management, HRM/Policy @ DA.*

**30. (U) LEAVE AND OTHER ABSENCES**

APPROVED FOR RELEASE  
DATE: JAN 2008



[REDACTED]

**SYNOPSIS.** This regulation defines and states policy on leave and other absences of full-time or part-time regularly scheduled staff and contract employees. See Agency Handbook AHB [REDACTED] for additional guidance and for practices and procedures concerning leave administration. See AR 20-36 for information on the Medical Leave Bank and the Voluntary Leave Transfer Program.

- a. (U) **AUTHORITIES.** 5 U.S.C. Chapter 63; 5 U.S.C. Section 5551; Sections 4(a)(3)(A), 4(b)(1) and 8 of the CIA Act of 1949, as amended (50 U.S.C. 403e and 403j); 5 C.F.R. Part 630;

- [REDACTED]
- b. (C) **POLICY.** The Agency generally has adopted the leave provisions of 5 U.S.C. 6301 et seq. with modifications made as deemed necessary to carry out Agency functions. However, there are Agency-unique guidelines for home leave use. Modifications of standard practices regarding the accumulation, transfer, and lump-sum payment of leave for special cover and operational requirements are addressed in AHB [REDACTED]

c. (C) **TYPES OF LEAVE AND ABSENCES**

- (1) **ANNUAL LEAVE** provides for absence without loss of pay for vacations and other occasions when the employee is absent from duty for personal reasons. The intent is to allow employees an extended period for rest and recreation and to provide time off for personal and emergency purposes.

- (2) **SICK LEAVE** provides for absence without loss of pay when an employee:

- (a) Receives medical, dental, or optical examination or treatment;
- (b) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
- (c) Provides care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental, or optical examination or treatment;
- (d) Makes arrangements for or attends the funeral of a family member (separate from funeral leave as defined

[REDACTED]

## Regulatory Repository (R5) - Agency Regulations

in c(11) below);

- (e) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or
- (f) Must be absent from duty for purposes relating to the adoption of a child.

Family members include spouses and their parents; children, including adopted children, and their spouses; parents; siblings and their spouses; and anyone related by blood or affinity whose close association with the employee is the equivalent of a family relationship. The term "children, including adopted children, and their spouses," as used in this definition, applies to adult sons and daughters.

- (3) **ABSENCE FOR BONE-MARROW OR ORGAN DONATION** provides employees with up to seven days--without loss of pay or charge to leave--of paid absence each calendar year to serve as a bone-marrow donor and up to 30 days--without loss of pay or charge to leave--of paid absence each calendar year to serve as an organ donor. When medical procedures and recuperation require a longer absence, employees may request additional time off in the form of sick leave, annual leave, leave without pay (LWOP), or advanced sick or annual leave.
- (4) **THE FAMILY AND MEDICAL LEAVE ACT (FMLA)** provides eligible employees with a total of up to 12 administrative workweeks of unpaid leave during any 12-month period for one or more of the following reasons:
  - (a) The birth of a child of the employee and the care of such child.
  - (b) The placement of a son or daughter with the employee for adoption or foster care.
  - (c) The care of the employee's spouse, son, daughter, or parent with a serious health condition.
  - (d) A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position. (If an employee must be absent from work to receive medical treatment for a serious health condition, the employee is considered to be unable to perform the essential

[REDACTED]

functions of the position during the absence for treatment.)

An employee must invoke his or her entitlement to leave under the FMLA before absences can be charged as FMLA leave or before protections of FMLA can apply. The Agency cannot require an employee to invoke entitlement to leave under the FMLA, nor can it deny family and medical leave to an employee who meets the FMLA criteria and invokes entitlement. An employee may elect to substitute paid time off--approved under current guidelines--for any or all of the period of unpaid leave. See AHB [REDACTED] for additional guidelines.

- (5) **ABSENCE FOR MATERNITY REASONS** is an absence related to pregnancy and confinement. Periods of absence required for physical examinations and for the period of incapacitation may be charged to sick leave. Periods of absence not medically certified as due to incapacitation must be charged to annual leave or LWOP.
  - (6) **ABSENCE FOR PATERNITY REASONS** is an absence to permit a male employee to assist or care for his minor children or the mother of his newborn child. Such absence is chargeable to annual leave or LWOP unless the circumstances meet the criteria outlined above in c(2)(c) for use of sick leave.
  - (7) **HOME LEAVE** provides for absence without loss of pay or charge to annual leave after assignment outside the United States. The purpose is to "Re-Americanize" employees who have worked outside of the United States for an extended continuous period of time--at least 18 months--when it is contemplated that the employee will complete another tour of duty abroad.
  - (8) [REDACTED]
  - (9) **MILITARY LEAVE** provides for absence without loss of pay or charge to annual leave for employees to participate in certain Reserve and National Guard activities. See AHB [REDACTED]
  - (10) **COURT LEAVE** provides for absence without loss of pay
- [REDACTED]

[REDACTED]

or charge to annual leave to perform jury service or in certain circumstances to appear as a summoned witness (see AHB [REDACTED])

- (11) **FUNERAL LEAVE** provides for absence of up to three days without loss of pay or charge to annual or sick leave, to allow an employee to attend or arrange the funeral or memorial service of a family member (as defined in c(2) above) who died as the result of a wound, disease, or injury incurred while a member of the Armed Forces in a combat zone. (Employees may use sick leave--within the annual limit for family care--to attend or arrange the funeral of family members who died under other circumstances. See c(2)(d) above).
- (12) **ABSENCE OF VETERANS TO ATTEND FUNERAL SERVICES** provides for absence not to exceed four hours for a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans to be excused from duty without loss of pay or charge to annual leave for the time necessary to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States.
- (13) **LEAVE WITHOUT PAY (LWOP)** provides for authorized absence in a nonpay status. Unpaid leave (LWOP) under the FMLA is in addition to LWOP that may be granted for other reasons. (See AHB [REDACTED])
- (14) **EXCUSED ABSENCE** or administrative leave is an administratively authorized absence from duty without loss of pay or charge to leave. See HR 20-6e and AHB [REDACTED] for the types of excused absences.
- (15) **ABSENCE WITHOUT LEAVE** is an unauthorized absence from duty. The employee will receive no pay for an absence without leave and may be subject to disciplinary action.
- (16) **SPECIAL LEAVE OF ABSENCE** may be authorized when Agency employees have suffered exceptional physical hardship, abuse, or psychological stress and headquarters determines they must return from duty stations abroad, [REDACTED]  
[REDACTED]
- [REDACTED]

[REDACTED]

**Central Intelligence (DCI), Deputy Director of Central Intelligence (DDCI), Executive Director (EXDIR), or D/HRM with D/OMS' concurrence may authorize a special leave of absence for employees and their dependents. The DCI, DDCI, EXDIR, OR D/HRM with D/OMS' CONCURRENCE determine the amount of special leave and travel expenses authorized on a case-by-case basis, not to exceed 30 workdays. Only the DCI can further delegate this authority.**

**RELIGIOUS OBSERVANCES.** Employees whose personal religious beliefs require abstention from work during certain periods for religious observances may ask to work overtime in exchange for compensatory time off. ~~See~~ AR 20-29c(8).

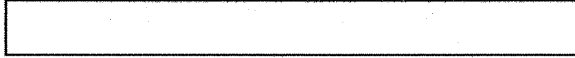
**d. (C) ACCRUAL AND USE OF LEAVE**

**(1) Annual Leave**

**(a) Accrual**


- (1)** Full-time employees accrue annual leave at the completion of each full biweekly pay period on the basis of cumulative years of Federal service as follows:
  - (a)** Less than three years of service: four hours.
  - (b)** At least three but less than 15 years of service: six hours, except that accrual for the last full biweekly pay period in the calendar year will be 10 hours.
  - (c)** Fifteen or more years of service: eight hours.
- (2)** Part-time employees with a regularly scheduled tour of duty on one or more days during each administrative workweek accrue annual leave at the completion of each full biweekly pay period on the basis of cumulative years of Federal service as follows:
  - (a)** Less than three years of service: one hour for each 20 hours in a pay status.
  - (b)** At least three but less than 15 years of service: one hour for each 13 hours in a pay status.
  - (c)** Fifteen or more years of service: one hour for

[REDACTED]



each 10 hours in a pay status.

- (3) Intermittent employees, scheduled in advance of the pay period, to work at some time during each administrative week for more than two consecutive pay periods will accrue annual leave for the duration of the regular tour of duty. Components must prepare personnel actions to convert intermittent employees to part-time or full-time status for the duration of the regular tour of duty to ensure they accrue appropriate leave.

- (b) **Accumulation.** Employees without overseas service may carry up to 240 hours of annual leave into a new leave year, and usually employees with overseas service may carry up to 360 hours of annual leave. When an employee who had a higher ceiling by virtue of an overseas assignment returns to the United States, the ceiling is permanently reduced in any leave year in which the annual leave balance at the end of the leave year is less than at the start of the leave year. Members of the Senior Intelligence Service (SIS) may carry as many as 720 hours. However, a personal leave ceiling for SIS officers protects additional leave accumulated as of 16 October 1994. The higher SIS personal ceiling is permanently reduced in any leave year in which the annual leave balance at the end of the leave year is less than at the start of the leave year. See AR 20-22m. Leave accumulated in excess of the above limits is forfeited at the end of the leave year. See AHB  for additional information on annual leave ceilings and restoration of forfeited annual leave.

(c) **Use**

- (1) Employees appointed for 90 days or longer may take accrued annual leave or be advanced annual leave beginning with their appointment date subject to the rules relating to the use and advancement of leave. Employees appointed for less than 90 days are entitled to annual leave only after being currently employed for a continuous period of 90 days under successive appointments without a break in service. If an initial appointment for less than 90 days is extended before its expiration date, the extension is considered a new appointment for purposes of annual leave entitlement.



[REDACTED]

(2) Supervisors and employees have a mutual responsibility to schedule annual leave throughout the leave year to ensure adequate staffing and avoid leave forfeiture. Supervisors are obligated to approve employee requests for annual leave unless work requirements prohibit the absence. Leave subject to forfeiture must be scheduled in writing before the start of the third pay period prior to the end of the leave year in order for such leave--if later forfeited--to be considered for restoration.

(3) **Advance Annual Leave.** An employee may be advanced only such annual leave as he or she may accrue during the leave year or prior to expiration of appointment, whichever is less.

(4) **Terminal Annual Leave**

(a) Annual leave taken immediately prior to separation from government service, when it is known in advance that the employee intends to separate, is called terminal leave. Except as outlined in d(1)(c)(4)(b) below, the granting of terminal leave is limited to cases where exigencies of the service require such action. Director, Human Resource Management approval is required.

(b) If an employee is declared excess under AR 20-27d(9), terminal annual leave may be used to qualify for an immediate retirement annuity or to carry health benefits coverage into retirement.

(2) **SICK LEAVE**

(a) **Accrual**

- (1) Full-time employees accrue four hours of sick leave at the end of each full biweekly pay period.
  - (2) Part-time employees with an established regular tour of duty accrue one hour of sick leave for each twenty hours in a pay status.
  - (3) Intermittent employees scheduled in advance of the pay period, to work at some time during each administrative week for more than two consecutive pay periods will accrue sick leave for the duration of the regular tour of duty. Components must prepare personnel actions to convert intermittent
- [REDACTED]

[REDACTED]

employees to part-time or full-time status for the duration of the regular tour of duty to ensure they accrue appropriate leave.

**(b) Accumulation**

- (1) Sick leave accumulates without limit for use in succeeding years.
- (2) Former Federal employees are entitled to a recredit of sick leave (without regard to their separation date) if reemployed in the Federal government on or after 2 December 1994, unless the sick leave was forfeited upon reemployment in the Federal Government before 2 December 1994 or was used in the computation of an annuity.

**(c) Use**

- (1) Sick leave may only be granted when supported by administratively acceptable evidence. A supervisor may consider an employee's certification as to the reason for his or her absence as administratively acceptable evidence. However, supervisor's may--at their discretion--request a medical certification or other acceptable evidence for any sick leave absences.

**(2) Sick Leave for Family Care**

- (a) As outlined in c(2)(c) and (d), employees may use sick leave to care for family members and to make arrangements for or attend the funeral of a family member within the limits outlined below:
  - (i) Full-time employees may use up to 40 hours of sick leave for family care or bereavement purposes. In addition, they may use up to 64 additional hours for a maximum of 104 hours (13 days) of sick leave for these purposes, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.
  - (ii) Part-time employees and employees with nonstandard tours of duty may use up to the average number of hours of work in the employee's scheduled weekly tour of

[REDACTED]



[REDACTED]

duty. In addition, they may use up to the number of hours of sick leave they normally accrue during the leave year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below twice the average number of hours in his or her weekly tour of duty. If the number of hours of work in an employee's tour of duty is changed during the leave year, the employee's entitlement to use sick leave for family care or bereavement purposes must be recalculated based on the new tour of duty.

- (iii) Supervisors and employees should monitor leave usage under these provisions to ensure that usage does not exceed allowable limits.
- (b) Employees are permitted to use sick leave for the entire period during which health authorities having jurisdiction or a health care provider determines that an employee's exposure to a communicable disease would jeopardize the health of others by his or her presence on the job. This time does not count toward the maximum allowed each year for family care or bereavement purposes. However, those limits do apply when an employee elects to take sick leave to care for a family member; and it cannot be determined that the employee's exposure to the family member's communicable disease would jeopardize the health of others.
- (3) **Sick Leave for Adoption.** Employees may use sick leave for purposes relating to the adoption of a child. The purposes for which an adoptive parent may request sick leave include appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed. See AHB [REDACTED]
- (4) **Advance Sick Leave.** When required by the exigencies of the situation, a maximum of 30 days sick leave with pay may be advanced for serious disability or ailment, or for purposes relating to the
- [REDACTED]

[REDACTED]

adoption of a child. Further, when an employee is serving under a limited appointment or one which will be terminated on a specific date, advance sick leave is limited to the total sick leave which could be earned during the term of appointment.

**(3) HOME LEAVE**

**(a) Accrual**

- (1) Full-time staff and eligible full-time contract personnel accrue home leave at the rate of 1 1/4 days for each month (fifteen workdays per year) of creditable service outside the United States. See AR 20-18 for information on computing creditable service.
- (2) Part-time staff and eligible part-time contract personnel accrue home leave as follows:

  - (a) Calculate the number of days of home leave a full-time employee would accrue during the same period.
  - (b) Determine the percentage of a 40-hour workweek that the employee's schedule represents (for example, 20 hours per week is 50 percent of a 40-hour workweek).
  - (c) Multiply the number of home leave days calculated in Step A by the percentage determined in Step B. The resulting figure is the number of days of home leave earned by the part-time employee. All fractions, including fractions that exceed .5 percent, are dropped. This formula equates home leave entitlements in 8-hour days. Therefore, each day taken is charged and paid as an 8-hour day.

**(b) Accumulation.** Home leave accumulates without limit but will not be the basis for any terminal or lump-sum leave payments. Accrued home leave not used during a period of home leave will be added to future accruals but may be used only after the employee has again become eligible for home leave following another qualifying period of service outside the United States.

**(c) Use**

- (1) Provided the employee has served at least 18
- [REDACTED]

[REDACTED]

months of continuous creditable service outside the United States and meets the other conditions of eligibility stated in d(3) as applicable, home leave may be granted as soon as administratively convenient after tour completion as prescribed in advance in the Service Abroad Agreement or upon official approval of the employee's return short of the prescribed tour. (The procedure for official approval of return short of tour is prescribed in AR 20-18.)

- (2) Employees and managers are reminded that home leave is not to be construed as an extension of annual leave. Employees do not need to be "Re-Americanized" if they have only been away for a short period of time. Therefore, an employee who has completed less than 18 months of continuous creditable service may be granted home leave only under exceptional circumstances. The authorization of an employee's early return at the convenience of the government is not sufficient in and of itself to permit granting of home leave without the 18-month continuous creditable service. Requests for exception to the 18-month requirement may be approved by the Director, Human Resource Management upon the concurrence of the Deputy Director concerned and the certification by the Operating Official of the exceptional circumstances on which the request is based. (See AHB [REDACTED] D/HRM approval authority cannot be delegated.
- (3) Home leave may be approved for use only in the United States, the Commonwealth of Puerto Rico, or possessions of the United States upon completion of a prescribed period of service outside the United States when the Career Service contemplates that the employee will return to service outside the United States immediately after home leave or upon completion of an assignment in the United States. A home leave point will be established in accordance with the requirements of AR [REDACTED] and AHB [REDACTED]
- (4) When the future assignment of an employee to a foreign area is not contemplated because of medical, security, or Career Service considerations, the Career Service will present recommendations to
- [REDACTED]

[REDACTED]

the Director, Human Resource Management for approval. Cases involving medical or security considerations will be forwarded through the Director of Medical Services or the Director, Center for CIA Security, as appropriate, for a recommendation.

- (5) Part-time employees who are assigned overseas in their own right are eligible for home leave benefits at the completion of the tour provided they satisfy the criteria outlined in paragraph d(3). For purposes of these benefits, a part-time employee is assigned overseas in his or her own right if:
- (a) A specific overseas assignment--with a regularly scheduled tour of duty of not less than 16 hours nor more than 32 hours per week--is determined and arranged before travel begins to the overseas post;
  - (b) The employee agrees to a specific tour of duty, and completes Form 3154, Service Abroad Agreement; and
  - (c) The employee travels from the United States, or from another overseas post, to the post of assignment on his or her own travel orders. The employee cannot travel as a dependent.

Part-time employees who are not assigned overseas in their own right receive home leave accruals which remain to their credit until they are eligible to use home leave.

**(d) Home Leave Upon Returning From a Foreign Area for an Assignment in the United States**

- (1) When an employee is returning from a foreign area for an assignment in the United States, the standard of eligibility for home leave will be met by a determination by the Career Service concerned that the employee's return to a foreign area is contemplated. Notification of the determination will be given to the field prior to the employee's return to the United States. This finding will serve as the basis for designating home leave, if applicable, in the employee's return PCS travel order.
- [REDACTED]

[REDACTED]

(2) If an employee's return to service in a foreign area is contemplated following an assignment in the United States, home leave may be authorized even though the specific timing or location of return to service outside the United States is not known at the time the determination is made by the Career Service.

(3) Employees may be granted--prior to reporting to their new duty station in the United States--the amount of home leave accrued during the immediately preceding tour. For example, full-time employees returning from:

(a) An 18-month tour would be eligible for up to 22 days of home leave.

(b) A 24-month tour would be eligible for up to 30 days of home leave.

(c) A 36-month tour would be eligible for up to 45 days of home leave.

(4) After reporting for duty, and within six months of arrival in the United States, employees may be granted--at the supervisor's discretion--home leave beyond the amount accrued during the immediately preceding tour.

(5) [REDACTED]

**(e) Home Leave Between Consecutive Tours Abroad**

(1) Employees are expected to take at least 20 workdays of leave or combined leave and temporary duty in a nonforeign area prior to returning overseas.

(2) The maximum time authorized for travel, consultation, and leave between two overseas assignments or between successive tours at the

[REDACTED]

[REDACTED]

same post normally will be 60 calendar days.

- (3) Any TDY en route or in conjunction with home leave which exceeds the normal five-day consultation period will not count against the 60-day limitation, but such TDY will be held to a minimum.
- (4) Individual exceptions to the 60-day limitation may be granted by the Operating Officials or Heads of Independent Offices involved when justified by circumstances such as:
  - (a) Need for added rest and recuperation due to service under particularly difficult circumstances;
  - (b) Exceptional delay of home leave due to operational requirements abroad;
  - (c) Serious personal or family problems;
  - (d) Abbreviated home leave when last authorized; or
  - (e) Other unusual circumstances warranting home leave in excess of the normal maximum. Requests for exceptions must be forwarded with the request for travel orders and include substantiating information.
- (5) If circumstances necessitate, Heads of Career Services, Operating Officials, and Heads of Independent Offices may, after coordination with the Director, Human Resource Management, temporarily establish a more restrictive limit on maximum time between assignments for personnel under their jurisdiction.

**(f) Deferred Home Leave**

- (1) With the gaining component's concurrence, the Operating Official or Head of Independent Office may approve deferral of home leave and home leave travel as outlined in d(3)(f)(1)(a) and (b) below.
  - (a) **Upon Return to CONUS.** If because of mission critical reasons an employee is unable to take the full amount of home leave accrued during the immediately preceding tour--prior to reporting for duty in the United States--the

[REDACTED]

[REDACTED]

unused balance may be deferred for up to six months after arrival in the United States.

(b) **Between Tours Abroad.** In unusual circumstances home leave may be deferred for up to six months after the employee reports for duty in a new assignment in the field. When home leave is deferred on a lateral transfer, the tour at the new post begins with the employee's permanent change of station (PCS) arrival; however, time away from the post while on deferred home leave extends the tour length. In addition, the employee must complete, upon return to post from home leave, at least 18 months of continuous service to be eligible for the next period of home leave.

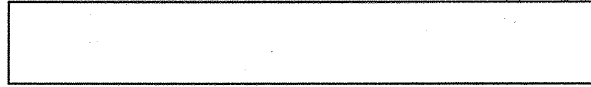
(2) Deputy Directors and the Executive Director have the authority to approve extensions of home leave beyond six months, not to exceed 12 months, for mission-critical reasons. This authority cannot be redelegated. There are no exceptions to the 12-month limit.

(3) Mission-critical refers to the urgent, unavoidable press of Agency business in instances which could not have been reasonably predicted. By definition, mission-critical cases will be rare. Mission-critical should not be used as a substitute for poor planning. Managers should factor home leave into their planning when determining an employee's reporting date.

(4) The employee must obtain [REDACTED] approval for deferred home leave, if appropriate.

(g) **Home Leave Refund.** An employee who has been granted home leave but does not return to a post outside the United States, and elects to separate from the Agency within six months (excluding any LWOP) after reporting for duty from home leave, must refund the home leave and home leave travel payments, unless the Director, Human Resource Management determines the employee's separation is in the public interest or due to compelling personal reasons. The six-month period is based on the last day of home leave charged by the employee.

[REDACTED]



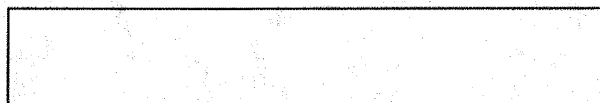
**(h) Home Leave Will Not Be Authorized when the employee:**

- (1) Is within two years of mandatory retirement and PCS return to a foreign area before retirement is not contemplated.
- (2) Is returning to Headquarters for employment separation (including retirement).
- (3) Fails to complete the prescribed tour for the foreign post unless an early return is officially approved (see AR 20-18).
- (4) Has indicated that he or she does not intend to serve another tour abroad.
- (5) Will not have an onward assignment, is being converted to intermittent status, or will be absent from the Career Service in an LWOP status.

**(4) MILITARY LEAVE**

**(a) Eligibility**

- (1) Permanent or temporary indefinite employees are entitled to military leave for active duty or training as a Reserve of the Armed Forces or member of the National Guard;
- (2) Permanent or temporary indefinite employees who are members of a Reserve component of the Armed Forces or the National Guard called to duty for law enforcement purposes or for the purpose of providing assistance to civil authorities in the protection or saving of life or property or the prevention of injury are entitled to military leave;
- (3) Employees who are members of the National Guard of the District of Columbia are entitled to military leave for each day of a parade or encampment ordered or authorized under title 39, District of Columbia Code, when ordered to perform by the commanding general; or
- (4) Military reserve technicians who are on active duty without pay for participation in noncombat operations outside the United States, its territories or possessions are entitled to military leave under some circumstances.





[REDACTED]

(5) Temporary indefinite employees are those employees with appointments of one year or more.

(b) **Accrual.** Reservists and members of the National Guard outlined in a(1) above accrue 15 calendar days of military leave each fiscal year. This leave is credited to their leave accounts at the beginning of the fiscal year or upon initial appointment in the fiscal year. Part-time employees accrue military leave on a prorated basis (see AHB [REDACTED] for calculations).

(c) **Accumulation.** Military leave earned under d(4)(a)(1) above that has not been used at the end of the fiscal year (up to 15 calendar days) is carried forward for use in addition to the 15 days credited at the beginning of the new fiscal year. Unused military leave in excess of 15 calendar days will be forfeited at the end of the fiscal year. Therefore, full-time employees may have up to a maximum of 30 calendar days of military leave available for use during a fiscal year.

(d) **Use**

(1) Eligible employees may use their authorized military leave during one or more military duty periods each fiscal year. They may take a full 15 days of military leave immediately at the start of a fiscal year even if they took a maximum of 30 days in the prior fiscal year and the military duty is continuous.

(2) In addition to military leave authorized in d(4)(a)(1) above, up to 22 workdays of military leave may be used in a calendar year as specified in d(4)(a)(2) .

(3) Military leave granted under d(4)(a)(3) above is not limited.

(4) Up to 44 workdays of military leave may be used in a calendar year for the purposes specified in d(4)(a)(4) .

(5) For extended military active duty periods, employees who exhaust their authorized military leave may use annual leave or LWOP for the remaining required absence.

(6) Pay (other than a travel, transportation, or per diem allowance) received for military duty under

[REDACTED]

[REDACTED]

the provisions of d(4)(a)(2) and (3) above will be credited against the employee's Agency pay for that period. The employee is required to submit to Compensation Group, Human Resource Management, a certified copy of the military pay voucher for each period of active service.

**e. (U) INJURY INCURRED WHILE SERVING ABROAD.**

Leave may not be charged to an employee for absence, not to exceed one year, due to an injury incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action, provided the injury is not due to vicious habits, intemperance, or willful misconduct on the part of the employee.

**f. (C) ABSENCE FROM DUTY OF CHIEFS OF STATION**

[REDACTED]

(4)

(5)

(6)

(7)

**g. (C) RESPONSIBILITIES**

**(1) Heads of Career Services will:**

**(a) Serve as the approval authority for:**

- (1) In CONUS--extensions of home leave beyond six months, not to exceed 12 months, for mission-critical reasons.**
- (2) Between tours abroad--deferrals of home leave beyond six months for mission-critical reasons.**
- (3) Advance sick leave up to a maximum of 30 days for serious disability or ailment or for purposes relating to the adoption of a child, subject to the concurrence of the Director of Medical Services, and upon the employee's submission of a physician's certificate.**
- (4) Requests by SIS members for leave without pay for periods up to 12 months (see AR 20-22m).**

**(b) Determine eligibility for home leave in accordance with**



d(3).

- (2) Operating Officials and Heads of Independent Offices are responsible for administering leave within their jurisdiction and will:

(a) Serve as the approval authority for:

(1) LWOP--including for maternity reasons--not exceeding 12 months except for SIS employees. (Note: See AR 20-36 for Medical Leave Bank coverage of absence for maternity reasons.)

(2) Designation of home leave points.

(3) Home leave granted in accordance with paragraph d(3).

(4) Deferrals of home leave of six months or less for mission-critical reasons.

(5) All other leave except as specified in paragraphs g(1), (3), (4), (5), and (6) below.

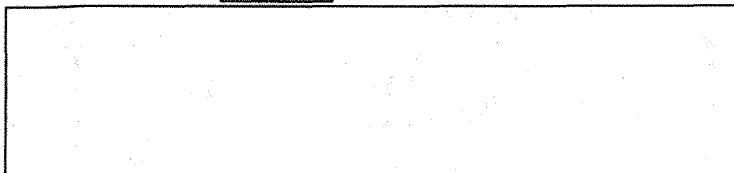
(6) Requests for the substitution of annual leave for advanced sick leave.

(b) Notify Human Resource Management when an employee is granted leave of 60 calendar days or more so that clearance processing (through the Center for CIA Security, for example) may be effected before the leave begins.

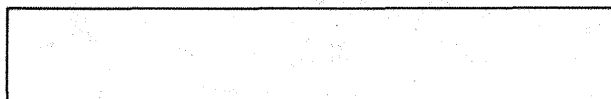
(c) Ensure supervisors under their jurisdiction keep informed of the whereabouts of their employees who are on leave.

Operating Officials and Heads of Independent Offices may delegate leave approval authority, including LWOP not exceeding 30 calendar days, to subordinate supervisory personnel.

(3) Chiefs of Station  will:



(b) Notify the Operating Official when an employee is granted leave of 60 calendar days or more.



- 
- (4) The Director, Human Resource Management will:
- (a) Coordinate and approve extensions of LWOP beyond 12 months, as appropriate.
  - (b) Serve as the approval authority for:
    - (1) Exceptions to the 18-month overseas service requirement for home leave.
    - (2) Exceptions to the requirement to take at least 20 workdays of home leave or combined leave and temporary duty in a nonforeign area prior to returning overseas.
    - (3) Waivers of the six-month service requirement following home leave.
    - (4) Home leave for all cases in which a Career Service is uncertain as to the future assignment of an employee to a foreign area because of medical, security, or Career Service reasons (see paragraph d(3)(c)(4) ).
    - (5) Restoration of forfeited annual leave (see AHB
    - (6) Terminal annual leave.
    - (7) Home leave points.
  - (c) Ensure that employees granted leave of 60 calendar days or more undergo clearance processing.
  - (d) Ensure that leave reported has been properly approved in accordance with the provisions of this regulation.
  - (e) Maintain employees' official leave records.
- (5) The Director of Medical Services will provide advice in connection with approval of advance sick leave and requests for leave from the Medical Leave Bank.
- (6) Supervisors will:
- (a) Approve or disapprove leave, as appropriate, within the authority delegated to them by Operating Officials and Heads of Independent Offices.
  - (b) Ensure individuals under their jurisdiction have the opportunity to take annual leave, especially that which otherwise would be forfeited.
  - (c) Take such measures as are feasible to keep informed of
-

[REDACTED]

the whereabouts of their employees who are on leave.

- (d) Ensure that time and attendance personnel are informed of their responsibilities and the established procedures for accurately recording employees' absences.
- (7) Employees will:
- (a) Participate with supervisors in orderly planning for leave use, including presenting timely leave requests.
  - (b) Ensure that leave is accurately reported and recorded.
  - (c) Maintain personal leave records for their own reference.
  - (d) Secure supervisory approval in advance of taking leave. When illness or an unforeseen emergency precludes obtaining prior approval, employees must notify their supervisor immediately, generally within the first two hours of the first day of unauthorized absence (see AR 10-19) and advise their supervisor of the expected return to duty date. Absence for any cause, without prior permission, must be satisfactorily explained; otherwise, it will be charged as absence without leave and employees may be subject to disciplinary action (see HR 20-6).
- [REDACTED]
- (g) Keep supervisors informed of their whereabouts while on leave.
  - (h) Designate a home leave point, if appropriate.
- [REDACTED]

~~SECRET~~(b) (1)  
(b) (2)  
(b) (3)~~SECRET~~**Date:** 10/13/2004**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-31 PAY

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**REVISION SUMMARY:** 13 October 2004

This regulation supersedes HR 20-31, dated 9 October 1998.

HR 20-31 is revised and designated \*AR 20-31. This revision also reflects that with the implementation of the Domestic Living Quarters Allowance (DLQA), Mobility Incentive Pay (MIP) is no longer a valid pay policy. In addition, paragraph e, refers Agency employees to Agency Notices AN [ ] and AN [ ] for current information on Addition to Compensation (ATC).

\*This redesignation is part of an ongoing conversion to one set of Agency regulations for both headquarters and the field.

*Because this regulation has been extensively revised, boldfaced text has not been used to indicate revisions.*

*This regulation was written by the Policy Branch, Centralized and Deployed Human Resources, Chief Human Resources Office (HR Policy @DA).*

**31. (U) PAY**

**(C) SYNOPSIS.** This regulation sets forth Agency policy and responsibilities pertaining to salary administration for appointments, step increases, promotions, changes to lower grade and salary retention, wage administration for prevailing rate positions, [ ] mobility incentive payment, settlement of compensation differences, verification of pay, unpaid compensation of deceased employees, addition to compensation, tuition assistance program, and disposition of paychecks.

**a. (U) POLICY.** It is Agency policy to maintain a sound and internally equitable

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DATE: JAN 2008~~SECRET~~

~~SECRET~~

compensation structure. Rules and procedures are herein established for Agency pay administration.

- b. **(U) SALARY ADMINISTRATION.** The Director of Central Intelligence is authorized to establish and approve rates of pay for Agency employees. The Deputy Director of Central Intelligence and the Deputy Director for Planning and Coordination may only approve pay rates affected by congressional action and that also apply to other agencies. Agency policy on the position classification program is found in AR 20-11~~1~~, which provides for a position grade structure that will promote and maintain internal job and pay equity within occupations across Agency components. Basic pay fixing rules are outlined as follows:

- (1) **NEW APPOINTMENTS.** Individuals with no prior Federal civilian service will be appointed at the minimum rate of the grade to which they are assigned unless:

- (a) The Director of Personnel approves an appointment to a higher step in an individual case.
- (b) The individual is being appointed to a position within a class of positions for which the Director of Personnel, in conformance with Office of Personnel Management determinations of such classes, has established an increased rate.

- (2) **APPOINTMENT BY TRANSFER OR REEMPLOYMENT.** When individuals with prior Federal civilian service are appointed, the step of their grade will be determined in accordance with this paragraph unless the Director of Personnel approves a higher step in an individual case.

- (a) Individuals who have had prior service at a grade level that is equivalent to or higher than the grade to which they are being appointed may be appointed at any step of their grade that is not in excess of the present pay rate for the highest grade and step previously held. If the present pay rate for the highest grade and step previously held falls between two steps of their grade, the higher step may be selected. In the selection of the appropriate step, the Director of Personnel will consider such discretionary factors as the extent and nature of the individual's prior civilian service, the degree to which the individual is qualified for the position of assignment, and the resulting salary alignment within the component to which the individual is being assigned.
- (b) Individuals who have had prior service at one or more grade levels that are all below the grade to which they are being appointed will be appointed at the minimum rate of their grade unless the provisions of paragraphs b(1)(b) or b(2)(c) are applicable.
- (c) Individuals appointed, without a break in service of 1 workday or more, to a grade higher than both the highest grade previously held and the grade last held will be appointed at the lowest step of the grade that is at least two steps higher than the last grade held.

- (3) **STEP INCREASES.** Regular and quality step increases will be granted in accordance with the provisions of this paragraph to employees (except temporary

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employees) compensated under the Classification Act of 1949, as amended, who are receiving pay at less than the maximum scheduled rate of their grades. A regular or a quality step increase will not be granted while a proposed adverse action based upon misconduct or unsatisfactory performance is pending.

**(a) Regular Step Increases**

**(1) Requirements.** The granting of a regular step increase to employees is contingent upon the completion of a prescribed waiting period and a positive certification in writing that their work is of an acceptable level of competence.

**(a) Waiting Period.** Advancement to the next higher within-grade step may be granted to employees upon the completion of the following number of calendar weeks of creditable civilian service: 52 weeks in steps 1, 2, and 3; 104 weeks in steps 4, 5, and 6; 156 weeks in steps 7, 8, and 9. A waiting period begins as follows:

- (i) Upon a new appointment in the Federal service;
- (ii) After a break in service or a nonpay status in excess of 52 calendar weeks; or
- (iii) After an increase or total of increases in base pay within a prescribed waiting period equal to a full step for the employee's grade, even though such an increase may have been under a different pay system. A quality step increase (QSI) or any increase in compensation granted by law will not be construed as an increase in compensation that requires the beginning of a new waiting period. If, however, the granting of a QSI advances an employee to either step 4 or step 7, the length of the waiting period will be increased accordingly.

Creditable civilian service toward a waiting period includes leaves of absence granted because of an injury for which compensation is payable under the Federal Employees' Compensation Act; absence for military duty; and time in a leave-without-pay (LWOP) status up to a total of 2 workweeks in steps 1, 2, and 3; 4 workweeks in steps 4, 5, and 6; and 6 workweeks in steps 7, 8, and 9.

**(b) Acceptable Levels of Competence.** In determining whether the work of an individual is of an acceptable level of competence, the supervisor must evaluate the employee's total work performance in relation to the overall requirements of the position. The supervisor should recognize that skills and strong points in performance will vary from person to person, and that employees who are not particularly strong in certain job factors may compensate for such performance by excellent work in other aspects of the job. The supervisor's determination should be based on an assessment of the employee's

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work in a broad context that includes any special demands of the position. Such factors as reliability, willingness to cooperate, acceptance of responsibility, and general effectiveness should also be considered since they directly relate to the employee's level of competence. An employee may be certified as performing at an acceptable level of competence if the supervisor determines that, in total, the employee's performance is satisfactory and above that of the employee whose performance is slightly less than proficient. An employee's work is not of an acceptable level of competence if performance is unsatisfactory or marginal.

(2) **Notification.** The Office of Personnel (OP) will forward a certification form (Form 560, Pay Change Notification) to the office concerned 60 days before the date that an employee will complete the prescribed waiting period.

(3) **Certification.** A written certification as to whether the work of an individual is of an acceptable level of competence must be made before the employee completes the waiting period for a regular step increase. Whenever a step increase is withheld, a new certification concerning the employee's performance must be made within a year.

(a) **Certifying Official**

(i) For employees assigned to headquarters the required certification will be made by the employee's immediate supervisor; that is, the person who would ordinarily prepare and sign the individual's performance appraisal report. The supervisor may consult the employee's previous supervisor to obtain assistance in determining the performance level.

(ii) In the case of overseas employees and other employees not assigned to headquarters, the required certification signature of Form 560 will be made at headquarters by the appropriate Operating Official. This certification, however, will be based upon a current determination from the field that the employee concerned is performing at an acceptable level of competence.

(b) **Approval of Step Increases.** If an employee's work is of an acceptable level of competence, the appropriate official will so certify in the space provided on Form 560 and forward all copies of the signed form through command channels to Office of Personnel no later than the end of the prescribed waiting period.

(c) **Withholding of Step Increases**

(i) If an employee's work is not of an acceptable level of competence and the step increase is to be withheld, the supervisor will inform the employee by memorandum, preferably at least 30 days before

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but in no case later than the end of the prescribed waiting period. The memorandum will set forth the specific conditions and reasons for the determination and the time when the supervisor plans to reappraise the employee's performance. At the time the employee is informed, the supervisor will forward a signed copy of the memorandum, attached to the unsigned Form 560, through command channels to the Director of Personnel. When the employee is assigned to the command jurisdiction of another Career Service, a copy of the memorandum will be forwarded to the Head of the employee's Career Service.

- (ii) If a step increase is withheld because of correctable deficiencies in performance, employees will be given all reasonable assistance and guidance to help them improve their work and establish eligibility for the step increase. A positive certification that an employee's work is currently of an acceptable level of competence may be made at any time after a step increase has been withheld. Normally, however, such certification will not be made until employees have demonstrated for a period of at least 90 days that they have raised their work performance to an acceptable level of competence. Certification to this effect must be by memorandum forwarded through command channels to the Director of Personnel.
- (iii) Employees who, after discussion with their supervisors, believe that the memorandum of notification does not accurately reflect their performance may appeal in accordance with the provisions of AR 7-6, Grievance Systems. Employees must initiate requests for reconsideration within 10 days after they receive notice that their step increase are being withheld.

**(4) Effective Date**

- (a) Step increases become effective at the beginning of the next biweekly pay period following completion of the required waiting period and after positive certification that performance is of an acceptable level of competence.
- (b) When a positive certification of an employee's eligibility is made after the step increase has been withheld, the effective date of the step increase is the first day of the first pay period beginning after the date the positive certification is made.
- (c) When a step increase is delayed beyond its proper effective date through administrative oversight, error, or delay, the increase will be made effective as of the date it was properly due.
- (d) When the effective date of a step increase occurs simultaneously with the effective date of any personnel action that effects an employee's grade level, the actions will be processed in the order that

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give the employee the maximum benefit.

**(b) Quality Step Increases**

**(1) General**

- (a) QSI's are granted, apart from and in addition to regular step increases, in recognition of high quality performance above that ordinarily found in the type of position concerned. They are designed to encourage excellence by recognizing and rewarding employees at all levels whose sustained work performance substantially exceeds normal requirements. There may be instances when a specific accomplishment during a period on which a QSI is based also warrants recognition under the Honor and Merit Awards Program. Approval of a QSI does not preclude this additional recognition.
- (b) A recommendation for a QSI must be carefully considered in terms of individual merit as recognition of a sustained level of excellence that is judged to be characteristic of the employee's performance. Requests should be submitted in a time frame related to the sustained performance and not in lieu of promotion or because of lack of promotional headroom. QSI's indefinitely raise the employee's future salary, are comparatively expensive in the long run, and have an impact on the total Agency work force. It is important, therefore, that only those employees whose performance wholly merits special recognition are recommended for such increases.

**(2) Eligibility**

- (a) A QSI consisting of one step within the pay range of the currently held grade may be granted to any GS-grade full-time or regularly scheduled part-time employee whose performance is determined to be of sustained high quality. No more than one QSI will be granted to an individual within a 52-week period.
- (b) Since a QSI is based on sustained high quality performance at the grade of the employee in the position to which assigned, such an increase normally will not be granted an employee whose personal grade exceeds that of the position to which assigned.
- (c) Although an employee who has received a QSI will not necessarily be required to exceed the performance on which the increase was based to be eligible for another QSI, care must be exercised to ensure that QSI's are not repeated on an automatic basis.

- (3) Criteria.** High quality performance is characterized by an employee performing the most important functions of the job in a manner that substantially exceeds normal requirements and job standards. When viewed as a whole, the total work performance must be of a high degree of

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effectiveness.

- (a) High quality performance must exceed "medium," "average," "typical," or "proficient" work to such an extent that the employee concerned merits faster-than-usual pay advancement.
  - (b) Such high quality performance must be sustained for at least 6 months and must give promise of continuing at the same high level in the same position.
  - (c) A "strong" or "outstanding" performance in a position of a grade higher than the employee may be considered in determining the merit of an award but will not be the sole criterion for recommending a QSI.
  - (d) Unless the QSI recommendation is substantively detailed or the current performance appraisal report supports the recommendation and covers the appropriate timeframe, a special performance appraisal report will be required.
  - (e) Since selection for promotion usually includes consideration of high level performance that a QSI would normally recognize, it is appropriate for supervisors to hold QSI recommendations for a short period when comparative promotion reviews are in progress. In the event the employee is not promoted as the result of the promotion review, the recommendation for QSI may be forwarded.
- (4) **Recommendation.** An employee's supervisor may recommend that the employee be given a QSI by forwarding a memorandum through channels to the Head of the employee's Career Service.
- (a) The memorandum must indicate specifically in what way the employee's performance of the most important functions of the job has substantially exceeded the normal requirements of the position.
  - (b) The memorandum also must indicate that such high quality performance is expected to continue.
- (5) **Approval.** The Head of the employee's Career Service, or a sole senior subordinate designated in writing, will consider the recommendation, determine whether the employee's performance merits a QSI, and, if the determination is positive, will approve the recommendation and forward it to Transactions and Records Branch, Office of Personnel (TRB/OP). The increase will be effective at the beginning of the first biweekly pay period after the receipt of the approval in TRB.
- (6) **Relation to Regular Within-Grade Increase.** QSI's are in addition to regular within-grade increases and are not considered to be equivalent increases in pay. An employee who receives a QSI does not thereby start a new waiting period to meet the time requirements for a regular within-grade increase. When a QSI places an employee in the fourth or

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seventh step of the grade, credit is given for the time spent at the lower step towards completion of the waiting period requirement for advancement to the fifth or eighth steps.

- (7) **Relation to Honor and Merit Awards.** While the QSI is a device specially geared to recognize and reward high quality performance, incentive awards will continue to be available for granting monetary as well as honorary recognition for excellence in performance and in some cases will be a more appropriate form of recognition and reward. When conditions for QSI's are met, but it is considered that this kind of recognition would be insufficient, a supervisor may recommend another more appropriate honor or merit award. This might occur, for example:

- (a) When an employee would enjoy the benefits of an additional within-grade increase for an insufficient length of time, (for example, nearing retirement or about to resign).
- (b) When the employee's contribution is so significant that a lump-sum payment is a more fitting recognition than a smaller continuing benefit.

Because the QSI is related to the employee's overall performance of specific job functions in a position at or above the currently held grade for a 6-month period, an incentive award is the only choice when achievements are nonrecurring, occur in a special work situation of limited duration, or are the result of a group achievement.

#### (4) PROMOTIONS

- (a) Employees (other than those serving in a salary retention period) who are promoted to a higher grade will receive basic compensation at the lowest step of the higher grade that exceeds their existing rate of basic compensation by not less than two step increases. If there is no rate in the higher grade that is at least two step increases above their existing rate of basic compensation, they will receive the maximum rate of the higher grade.
- (b) Employees who are promoted to a higher grade while serving in a salary retention period (as authorized in accordance with paragraph (5)(d) below) will receive basic compensation either at the lowest step of the higher grade that is two step increases above the rate they would have been receiving were it not for salary retention, or at their retained rate, whichever is higher.

#### (5) CHANGES TO LOWER GRADE AND PAY RETENTION

- (a) For Other Than Unsatisfactory Job Performance. This policy does not apply to Senior Intelligence Service (SIS) employees. SIS grade and pay retention policy is addressed in AR 20-22.
- (1) An employee who is involuntarily reduced to a lower grade for any reason other than unsatisfactory job performance will receive grade and pay retention.

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(2) An employee who is reduced to a lower grade under the above conditions, and who has served for 52 consecutive weeks or more in one or more positions at a grade or grades higher than that of the new position, is permitted to retain their grade for two years and receive annual salary increases and within-grade increases. This grade retention period would terminate when the employee:

- (a) Has a break in service of one workday or more;
- (b) Is reduced in grade for personal cause or at the employee's request;
- (c) Is placed in, or declines a reasonable offer, of a position the grade of which is equal to or higher than the employee's retained grade; or
- (d) Elects in writing to have the benefits of this policy terminated.

(3) An employee is eligible for pay retention as the result of:

- (a) The expiration of the two-year period of grade retention;
- (b) Being involuntarily downgraded, for reasons other than unsatisfactory performance, and having served for less than 52 consecutive weeks in a position at a grade higher than that of the new position;
- (c) A reduction or elimination in a special pay rate; or
- (d) The placement of an employee into a non-special pay rate position or into a lower special pay rate position.

In a pay retention status, an employee's rate of pay is limited to 150 percent of the maximum rate of the lower grade. During an indefinite period, the employee is entitled to 50 percent of each annual pay comparability increase. The employee is also eligible to receive the full amount of any applicable locality payment, in addition to the retained rate. The rate of pay for the lower-graded position will ultimately match the employee's pay retention rate. Pay retention is terminated when the employee:

- (i) Has a break in service of one workday or more;
- (ii) Is entitled to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under this policy; or
- (iii) Is reduced in grade for personal cause or at the employee's request.
- (iv) Elects in writing to have the benefits of this policy terminated.

(b) **Unsatisfactory Job Performance or Misconduct.** Employees who are reduced to a lower grade as a result of unsatisfactory job performance or misconduct will be paid at the step of the lower grade to which they would have progressed had they not been promoted to the higher grade. Their rate of

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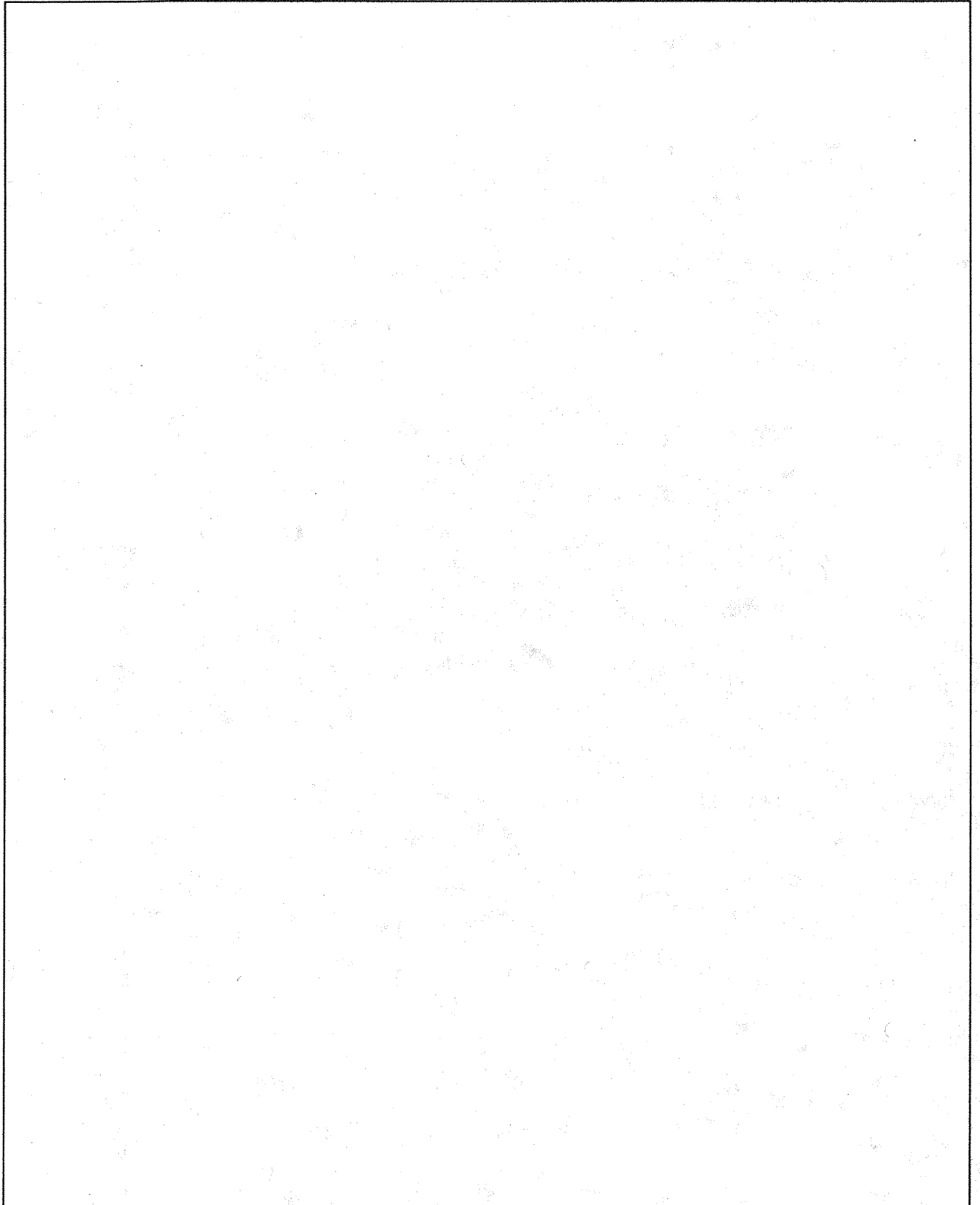
compensation at the lower grade will not exceed their rate of compensation at the grade from which they were reduced.

- (c) **Failure to Qualify in Clerical Skills.** Employees who are reduced to a lower grade as a result of their failure to qualify in clerical skills upon entrance-on-duty will be paid at the lower grade and step to which they would have been appointed had they been appointed initially at the lower grade.
  - (d) **Salary Retention.** Employees who are reduced to a lower grade may be permitted to retain their existing rate of compensation for a period of 2 years at the discretion of the Director of Personnel, provided that (1) reduction to a lower grade is not due to the employee's own request, a personnel reduction resulting from a lack of funds or curtailment of work, unsatisfactory job performance, or misconduct; (2) their existing rate of compensation exceeds the maximum rate of the lower grade; and (3) they have had 2 years of continuous service in any grade or grades higher than the grade to which they are reduced. Upon termination of the 2-year salary retention period, their salaries will be adjusted to the maximum rate of the lower grade.
- c. **(U) WAGE ADMINISTRATION.** Wage administration applies to those positions and employees whose rates of compensation are fixed and periodically adjusted in accordance with prevailing rates in the locality or industry concerned on the basis of wage surveys conducted by Government wage boards or similar administrative authorities.
- (1) Agency wage administration for staff personnel is based on wage plans and schedules in effect in other Government agencies. The plans and schedules adopted by the Agency are those of the Federal Wage System and Interdepartmental Lithographic Wage Board, the Government Printing Schedule, and the Graphic Arts Schedule.
  - (2) Agency wage administration for Foreign Broadcast Information Service (FBIS) alien employees is based on wage plans and schedules established by the Agency or by other Government agencies for the foreign area in which the FBIS alien employee is employed. Rates are fixed and periodically adjusted in accordance with the prevailing pay practices of that area. The effective date of such adjustments will be the same effective date as used by the Department of State (or other "lead" agency, if appropriate) in adjusting its foreign national compensation plan for the given foreign area.

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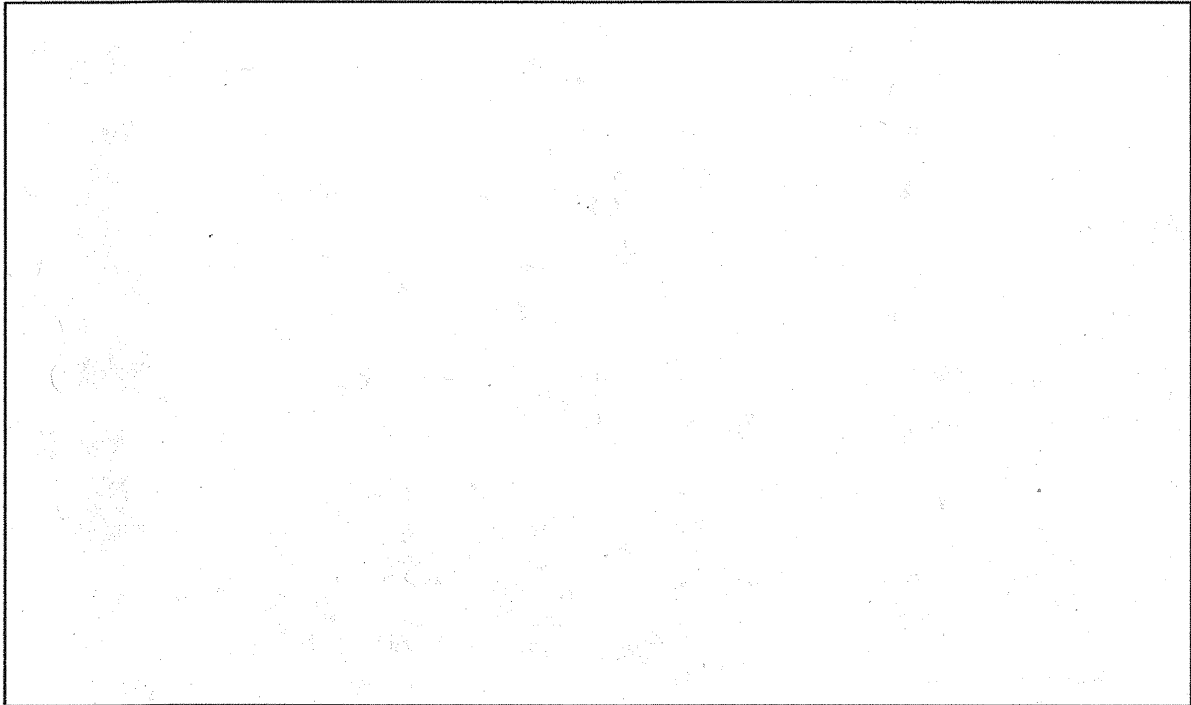


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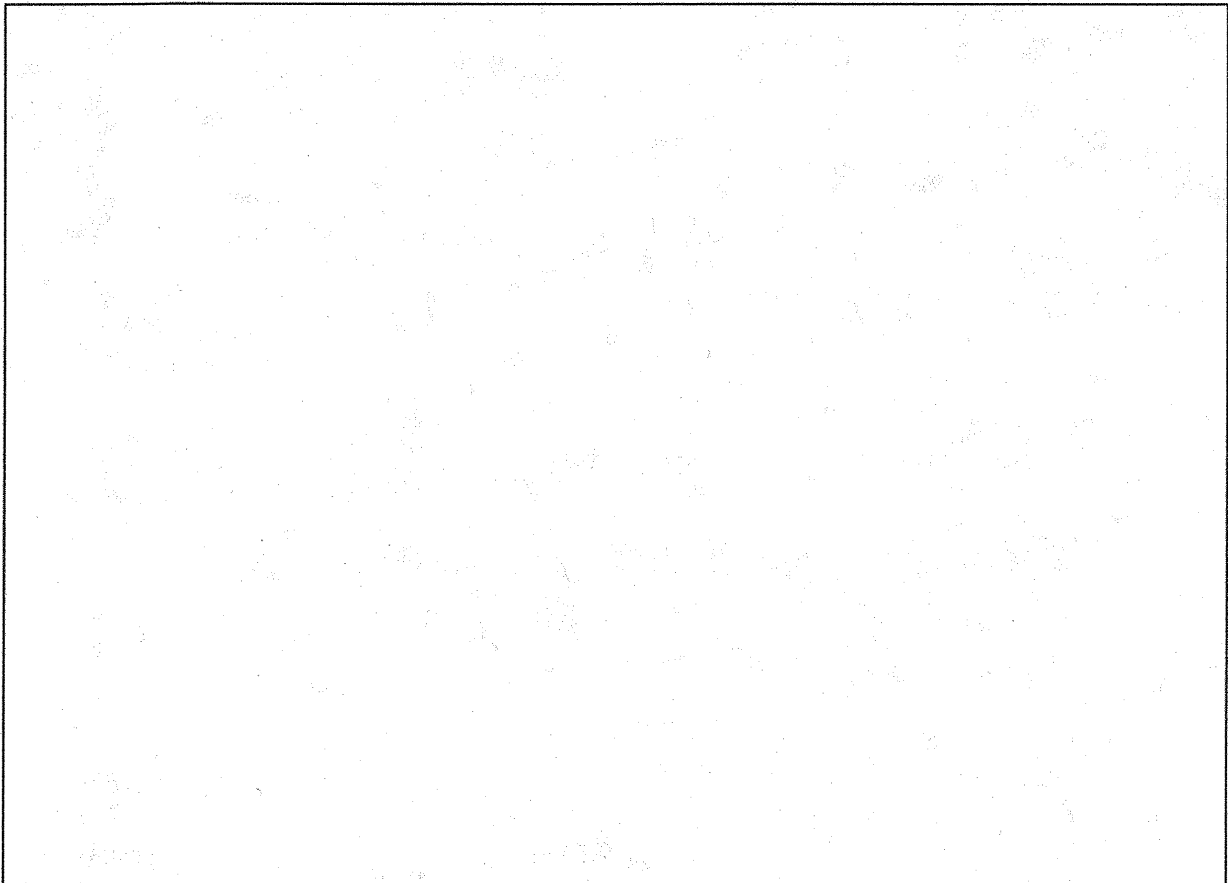
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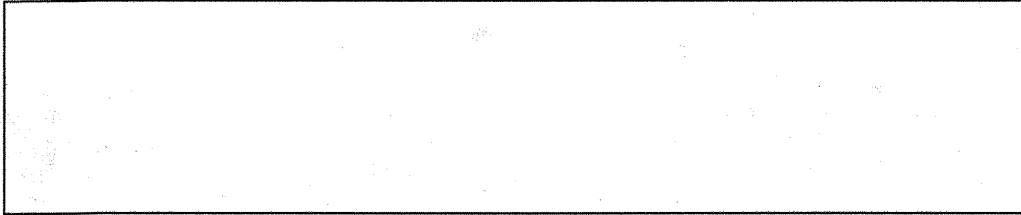


e. **(AIUO) ADDITION TO COMPENSATION.** Please see Agency Notices AN  and  for current information on Addition to Compensation.

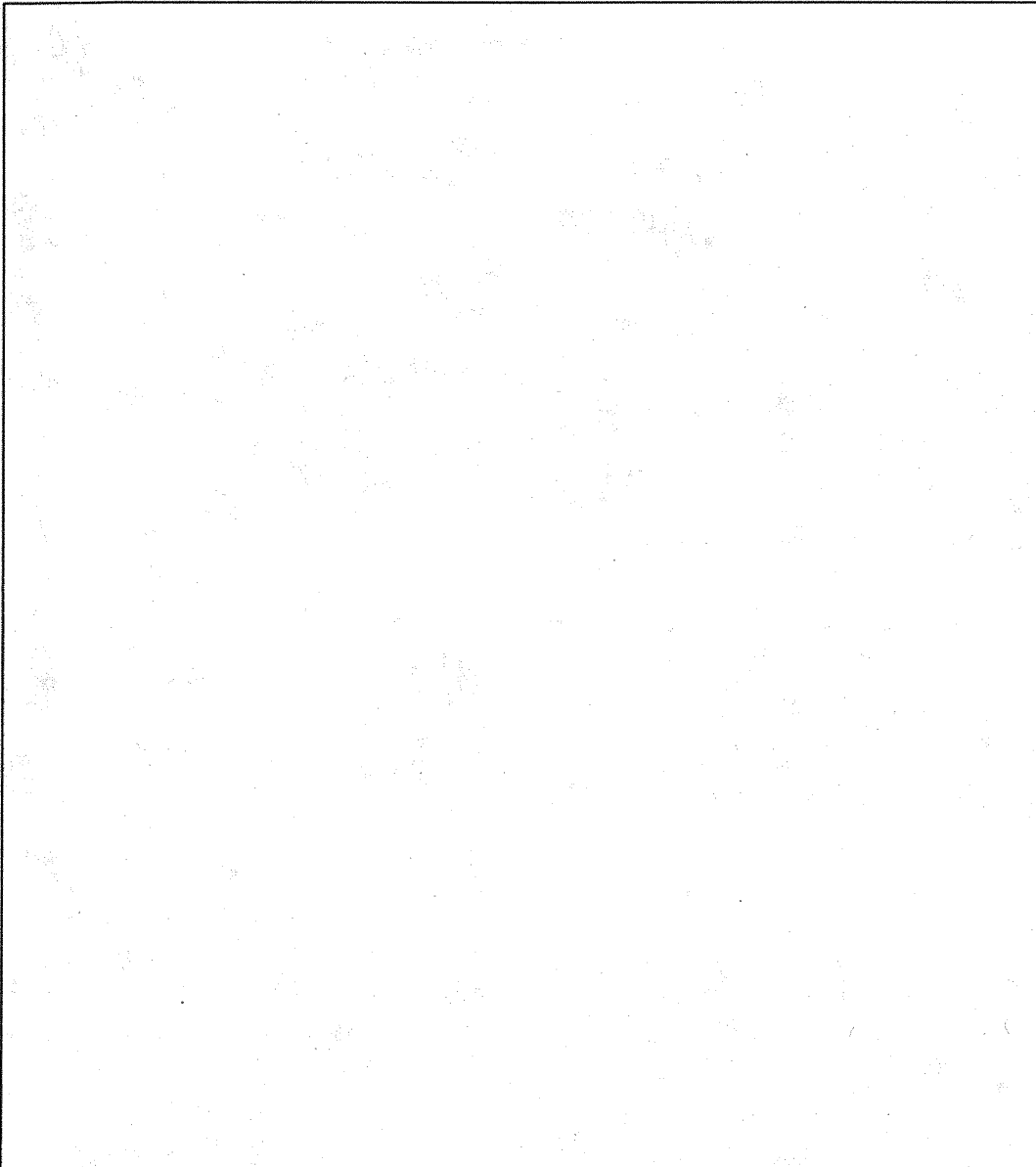
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~~SECRET~~**(3) RESPONSIBILITIES**

- (a) The Director of Personnel will include, in appropriate supplements to Agency personnel actions, recognition of the requirement for the settlement of compensation differences and will provide copies of such documentation to the component to which the individual is assigned and to the Compensation Division, Office of Finance.

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- (4) **SPECIAL BRIEFING PROCEDURES** [ ] In all cases where it is feasible from operational and security standpoints, the Operating Official concerned will arrange for a representative of the Compensation Division, Office of Finance, to meet with the [ ] for a financial briefing on compensation and other emoluments due. When such a briefing is not deemed feasible, arrangements will be made for the [ ] concerned to be briefed by the Compensation Division, Office of Finance, representative so that the [ ] may, in turn, brief the [ ]. This briefing will take place before the [ ] departure from the United States or before assumption of duties if the [ ] is to perform duties in the United States.

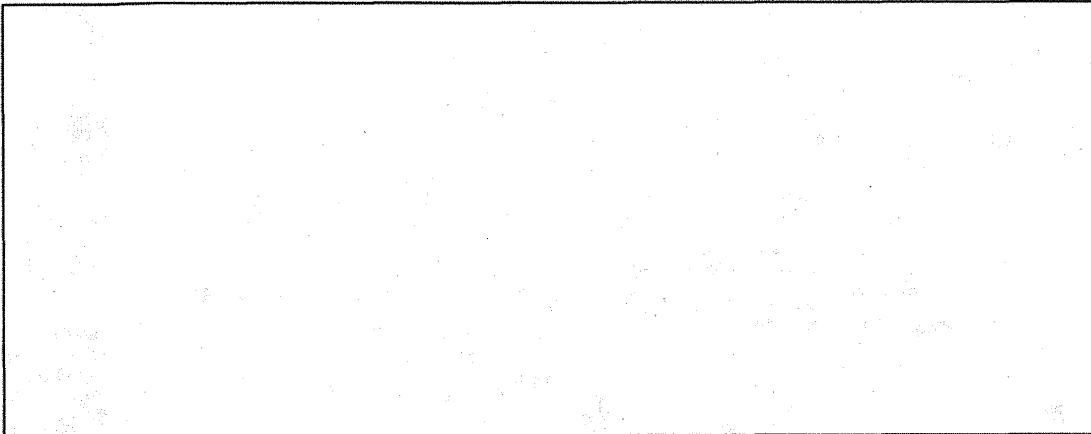
(5) **SETTLEMENT PROCEDURES**

- (a) **Compensation Differences.** Compensation differences involving current entitlements other than quarters and post allowances will be identified by the Compensation Division, Office of Finance, through regular payroll procedures. Amounts due employees will be paid in accordance with instructions received from the employee. Notification of amounts due the Agency will be made to employees through appropriate channels.
- (b) **Quarters or Post Allowance Differences.** Differences due to or from employees assigned abroad in connection with quarters or post allowances will be settled in accordance with the provisions of [ ].
- (c) **(S) Overpayments.** The accuracy with which current compensation differences are identified depends on the use of the correct rate [ ]. Whenever there is an increase [ ] that is not recognized in the Agency payroll process with the same effective date [ ], an overpayment results that is subject to refund on a timely basis. It is not always possible to avoid such overpayments because of the procedures that must be followed in the administration of pay [ ]. In the interest of minimizing the number and duration of overpayments of this nature, however, it is important, as required by paragraph f(3)(b)(3) above, that employees immediately report through normal administrative channels every change in [ ] except for legislative increases). It also is important that employees make inquiry when an anticipated adjustment of the Agency-paid portion of compensation is not made on a timely basis.

g. **(C) VERIFICATION OF PAY**

- (1) It is the continuing personal responsibility of each employee to monitor Form 456 or 456A, Earnings and Leave Statement, or other appropriate pay and leave statement, to ensure the accuracy of data pertaining to earnings, entitlements, and such deductions as have been authorized by the employee or required by law. Any unexplained variations should be reported immediately through normal administrative channels to Compensation Division, Office of Finance. [ ]

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- (3) Employees are responsible for making follow-up inquiry concerning their reports when they do not receive a timely response either directly or by an adjustment in pay or deductions.

**h. (U) UNPAID COMPENSATION OF DECEASED EMPLOYEES**

- (1) Upon the death of an employee, unpaid compensation will be paid to the beneficiary (or beneficiaries) designated by the employee on Standard Form 1152, Designation of Beneficiary, Unpaid Compensation of Deceased Civilian Employee. If there is no designated beneficiary living or if the employee has not executed the above form, settlement will be made in the order of precedence established by Federal statute, as follows:
- (a) To the widow or widower.
  - (b) If no widow or widower survives, to the child or children in equal shares, with the share of any deceased child distributed among the descendants of that child.
  - (c) If there are none of the above, to the employee's parents in equal shares or the entire amount to the surviving parent.
  - (d) If there are none of the above, to the duly appointed legal representative of the estate of the deceased employee, or if there is no such representative, to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased employee.
- (2) It is not necessary to designate a beneficiary unless the employee wishes to name some person or persons not included in paragraph h(1) or to change the order of precedence. Executed copies of Standard Form 1152 should be filed with OP and will be effective as long as the individual is continuously employed by the Agency.

**i. (U) DISPOSITION OF PAYCHECKS**

- (1) Employees are encouraged to have their salary forwarded directly to their bank for deposit to their account as the most efficient and safe procedure for disposition of pay. Employees also may elect to have their paychecks delivered by mail to some other designated address or, for those Agency employees assigned to the

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headquarters area and paid every 2 weeks, to receive their paychecks at the office.

- (2) Form 2595, Authorization for Disposition of Paychecks, or Standard Form 1199A, Authorization for Disposition of Federal Recurring Payments, must be executed by each employee upon entrance-on-duty to select one of the above options for disposition of pay. Standard Form 1199A is an option available only to overt Agency employees. Subsequent thereto, a new Form 2595 or Standard Form 1199A must be completed and forwarded to the Compensation Division, Office of Finance, to authorize a change from one option to another or to correct a previous authorization. A new authorization will supersede any previous authorization and the latest authorization of record will remain in effect until changed or revoked in writing by the employee.

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(b) (3)**Date:** 02/07/2000**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-32 SEPARATION COMPENSATION**REVISION SUMMARY:** 07 February 2002 (0608).

This regulation supersedes AR 20-32, dated 18 September 1995.

AR 20-32 is being revised to update organizational titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by Policy Team, Human Resources Strategy & Planning Staff, HRM Policy@DA.*

**32. SEPARATION COMPENSATION**

**SYNOPSIS.** This regulation states policies, authorities, and responsibilities for the payment of separation compensation to qualifying personnel who are involuntarily separated from the Agency.

**a. AUTHORITY.** Section 8(a) of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. 403j(a); 5 U.S.C. Section 5595.

**b. POLICY****(1) ELIGIBILITY****(a) CATEGORIES OF EMPLOYEES ELIGIBLE FOR SEPARATION COMPENSATION\***

FULL TIME	PART TIME	WAE
**		

APPROVED FOR RELEASE  
DATE: JAN 2008~~ADMINISTRATIVE - INTERNAL USE ONLY~~

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STAFF	YES	YES	NO
STAFF-RESERVE *** NO ***		NO	NO
CONTRACT ***	NO ***	NO	NO

\*The other conditions of eligibility detailed in this regulation must also be met in order to qualify for separation compensation.

\*\*When-Actually-Employed (Intermittent).

\*\*\*Except employees who were converted without a break in service from an appointment without time limitation. They are eligible for separation compensation.

- (b) Other than those excluded in paragraph b(2) below, staff personnel and career associates serving without definite time limitation who are involuntarily separated (as outlined in AR 20-27<sup>(1)</sup>) from the Agency and who have completed at least one year of continuous creditable Federal civilian service are entitled to separation pay benefits.
- (c) In determining eligibility for and the amount of separation compensation, all Federal civilian service is creditable. Consultants and other independent contractors are not Federal employees and, therefore, are not eligible for separation compensation.
- (d) Creditable Federal civilian service includes all approved leave with pay, authorized absence in a nonpay status up to a maximum of six months within each calendar year, time spent in the U.S. Armed Forces that interrupts otherwise creditable service, and any period of detail to another agency or organization. Any separation of more than three calendar days terminates continuous service.
- (e) Employees who resign in lieu of involuntary separation for reasons not attributable to poor performance, disciplinary action, or counterintelligence issues may receive separation compensation provided they meet the eligibility standards.
- (f) The Deputy Director of Central Intelligence (DDCI) may authorize a substitute separation compensation to individuals who, because of the unusual nature and circumstances of their service with the Agency, may be expected to be at a special disadvantage in making occupational transfers and therefore unable to command reasonable levels of earned income for an extended period following termination of their Agency employment. This includes those employees whose jobs require them to acquire and use skills and knowledge so peculiar to the conduct of clandestine operations that they are not in demand elsewhere. Also, due to highly classified duties, security precludes certain individuals from describing their experience in sufficient detail to demonstrate their qualifications adequately to a prospective employer. It is the DDCI's sole prerogative to grant substitute separation compensation in any given case and the DDCI determines such cases based solely upon a review of the nature and circumstances of the individual's employment. All



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the provisions of this regulation apply equally to the substitute separation compensation except where specifically stated otherwise.

(2) **EXCLUSIONS.** Excluded from separation compensation entitlements are:

- (a) Employees, other than members of the Senior Intelligence Service, whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the maximum rate for the Senior Executive Service, and who have **not made an election to retain Senior Intelligence Service benefits under AR 20-22**.
- (b) Alien employees outside the United States and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.
- (c) Employees who qualify for immediate Federal retirement benefits.
- (d) Employees who at the time of separation are receiving Federal Employees' Compensation Act payments in lieu of salary. Exceptions are those who receive this compensation as part of a scheduled award concurrently with pay or those who receive compensation in the form of survivor benefits.
- (e) Employees separated as a result of poor performance, disciplinary action, or counterintelligence issues.
- (f) Employees who decline reasonable offers of other positions, such as:
  - (1) Local-hire employees who at the time of separation are offered and decline to accept a position with the federal civilian service which is within two grades of their current grade located in the same commuting area.
  - (2) Employees assigned to an area on permanent change of station orders who are expected to transfer to another area following their current assignment, and who refuse such transfer.
- (g) Employees who, at the time of separation, are entitled to receive other severance pay from the government.

**c. RESPONSIBILITIES**

- (1) The **Chief Human Resources Officer** will:
  - (a) Administer the separation compensation program in accordance with the provisions of this regulation.
  - (b) Determine an individual's eligibility to receive separation compensation under this program.
  - (c) Estimate the degree of expected employee difficulty in finding other employment and recommend to the DDCI approval of a substitute separation compensation when individual circumstances so merit.
  - (d) Subject to any DDCI approvals or findings required under paragraph b(1)(f) above

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and d(3) below and to any of the Director of Central Intelligence (DCI) findings under paragraph g(2) below, determine amounts and make payments of separation pay and, as appropriate, effect the discontinuance or suspension of such pay.

- (e) Record the amount of payments and taxes withheld and ensure that separation compensation payments subject to suspension under paragraph e(3) below are stopped and resumed in accordance with that provision.
- (f) Determine who is to receive the balance of such payments if the employee dies before separation payments have been completed.
- (2) The Director of Security will notify the **Chief Human Resources Officer** of individuals who are involuntarily separated in order for the **Chief Human Resources Officer** to determine their eligibility, if any, for separation compensation.
- (3) Separating employees will notify the Agency of changes of address or of designation of beneficiary, or any subsequent employment affecting payments to be made under this regulation.

**d. COMPUTATION.** Computation of separation pay under this program is as follows:

- (1) The basic separation allowance is computed on the basis of one week's basic compensation at the rate received immediately before separation for each year of creditable civilian service up to and including 10 years, two weeks' basic compensation at the same rate for each year of creditable civilian service beyond 10 years, and 25 percent of a year for each full three months of creditable service that exceeds the final full year of employment at the same rate. The computation excludes periods of service for which employees previously received separation pay.
- (2) An age adjustment allowance, when appropriate, is computed on the basis of 2.5 percent of the basic severance pay allowance for each full three months of age over 40 years at the time of separation.
- (3) The DDCI determines the amount of the substitute separation compensation based on such factors as the unusually sensitive nature and circumstances of the individual's Agency employment and the degree of difficulty the employee is expected to encounter in finding other employment. The DDCI also considers other factors such as the age of the employee, total years of Federal and Agency service, and cover and security limitations.
- (4) Total separation pay will not exceed one year's pay at the rate received immediately before separation.

**e. PAYMENT**

- (1) At the time of an individual's separation, the **Chief Human Resources Officer**, subject to paragraphs b(1)(f) and d(3) above, where applicable, will determine the pay rate, the total amount of payment, and the pay periods that the individual will receive payments.
- (2) Except where cover considerations preclude or where a substitute separation compensation has been approved, the **Chief Human Resources Officer** will pay the

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individual, at regular biweekly pay period intervals as if still employed, the same amount as the basic compensation for the pay period immediately before separation until the full amount of the separation compensation is paid, except that the final payment will consist only of any remaining unpaid portion of the full amount.

- (3) When, after a break in service of more than three days, an individual entitled to separation pay accepts an appointment in the Federal service with a definite time limitation of one year or less, the individual does not receive payments of separation pay for the duration of such appointment. Upon termination of the limited appointment, the individual's payments resume in accordance with paragraph (2) immediately above. The period of service of such appointment is not creditable for purposes of computing the separation pay it interrupts.
  - (4) Deductions will be made from separation pay only for Federal and applicable state income taxes.
  - (5) Separation pay is granted distinct from any lump-sum payment for annual leave; one will not be offset against the other.
- f. **SURVIVOR BENEFITS.** If an individual dies before expiration of the period covered by the separation pay, the beneficiary receives the balance of benefits due under this program at the same intervals as before the individual's death. Payments will continue until the beneficiary receives the unpaid balance of the fund.

g. **DISCONTINUANCE OF BENEFITS**

- (1) Separation pay benefits will cease as of the date an individual becomes eligible for deferred annuity benefits.
- (2) Upon a finding by the DCI that a security or cover agreement with the Agency has been breached by an individual receiving a substitute separation pay, the **Chief Human Resources Officer** is authorized to terminate any future payments of separation pay to that individual.
- (3) Separation payments to individuals are barred if they are convicted of certain Federal offenses or commit certain actions (5 U.S.C. 8312) or if they remain outside the United States for more than one year to avoid prosecution (5 U.S.C. 8313).
- (4) If an individual is reemployed by the Federal Government or District of Columbia government before expiration of the period covered by separation pay, separation compensation payments will be discontinued on the date of reemployment and the service represented by the remaining payments will be communicated to the reemploying Federal agency for recredit and use in any subsequent computations of separation pay.

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(b) (3)~~ADMINISTRATIVE - INTERNAL USE ONLY~~**Date:** 06/05/2003**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-33 WAIVER OF CLAIMS FOR ERRONEOUS PAYMENTS**REVISION SUMMARY:** 05 June 2003

This regulation supersedes AR 20-33, dated 10 May 2002.

AR 20-33 is revised to incorporate all of the provisions of FR 20-33, and to add clarity to Agency policy regarding overpayments to Department of State integrees.

FR 20-33 is hereby rescinded.

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by Human Resources , Central and Deployed Human Resources, Policy, at HR Policy@DA.*

**33. (U) WAIVER OF CLAIMS FOR ERRONEOUS PAYMENTS**

**(U) SYNOPSIS.** This regulation describes the policy and procedures for the waiver of claims for erroneous payments of pay, allowances, CIA retirement payments, and/or travel, transportation, and relocation expenses.

**a. (U) AUTHORITIES.** The authority for the policy described in this regulation is derived from the following:

- (1) 5 U.S.C. 5584, 8347(n) and 8461(j).
- (2) The CIA Retirement Act of 1964 for Certain Employees, as amended.
- (3) The Civil Service Retirement Act, as amended.
- (4) The Federal Employees' Retirement System Act of 1986.
- (5) General Accounting Office Act of 1996, Public Law 104-316, sections 103(d), 105(b),

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and 116.

- (6) OMB Determination with Respect to Transfer of Functions pursuant to Public Law 104-316, dated 17 December 1996.
- (7) OPM Transfer Concept of Operations document, dated 11 July 2000.
- (8) The CIA Act of 1949, as amended.

**b. (U//AIUO) DEFINITIONS**

- (1) **PAY.** Pay means salary, compensation, and other payments for services subject to Federal income taxes. Pay also includes, but is not limited to:
  - (a) Overtime,
  - (b) Night differentials,
  - (c) Hazardous duty differentials,
  - (d) Sunday premium pay,
  - (e) Holiday pay,
  - (f) Lump sum payment for accumulated and accrued leave,
  - (g) Severance pay,
  - (h) Post differential,
  - (i) Annual premium pay for regularly scheduled standby duty,
  - (j) Administratively uncontrollable overtime work,
  - (k) Language Incentive Program payments, and
  - (l) Not Used
  - (m) Flight pay.
- (2) **ALLOWANCES.** Allowances include, but are not limited to those for:
  - (a) Living quarters,
  - (b) Post,
  - (c) Foreign transfer,
  - (d) Home service transfer,
  - (e) Separate maintenance,
  - (f) Education,
  - (g) Cost-of-living, and
  - (h) Clothing.

Allowances do not include "travel payments" as defined in the next paragraph.

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- (3) **TRAVEL PAYMENTS.** Travel payments means all payments of travel, transportation, and relocation expenses and allowances authorized under Agency regulations that are not included in the definition of allowances in the preceding paragraph.
- (4) **CIA RETIREMENT PAYMENTS.** CIA retirement payments means all payments made from the CIA Retirement and Disability System (CIARDS) and FERS Special Category and all payments made from the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) on or after 1 January 1987.
- (5) **LANGUAGE INCENTIVE PROGRAM PAYMENTS.** Language Incentive Program payments means all payments associated with the "Language Maintenance Program" and the "Language Use Award Program."
- (6) **EMPLOYEE.** Employee means an individual within any of the categories of personnel as defined in AR 20-2, "Categories of Personnel," (excluding consultants and independent contractors) as listed below:
  - (a) Staff career employees.
  - (b) Staff reserve employees.
  - (c) Staff temporary employees.
  - (d) Contract employees.
  - (e) Detailed personnel.
  - (f) FBIS foreign national employees.
- (7) **DIRECTOR OF CENTRAL INTELLIGENCE (DCI)-CERTIFIED FUNDS.** DCI-certified funds refers to expenditures for pay, allowances, and/or travel payments of a confidential, extraordinary, or emergency nature where security, operational, or cover concerns exist. These funds are accounted for solely on the certification of the DCI.
- c. (U) **ERRONEOUS PAYMENT PARAMETERS.** The following identifies the parameters within which claims for erroneous payments may be made under this regulation.
  - (1) **ERRONEOUS PAYMENTS OF PAY, ALLOWANCES, AND/OR TRAVEL PAYMENTS.** Agency claims for erroneous payments of pay, allowances, and/or travel payments may be considered for waiver in whole or in part, provided the claims are for:
    - (a) Erroneous payments of pay or allowances made to an employee on or after 1 July 1960 or for
    - (b) Erroneous travel payments made on or after 28 December 1985.
  - (2) **ERRONEOUS PAYMENT OF CIARDS BENEFITS UNDER THE CIA RETIREMENT ACT.** Claims for erroneous payment of benefits under the CIA Retirement Act may be considered for waiver in whole or in part if the erroneous payments were made on or after 30 June 1974.
  - (3) **ERRONEOUS PAYMENT OF CSRS, FERS, AND FERS SPECIAL CATEGORY BENEFITS.** Claims for erroneous payments of CSRS, FERS, and FERS Special

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Category benefits may be considered for waiver in whole or in part under this regulation if such payments were made on or after 1 January 1987.

- d. **(U//AIUO) WAIVER AUTHORITY.** The Chief, Pay & Benefits (C/P&B) or designee serves as the authorizing official for review and decision of all claims submitted for waiver of erroneous payment except retirement payments that fall under the jurisdiction of the Office of Personnel Management (OPM) as described below. C/P&B and designee's authority includes claims in which either DCI-certified or non-DCI-certified funds were used. Refer to "definitions" in this regulation for an explanation of DCI-certified funds. The C/P&B is not restricted to any dollar amount limit in his/her capacity as authorizing official.

- (1) **RETIREMENT BENEFITS.** [redacted] OPM pays retirement benefits for Agency personnel and their survivors and/or former spouses. OPM is the initial point of contact and decisionmaker for retirement overpayments pertaining to all Agency annuitants [redacted]. Following an initial determination by OPM, administrative procedures for a reconsideration/appeal will differ depending on the annuitant's retirement plan as described below.

- (a) **FERS and CSRS.** OPM makes the initial determination on a FERS or CSRS overpayment, but consults with C/P&B if the annuitant requests a reconsideration. After consultation with C/P&B, OPM provides a final decision to the annuitant and advises him/her of his/her right to appeal the decision to the Merit Systems Protection Board (MSPB).
- (b) **CIARDS and FERS Special.** OPM makes the initial determination on an erroneous CIARDS or FERS Special payment. After an initial decision, OPM will inform the annuitant of the overpayment and schedule collection of the overpayment. OPM will also advise the annuitant to contact the Agency C/P&B if he/she elects to pursue reconsideration. C/P&B will serve as the decision making authority on such claims submitted for reconsideration and will notify OPM that the annuitant has requested reconsideration and provide OPM with a copy of the subsequent reconsideration decision.
- (c) **Decisionmaking Authority on Retirement Payments Prior to the OPM Transfer.** If the erroneous retirement payment occurred prior to the transfer of retirement payments to OPM, C/P&B is the decisionmaking authority.

- (2) C/P&B is the waiver authority for all erroneous payments pertaining to NOCs.

- e. **(U) APPLICATION TIMEFRAME.** Applications for waiver of an Agency claim for erroneous payment are submitted to the C/P&B or to OPM in the case of applicable retirement payments. The application must be received within three years immediately following the date on which the erroneous payment of pay and allowances and travel payments is discovered and within 30 calendar days of the date of notice that an overpayment has occurred for erroneous retirement payments.

- (1) Even though Federal law prescribes a three-year statute of limitations for the Agency to consider a request for waiver of erroneous payments of pay and allowances and travel payments, approval of all waivers will depend upon the facts existing in the particular

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case and whether the requester followed the responsibilities described below.

- (2) Individuals are responsible for reviewing/verifying documents such as his/her time and attendance record and earnings statement and other relevant documents such as a bank statement to ensure that no erroneous payments are made.
- (3) If the employee, annuitant, or other person having an interest in obtaining a waiver discovers an erroneous payment, the individual is responsible for providing prompt notification to the appropriate officials as soon as possible. He/she should not spend or rely on such payment, but should set aside these funds. An informal verbal approval from a pay clerk that a payment was valid will not satisfy this requirement.
- (4) If the employee, annuitant, or other person having an interest in obtaining a waiver is notified of an erroneous payment by Agency or OPM officials and elects to file an application for waiver of the erroneous payment, the individual is responsible for providing prompt application of a request for waiver to the appropriate officials as soon as possible.

**f. (C) CONDITIONS UNDER WHICH A WAIVER MAY OR MAY NOT BE GRANTED.**

**(1) CONDITIONS UNDER WHICH A WAIVER MAY BE GRANTED FOR OVERPAYMENT OF PAY, ALLOWANCES, AND/OR TRAVEL PAYMENTS.**

A request for waiver of overpayment of pay, allowances, and/or travel payments may be granted if collection would be against equity and good conscience and not in the best interests of the U.S. and

**(a) there is a finding that:**

- (1) The overpayment is due to an administrative error, and
- (2) No indication of fraud, misrepresentation, fault, or lack of good faith exists on the part of the employee, the annuitant, or any other person who has an interest in obtaining a waiver of the claim.

- (2) CONDITIONS UNDER WHICH A WAIVER MAY BE GRANTED FOR CIA RETIREMENT OVERPAYMENTS.** Waivers of CIA retirement overpayments may be granted if the recipient is without fault, and recovery would be against equity and good conscience, as described in 5 CFR subsection 831.1401, et seq. and subsection 845.301, et seq. Waiver of an overpayment cannot be granted when the overpayment was made to an estate.

**(3) CONDITIONS UNDER WHICH A WAIVER MAY NOT BE GRANTED.**

Generally, a waiver is not permissible in the following situation:



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- (a) An employee, annuitant, or other person having an interest in obtaining a waiver receives a significant unexplained increase in pay, retirement benefits, or allowances. This individual knows, or reasonably should know, that an erroneous payment has occurred, and fails to make inquiries or bring the matter to the attention of the appropriate officials. The individual is responsible for reviewing/verifying documents such as his/her time and attendance record and earnings statement and other relevant documents such as a bank statement to ensure that no erroneous payments are made.
- g. **(U//AIUO) PROCEDURES.** An application for waiver of an Agency claim for erroneous payment should be made promptly following the date the erroneous payment is discovered.
- (1) **WHERE TO SEND THE REQUEST.** A request for waiver of an erroneous payment should be sent to the appropriate official – C/P&B or OPM in the case of applicable retirement payments. Refer to paragraph d above for specifics on applicable retirement payments.
- (2) **WHO MAY SUBMIT A WAIVER REQUEST.** Requests that the Agency waive its claim for reimbursement for erroneous payments may be initiated by:
- (a) The individual who received the erroneous payment, or by
- (b) An authorized Agency official on the individual's behalf.
- (3) **INFORMATION TO INCLUDE IN THE WAIVER REQUEST.** Each waiver request to the Agency must be in writing and include the following:
- (a) Supporting documentation such as copies of prior correspondence;
- (b) A written explanation of the circumstances surrounding the overpayment, and
- (c) A written explanation of why the requester believes he or she may qualify for a waiver.
- (4) **DECISION ON REQUEST FOR WAIVER OF ERRONEOUS PAYMENT.** All requests for waivers submitted to C/P&B will be reviewed and responded to within sixty days. The C/P&B will notify the requester in writing of the decision.
- (5)
- h. **(U) APPEALS.** Except for retirement payments that are addressed separately in paragraph (1) below, the requester may appeal a decision in which a request for waiver of an erroneous payment has been denied. The Chief Human Resources Officer reviews and makes decisions on all such cases submitted for appeal.
- (1) **ERRONEOUS RETIREMENT PAYMENTS.** The appeal process/authority for erroneous retirement payments differs depending on the annuitant's retirement plan as described below.

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- (a) A FERS or CSRS annuitant has the right to appeal a reconsideration decision made by OPM as described in paragraph d above to the MSPB.
- (b) A CIARDS or FERS Special annuitant has the right to appeal a decision made by C/P&B as described in paragraph d above to the Chief Human Resources Officer.
- (2) **CASES THAT CANNOT BE APPEALED.** The requester may not appeal a decision to the Chief Human Resources Officer that was denied because the request did not meet the requirements of an eligible type of claim for consideration within the scope and conditions for waiver described in this regulation. An ineligible type of claim generally includes, but is not necessarily limited to, an advance or debt incurred because of a breach of a service agreement.
- (3) **TIMEFRAME FOR SUBMISSION.** An appeal to the Chief Human Resources Officer must be made in writing within thirty days of the Agency's written notification that the request for waiver/reconsideration was denied. (Regulations and information pertaining to appeals to the MSPB are found at 5 C.F.R. part 1201). Appeals to the Chief Human Resources Officer must be based on questions involving the interpretation of facts about the erroneous payments.
- (4) **DECISIONS ON APPEALS BY THE CHIEF HUMAN RESOURCES OFFICER.** Decisions on appeals are made in writing within sixty days after receipt of the appeal to the Chief Human Resources Officer. If a decision on an appeal cannot be made within sixty days after receipt, the requester will be informed of the delay in writing. This explanation should include reasons for the delay and a projected decision date.

**I. (U//AIUO) REPORTING**

- (1) **REPORT DATA.** The C/P&B will develop procedures to ensure that a sufficient written record of each case is maintained and readily available for reporting purposes if so required. In addition to retaining the actual request, a written record for reporting purposes should be maintained to include the following information:
  - (a) Requester name. In cases involving NOCs, the NOC name vs. the true name will be used.
  - (b) Date of request.
  - (c) The amount requested for waiver of repayment
  - (d) Date of C/P&B's decision.
  - (e) Specifics of C/P&B's decision – whether the request was approved or denied (in full or partial). If approved, include the specific amount approved. If denied, include the specifics of the case including reason for denial.
  - (f) If applicable, the date an appeal was filed, date of decision, and the results.
- (2) **REPORT DISTRIBUTION**
  - (a) Reporting purposes include reporting the amount waived on the W-2 or Form 1099 for current employees and U.S. citizen assets unless previously reported. This

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necessitates a report to the Chief Financial Officer, Finance, Accounting Operations (FIN/AO). FIN/AO is also responsible for generating the Form 1099 to report where applicable, the amounts waived for former employees.

- (b) For any travel overpayments, the Director of Finance will receive a copy of the reported information described in paragraph i(1) above.

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(b) (3)~~ADMINISTRATIVE - INTERNAL USE ONLY~~**Date:** 02/07/2002**Category:** 20 - Human Resources **OPR:** HR**Title:** AR 20-34 PAY & ALLOWANCES FOR MISSING PERSONS**REVISION SUMMARY:** 07 February 2002 (0611)

This revision supersedes AR 20-34, dated 25 October 2000.

AR 20-34 is revised to update organizational and officer titles; and to delegate additional responsibility to Chief Human Resources Officer. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices (MSOs).

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy@DA*

**34. (U) PAY AND ALLOWANCES FOR MISSING PERSONS**

**(U) SYNOPSIS.** This regulation states Agency policy, authorities, and responsibilities for the authorization and payment of pay, allowances, and certain other benefits for missing persons.

- a. **(U) AUTHORITY.** Sections 4 and 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403e and 50 U.S.C. 403j) and the Missing Persons Act, as amended (5 U.S.C. 5561, et seq.).
- b. **(U) GENERAL.** Missing persons are those employees in active service and officially determined by the **Chief Human Resources Officer** to be in a missing status, which includes missing, missing in action, interned in a foreign country, captured by a hostile force, or detained in a foreign country against their will. Those employees the **Chief Human Resources Officer** determines to be absent from their duty post without authority are excluded. The term employee includes any Agency employee who is a citizen or national of

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the United States or an alien admitted to the United States for permanent residence (permanent resident alien) but does not include intermittent employees or native labor casually hired on an hourly or daily basis. Full-time contract employees who are U.S. citizens or permanent resident aliens are included by statute; part-time contract employees and independent contractors who are U.S. citizens or permanent resident aliens may be granted similar benefits when stipulated in their contracts

c. **(U) POLICY**

- (1) Employees, as defined in paragraph b above, absent from duty in a missing status are entitled to continued pay and allowances.
- (2) As detailed in paragraph d below, Operating Officials, Heads of Independent Offices, and Chiefs of Installations will promptly report each missing persons case to the **Chief Human Resources Officer** who will authorize the establishment, continuance, suspension, resumption, or termination of allowances and allotments for the individual, as appropriate. Prompt action also will be taken to report the missing status of U.S. citizen independent contractors, whether or not they are entitled to a contractual missing persons benefit.
- (3) Nothing in this regulation will be construed to limit the responsibility of the Deputy Director for Operations (DDO) in taking prompt and continuous action to protect a missing person who may be in hostile custody and, through countermeasures, to protect the Agency, its personnel, and agents who may be compromised.

d. **(U/AIUO) AUTHORITIES AND RESPONSIBILITIES.** All authorities vested in the Director of Central Intelligence (DCI) by the Missing Persons Act, as amended, are delegated to the **Chief Human Resources Officer**.

- (1) The **Chief Human Resources Officer** will:
  - (a) Assume general responsibility for ensuring that Agency personnel are accorded the benefits provided by and for ensuring compliance with this regulation. Following an evaluation of the reported evidence and such additional investigation as required, the **Chief Human Resources Officer**, when applicable, will authorize the continuance of the individual's pay, allowances, and allotments for an initial period not to exceed 12 months. While an individual is in a missing status, the **Chief Human Resources Officer** may direct the increase, decrease, or continuation of allotments made prior to the individual's absence. In the absence of an allotment authorized by the individual, or when an existing allotment is insufficient to meet the individual's financial obligations, the **Chief Human Resources Officer** may direct new allotments or increases as circumstances warrant, not to exceed the pay and allowances to which the missing person is entitled. The **Chief Human Resources Officer** will terminate the missing status if the individual returns to the Agency's jurisdiction.
  - (b) Make a finding of death at any time when evidence is received which, in his or her opinion, conclusively establishes that the employee is **deceased**. At the review before expiration of the initial 12-month period, the **Chief Human Resources Officer** may find the employee is **deceased** even if the evidence of death is less than

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conclusive. At that review, the **Chief Human Resources Officer** shall continue the employee in missing status if, in his or her view, the available evidence establishes a reasonable presumption that the employee is still alive. If, after this review, the individual remains in a missing status, the **Chief Human Resources Officer** shall make a finding of death thereafter upon receipt of information which establishes a "reasonable presumption of death" (conclusive evidence of death is not required). If circumstances warrant reconsideration of a determination of death (or of any other determination) made pursuant to the Missing Persons Act, the **Chief Human Resources Officer** may change or modify it.

- (c) Coordinate each case with appropriate Agency officials, including the head of the missing employee's office; Chief, Counterintelligence Center; Chief, External Operations and Cover Division; **Director of Security**; and the General Counsel.
  - (d) Prepare correspondence notifying an emergency addressee or next of kin of an individual's missing status or death for the DCI's signature in a manner consistent with cover and security.
  - (e) Handle administrative communications outside the Agency, including contacts with the missing employee's emergency addressees, dependents, and insurance companies.
- (2) Operating Officials, Heads of Independent Offices, and Chiefs of Installations will:
- (a) Report promptly in writing to the **Chief Human Resources Officer** all information obtained on missing persons cases. Reports to the **Chief Human Resources Officer** will include such details as the individual's employment relationship, grade, pay status, time and place of disappearance, or time and place the individual was last seen or contacted, cause or contributing circumstances, witnesses' statements, extent of search and results, names of persons notified and dates of notification.
  - (b) Upon determination that Agency employees or independent contractors are missing or deceased, seek to account for government property charged to the custody of the missing or deceased persons and advise the **Chief Human Resources Officer** of discrepancies or outstanding debts due the Agency.

e. (U) **BENEFITS**

- (1) Eligible missing persons will have credited to their accounts the same pay and allowances to which they would be entitled were they on active duty. Pay and allowances will continue for the duration of their missing status, and rights thereto will be unaffected by the expiration of the agreed term of service.
- (2) Whenever an individual is in a missing status for a period of more than 29 days, his or her dependents and household and personal effects, including one privately owned motor vehicle, may be moved to the official residence of the individual, his or her dependent, next of kin, or any other person designated by the **Chief Human Resources Officer** to receive custody of the effects; or, upon application by such designee to such other location as may have been determined in advance or as may be subsequently approved, so long as there is a reasonable relationship between the designee and the requested

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transportation destination. After such travel/transportation, the **Chief Human Resources Officer** may authorize reimbursement for the commercial cost of the transportation, or a monetary allowance in lieu of transportation as authorized by law for the whole or such part of the travel for which transportation in kind is not furnished. However, a monetary allowance in lieu of transportation is authorized only for full-time employees.

- (3) Full-time employees in missing status at the time a Federal income tax payment or return would have been due will have the income tax payment or return become due on the earlier of the 15th day of the third month following their return from missing status or, in the case of death or incompetency, the 15th day of the third month following the appointment of an administrator, executor, or conservator of the estate. Part-time staff and contract employees and independent contractors are not eligible for the tax deferral benefit set forth in this paragraph.
- (4) Employees in a missing status on or after 1 January 1965 are entitled to payment for or restoration of annual leave that accrued but was forfeited while they were missing. Employees returned from a missing status may receive a lump-sum payment for restored annual leave at their basic pay rate in effect when the leave was forfeited or use the leave within a time limit established by the **Chief Human Resources Officer**. Employees will notify the **Chief Human Resources Officer** in writing of their choice within 90 days following their return from missing status.

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**Date:** 02/07/2002

**Category:** 20 - Human Resources      **OPR:** HR

**Title:** AR 20-35 ADVANCE OF PAY INCIDENT TO PCS ASSIGNMENT

**REVISION SUMMARY:** 07 February 2002 (0610)

This regulation supersedes AR 20-35, dated 19 June 1997.

AR 20-35 is being revised to update organizational and position titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001, to abolish the Directorate of Administration, and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy@DA.*

**35. ADVANCE OF PAY INCIDENT TO PCS ASSIGNMENT**

**SYNOPSIS.** This regulation sets forth policy, authority, and definitions applicable to advances of pay for employees upon permanent change of station assignment to either domestic or foreign posts.

- a. **AUTHORITY.** 5 U.S.C. 5927; and Section 8 of the Central Intelligence Agency Act of 1949, as amended.
- b. **DEFINITIONS.** For the purposes of this regulation, the following definitions apply:
  - (1) **"EMPLOYEE"** means any Agency staff or contract employee, except as noted below, who is:
    - (a) Officially assigned PCS to a foreign or domestic post;
    - (b) Receiving basic compensation through the Agency's central payroll system; and
    - (c) Eligible for allowances and differentials.

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- (2) **FOREIGN AREA** means any area (including the Trust Territory of the Pacific Islands) situated outside the United States, the Commonwealth of Puerto Rico, and the possessions of the United States.
  - (3) **DOMESTIC POST** means any post of assignment within the United States, including its possessions, which is outside the Metropolitan Washington area, (defined as: District of Columbia; the cities of Alexandria, Fairfax, and Falls Church, Virginia; Arlington, Fairfax, Loudoun, Prince William, Fauquier, and Culpeper counties, Virginia; and Montgomery and Prince George's counties, Maryland.)
  - (4) **NET PAY** means biweekly base pay, less all mandatory and voluntary deductions. (Note: Base pay does not include allowances, differentials, or other emoluments.)
- c. **POLICY.** It is Agency policy to provide an advance of pay incident to PCS assignment, subject to the conditions set forth below, to any eligible employee who requests such an advance:
- (1) Up to but not more than the equivalent of six biweekly pay periods of net pay may be paid in advance to an employee upon the PCS assignment of the employee to a post in a domestic or foreign area.
  - (2) The advance will be repaid by payroll deductions within 18 biweekly pay periods or three times the number of biweekly pay periods for which the advance was made, whichever is less. Outstanding amounts advanced will be considered as funds due to the Agency or, in the case of integrees, as funds due to the cover organization.
  - (3) The employee will maintain the total of his or her mandatory and voluntary deductions from basic compensation at a level which will ensure a net pay sufficient to complete repayment of the advance of pay as scheduled. Violation of this requirement will be considered default on the repayment of the advance and the remaining unpaid balance of the advance will be considered a debt due the Agency under AR 30-16.
  - (4) The employee may request an advance after receipt of travel orders but normally not more than 45 days before departure to or 60 days after arrival at the post. Payroll deductions will begin in the first full pay period after the pay period in which the advance was made. (Payback for employees paid on four-week pay periods will be equivalent to two biweekly deductions.)
  - (5) Any additional advance of pay requested prior to the liquidation of an existing advance, such as may be occasioned by early reassignment to another domestic or foreign area post, will not exceed a total, including the unliquidated balance, of six biweekly pay periods of net pay.
  - (6) All advances of pay made under this regulation will be processed by and paid through the Agency's central payroll system, exclusively.

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- (7) If an assignment is canceled at the convenience of the Agency, collection may be made either by scheduled payroll deduction or by lump-sum repayment. If canceled at the convenience of the employee, the outstanding balance will be repaid in full immediately.
- (8) In the event of employee default, any uncollected balances will be handled as debts due to the Agency.
- (9) The **Chief Human Resources Officer** has authority to adjudicate and approve eligibility for advances to any personnel, [REDACTED]  
[REDACTED] on an exception-to-the-rule case basis.

**d. RESPONSIBILITIES.** To assist employees in submitting requests to **Pay & Benefits, Human Resources** components will:

- (1) Provide a copy of the approved travel order to support requests by employees located at headquarters, or
- (2) Prepare request forms on behalf of employees located in the field, with copies of approved travel orders and messages containing required information.

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(b) (3)**Date:** 03/06/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-36 MEDICAL LEAVE BANK AND VOLUNTARY LEAVE TRANSFER PROGRAMS**REVISION SUMMARY:** 06 March 2002 (0637)

This regulation supersedes AR 20-36, dated 14 January 2000.

AR 20-36 provides current policy governing the Medical Leave Bank and Voluntary Leave Transfer Program, and is being revised to update organizational and position titles. AN 20-36-8, Medical Leave Bank and Transfer Program Policy Change, has been incorporated in this regulation. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

AN 20-36-8 is hereby rescinded.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy @ DA.*

**36. MEDICAL LEAVE BANK AND VOLUNTARY LEAVE TRANSFER PROGRAM**

**SYNOPSIS.** This regulation states the policy governing the Medical Leave Bank and voluntary Leave Transfer Program.

- a. AUTHORITIES.** Federal Employees Leave Sharing Act of 1988, Public Law 100-566, 5 U.S.C. 6331 - 6373, and Federal Employees Leave Sharing Amendments Act of 1993, Public Law 103-103, 5 U.S.C. Sections 6331 (4), 6337 (c), 6361 (6), 6362, and 6373.
- b. POLICY.** The Agency maintains the Medical Leave Bank (MLB) and voluntary Leave Transfer Program (LTP) to help employees cope with personal or family medical emergencies. Any employee who is on a regularly scheduled tour of duty (either full-time or

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part-time) and accrues leave is eligible to participate in the MLB or LTP. Employees on a term or temporary appointment (including student hires and summer employees) may also participate in these programs; however, they are only eligible to receive MLB or LTP leave during periods in which they work a regularly scheduled tour of duty and accrue leave, with MLB/LTP leave not to exceed the ending date of their appointment. Other Federal civilian and military personnel who are paid and accrue leave through the Agency payroll system may participate in the Agency's MLB/LTP programs if they are not eligible to participate in their parent organization's leave bank or voluntary leave transfer program.

**c. DEFINITIONS**

- (1) **MEDICAL EMERGENCY.** A medical condition of an employee or family member that is likely to require the employee's prolonged absence from duty and would result in a substantial loss of income because of the unavailability of paid leave. Recovery from childbirth is subject to the same policies as any other incapacitating medical condition under the MLB and LTP.
- (2) **FAMILY MEMBERS.** Spouse; biological and adopted children and their spouses; parents; parents-in-law; siblings and their spouses; or any individual related by blood or affinity, whose close association with the employee makes that relative the equivalent of one of the categories of family members previously listed in this paragraph.

**d. GENERAL**

- (1) **PERSONAL MEDICAL EMERGENCY.** An employee may apply for MLB leave (after contributing the required membership hours) or LTP leave if the employee:
  - (a) Has exhausted all annual leave (including escrowed and restored leave), sick leave and compensatory time. If appropriate, the employee should explore whether workman's compensation or medical disability retirement is indicated.
  - (b) Has been or is expected to be in a leave without pay (LWOP) or advanced leave status for at least 24 hours in a **consecutive** two-week period. Part-time employees or employees with uncommon tours of duty must expect to be in an LWOP or advanced leave status at least 30 percent of the average number of work hours in their scheduled biweekly tour of duty.
  - (c) Has provided required documentation (see paragraphs e(3)(a)(1) and f(3)(a)(1) below.

The maximum number of MLB or LTP hours, or a combination of MLB/LTP hours, that may be authorized, for both full-time and part-time employees, for each personal medical emergency is 1,500 hours in a 24-month period. If a leave recipient returns to his or her regularly scheduled tour of duty for a minimum of six continuous months before experiencing a relapse of the same personal medical emergency, the recipient may request up to 1,500 additional hours of leave during a 24-month period. MLB and LTP leave are not substitutes for medical disability retirement. The Board will review each case that reaches 6 months of continuous MLB or LTP leave and may recommend that the employee be assessed for medical disability retirement.

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- (2) **FAMILY MEDICAL EMERGENCY.** An employee may apply for MLB leave (after contributing the required membership hours) or LTP leave if the employee:
- (a) Has certified that he/she is required to provide care (administering medicine or medical treatment under the guidance of a doctor or other medical provider) to the family member or to the family member's children or other relatives. The period for which an employee is approved for MLB or LTP leave to provide care to a family member may include time during which the family member is hospitalized.
  - (b) Has exhausted all annual leave (including escrowed and restored leave), compensatory time, and all sick leave available under the Family Friendly Leave Act (see AR 20-30).
  - (c) Has been or is expected to be in an LWOP or advanced leave status for at least 24 hours in a **consecutive** two-week period. Part-time employees or employees with uncommon tours of duty must expect to be in an LWOP or advanced leave status at least 30 percent of the average number of work hours in their scheduled biweekly tour of duty.
  - (d) Has provided the proper documentation (see paragraphs e(3)(a)(1) and f(3)(a)(1) below.)

**An employee who receives the maximum of 750 hours of MLB leave allowed for a family medical emergency may then apply for up to 750 hours of LTP leave, if available.**

- (3) **LEAVE ABUSE.** MLB and LTP leave will be denied if leave abuse has been documented in an employee's Official Personnel Folder, Performance Appraisal Report, letters of warning or reprimand, or equivalent. Supervisors will certify on the application as to whether there are documented leave issues and, if so, will provide copies of that documentation to the MLB Board. The MLB Office will also conduct a name check with the Office of Security/Special Activities Staff to see if they have a record of leave abuse on an employee who has applied for leave.
- (4) **NORMS ESTABLISHED FOR CERTAIN MEDICAL CONDITIONS.** MLB and LTP leave will be considered only for the period of time the employee or family member is medically incapacitated. There are established norms for most medical conditions, which are documented in the Office of Medical Services (OMS). For example, for childbirth recovery, up to six weeks of MLB or LTP leave may be granted following a routine delivery and up to eight weeks of leave following a cesarean section; this six or eight-week period is inclusive of, not in addition to, an employee's personal leave.
- (5) **CUSTODIAL CARE OF A FAMILY MEMBER.** MLB or LTP leave may be approved for an employee to provide custodial care for a family member while they make care arrangements. Leave is granted in 30-day increments if the family member requires care primarily for daily living activities (feeding, bathing, and so forth), and specialized medical training or professional background are not required to provide that care. If the employee cannot make arrangements for alternative care within the 30-day period, an extension may be granted if circumstances warrant. In any event, the

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maximum amount of leave for such care will not exceed a total of 90 calendar days.

- (6) **DEATH OF A FAMILY MEMBER.** If a medical emergency results in the death of the family member for whom an employee is on approved MLB or LTP leave providing care, up to 40 hours of MLB or LTP leave may be granted to that employee for use immediately following the family member's death.
- (7) **LEAVE ACCRUAL.** While on MLB or LTP leave, a full-time employee may accrue a maximum of 40 hours annual leave and 40 hours sick leave. A part-time employee or an employee on a nonstandard tour of duty may accrue annual and sick leave up to 50 percent of the work hours in their scheduled biweekly tour of duty.
- e. **MEDICAL LEAVE BANK.** The MLB Board grants members nonreimbursable annual leave for personal or family medical emergencies. See paragraph a through d above for additional information relevant to this program.
- (1) **ELIGIBILITY**
  - (a) **Membership**
    - (1) All Agency employees earning annual and sick leave may become MLB members:
      - (a) Within 30 days of entrance on duty.
      - (b) During a declared open enrollment period.
      - (c) Within 30 days of a return to duty from extended absence (for example, LWOP) outside an enrollment period.
      - (d) Within 30 days of conversion from intermittent (when actually employed) status to a regularly scheduled tour of duty.
    - (2) If a member is in a LWOP or intermittent (when actually employed) status at the beginning of the leave year, the MLB Board will cancel membership. Employees in a negative annual leave status at the beginning of the leave year must immediately contact the MLB Office to ensure that their membership continues.
    - (3) MLB membership will be automatically renewed each year unless the employee requests cancellation (except as noted in paragraph (2) above).
  - (b) **LEAVE CONTRIBUTION.** Employees enroll in the MLB by annually contributing a prescribed number of hours of annual leave.
    - (1) The normally prescribed annual leave contributions for both full-time and part-time employees are:
      - (a) Four hours for employees with less than three years of service.
      - (b) Six hours for employees with at least three but less than 15 years of service.
      - (c) Eight hours for employees with 15 or more years of service.
    - (2) Based on its review of the solvency of the MLB, the Board annually may increase

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or decrease the minimum number of annual leave hours, outlined in paragraph (1) above, that employees must contribute to join or remain in the MLB. MLB members and non-MLB members may at any time donate additional annual leave, including annual leave subject to forfeiture, within prescribed limitations. Neither donated annual leave, nor a membership contribution, will be returned to an employee once it has been transferred to the bank.

- (2) **TIMEFRAME FOR SUBMISSION OF APPLICATIONS.** An initial request for MLB leave must be received by the MLB Board within 60 days after the employee's personal leave expires. A request for an extension must be received within 30 days after the end of the initial leave period, or the case will be closed. Recipients whose cases close must meet a new 24-hour LWOP/advanced leave criterion before they are eligible to receive additional leave. No formal action will be taken on an application until the complete application package, including the Application to the MLB Board, Applicant's Statement, and the Attending Physician's Statement, are received by the MLB Office. If the Attending Physician's Statement is not immediately available, the submission deadline may still be met if the application and applicant's statement are received in the MLB Office within the above-prescribed timeframe, with the Attending Physician's Statement to follow shortly thereafter.

(3) **RESPONSIBILITIES**

(a) Members must:

- (1) Complete and submit the following forms to request MLB leave:
- (a) Application to the MLB Board, including Certification by Supervisor.
  - (b) Applicant's Statement to the MLB Board.
  - (c) Attending physician's statement completed and signed only by the attending physician. Medical statements from any Federal Employees Health Benefits Program-approved provider will be accepted and evaluated. A medical statement from a Christian Science Practitioner will be accepted and evaluated by the Board in the same manner as a statement from a medical doctor. However, the Board is not bound to accept an attending physician's assessment when it differs from the opinion of the OMS consultant.

- (2) Advise the MLB Office of return to duty within 3 days.

(b) Supervisors must:

- (1) Certify on the employee's application as to whether there are documented leave issues and, if so, provide MLB with a copy of the documentation at the time of application.
- (2) Approve the use of leave granted by the MLB Board. MLB leave may be denied by a supervisor for the same reasons an employee's request to use other leave is denied (for example, critical mission requirements).
- (3) Ensure proper recording of MLB leave on time and attendance reports.

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(4) **REVIEW AND APPEAL PROCESS.** An MLB application will be reviewed and the applicant notified by the MLB Office of the approval or disapproval within ten working days. In the case of disapprovals, the applicant will be advised of the reason(s) and may appeal the disapproval in writing to the **Chief Human Resources Officer** within 30 calendar days of notification. Appeals should contain the reason(s) for the appeal and include pertinent supporting documentation. In the event the **Chief Human Resources Officer** upholds the Board's decision, a final appeal of the Board's decision may be requested which will be independently reviewed by the Inspector General (IG) and decided by the Executive Director (EXDIR). All such appeals should be forwarded to the Board for review.

(5) **MEDICAL LEAVE BANK BOARD**

(a) **Membership.** The MLB Board administers the bank. The Board consists of three voting members--a chairperson (appointed by the **Chief Human Resources Officer**) and two directorate or **Mission Support Office** representatives (these positions rotate among directorates/**Mission Support Offices** every two years). The Offices of General Counsel and Medical Services provide nonvoting consultants. The Chief, MLB, serves as the secretariat.

(b) **Responsibilities.** The Board:

- (1) Meets at least annually to review MLB policy and procedures.
- (2) Establishes policy and procedures for administering the MLB.
- (3) Establishes enrollment periods. There is at least one enrollment period each leave year.
- (4) Reviews and approves requests for MLB leave.
- (5) Monitors the bank's leave balance.
- (6) Monitors each leave recipient case.

f. **VOLUNTARY LEAVE TRANSFER PROGRAM.** The Agency's voluntary LTP allows employees to donate annual leave to other employees for personal or family medical emergencies. The MLB Board administers the LTP and approves or disapproves LTP requests. See paragraphs a through d above for additional information relevant to this program.

(1) **ELIGIBILITY**

- (a) Any employee who earns annual and sick leave and meets the eligibility requirements in paragraphs d(1) or (2) above may apply for LTP.
- (b) An employee may not transfer annual leave to an immediate supervisor or donate more than one-half the amount of annual leave the employee accrues during the leave year in which the donation is made.
- (c) Agency employees cannot transfer leave to employees of other Federal agencies.

(2) **TIMEFRAME FOR SUBMISSION OF APPLICATIONS.** An initial request for



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LTP leave must be received within 60 days after the employee's personal leave expires. A request for an extension must be received within 30 days after the end of the initial leave period, or the case will be closed. Recipients whose cases close must meet a new 24-hour LWOP/advanced leave criterion before they are eligible to receive additional leave. No formal action will be taken on an application until the complete application package, including the Application to the MLB Board, Applicant's Statement, and the Attending Physician's Statement, are received by the MLB Office. If the Attending Physician's Statement is not immediately available, the submission deadline may still be met if the application and applicant's statement are received in the MLB Office within the above-prescribed timeframe, with the Attending Physician's Statement to follow shortly thereafter.

**(3) RESPONSIBILITIES**

(a) Employees must:

- (1) Complete and submit the following forms to the MLB Office to request transferred leave:
  - (a) Application to the MLB Board, including Certification by Supervisor.
  - (b) Applicant's Statement to the MLB Board.
  - (c) Attending Physician's Statement(s) completed and signed only by the attending physician. Medical statements from any Federal Employees Health Benefits Program-approved provider will be accepted and evaluated. A medical statement from a Christian Science Practitioner will be accepted and evaluated by the Board in the same manner as a statement from a medical doctor. However, the Board is not bound to accept an attending physician's assessment when it differs from the opinion of the OMS consultant.
- (2) Advise the MLB Office of return to duty within 3 days.

(b) Supervisors must:

- (1) Certify on the employee's application as to whether there are documented leave issues and, if so, provide MLB with a copy of the documentation at the time of application.
- (2) Approve the use of transferred leave. Transferred leave may be denied by a supervisor for the same reasons an employee's request to use other leave is denied (for example, critical mission requirements).
- (3) Ensure proper recording of transferred leave on time and attendance reports.

- (4) **REVIEW AND APPEAL PROCESS.** An LTP application will be reviewed and the applicant notified by the MLB Office of the approval (subject to the availability of leave donations) or disapproval within ten working days. In the case of disapprovals, the applicant will be advised of the reason(s) and may appeal the disapproval in writing to the **Chief Human Resources Officer** within 30 calendar days of notification. Appeals should contain the reason(s) for the appeal and include pertinent supporting

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documentation. In the event the **Chief Human Resources Officer** upholds the Board's decision, a final appeal of the Board's decision may be requested which will be independently reviewed by the IG and decided by the EXDIR. All such appeals should be forwarded to the Board for review.

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**Date:** 08/24/2006**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-38    EXCEPTIONAL PERFORMANCE AWARDS AND  
SUGGESTION AWARDS**REVISION SUMMARY:** 24 August 2006

This regulation supersedes AR 20-38, dated 15 August 2001

AR 20-38 is revised to correct the word "biweekly" to "weekly" in paragraph d(2)(c)(1). This revision reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support, as well as the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service. The revision also reflects the D/CIA's decision, effective 5 July 2006, to replace the post of Executive Director with a new position, that of Associate Deputy Director of the Central Intelligence Agency (ADD/CIA).

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Staff, Strategy and Programs Group,  
Human Resources, HR Policy @DA.*

**38. (U) EXCEPTIONAL PERFORMANCE AWARDS AND SUGGESTION AWARDS**

**(U) SYNOPSIS.** This regulation states policy and guidance on Exceptional Performance Awards and Suggestion Awards.

- a. **(U//AIUO) AUTHORITY.** Section 4503, Title 5, United States Code, and the CIA Act of 1949.
- b. **(U//AIUO) POLICY.** The Agency rewards employees for sustained superior performance or exceptional accomplishments with Exceptional Performance Awards. Suggestion Awards recognize employee contributions to the efficiency, economy, or improvement of government

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DATE: JAN 2008

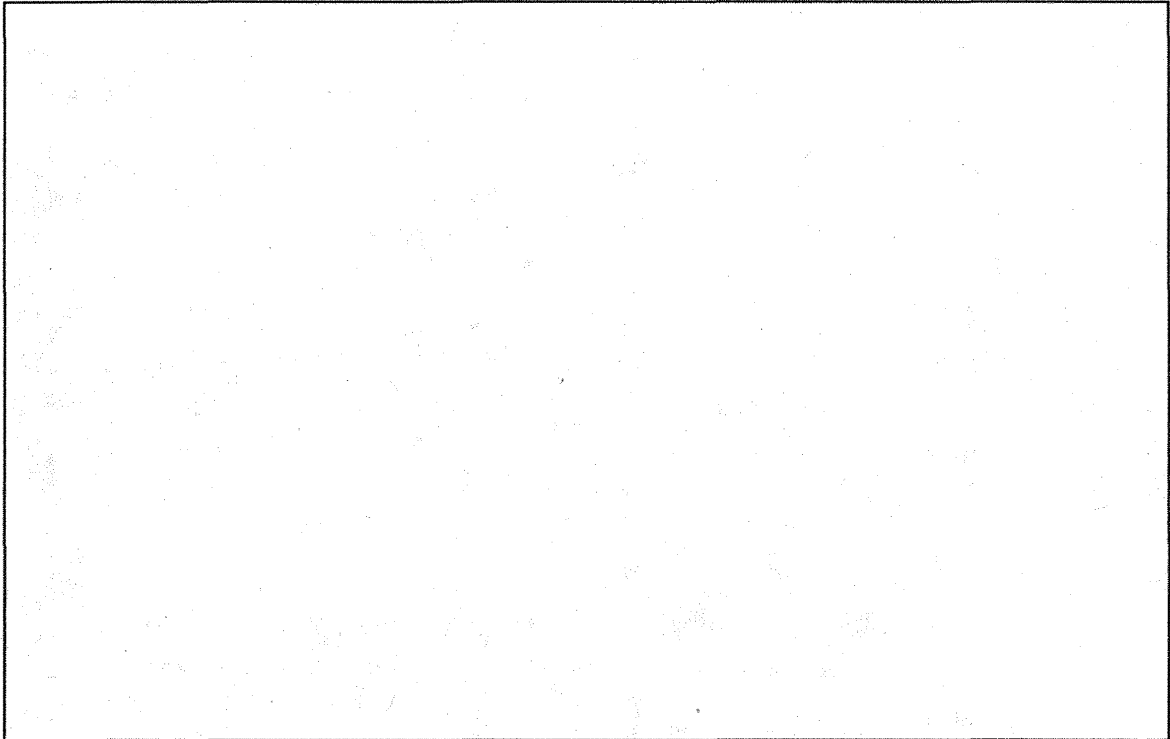
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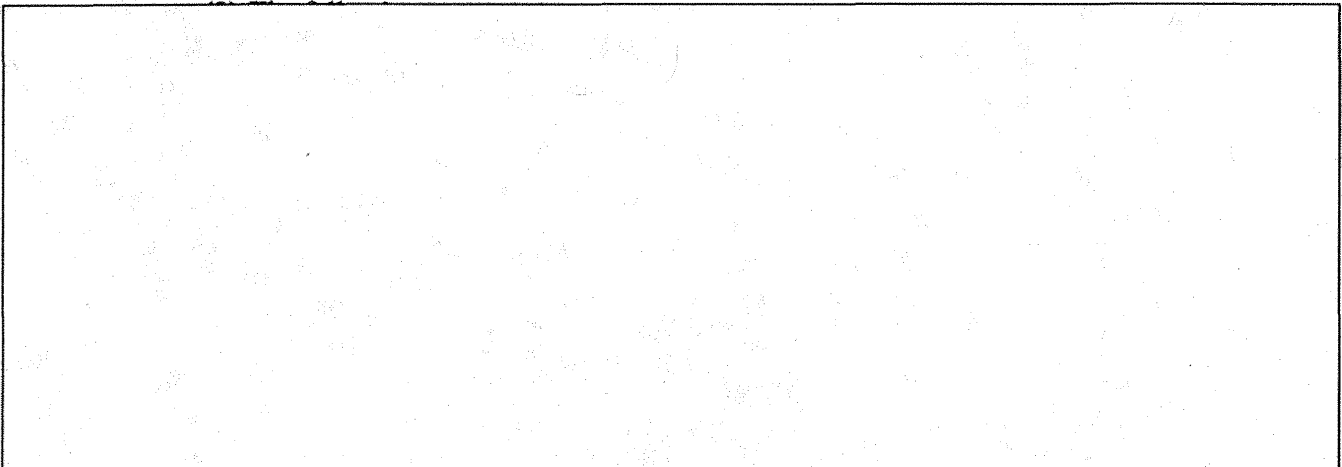
**c. (U//AIUO) GENERAL**

**(1) EXCEPTIONAL PERFORMANCE AWARDS (EPAs).** There are three types of EPAs:



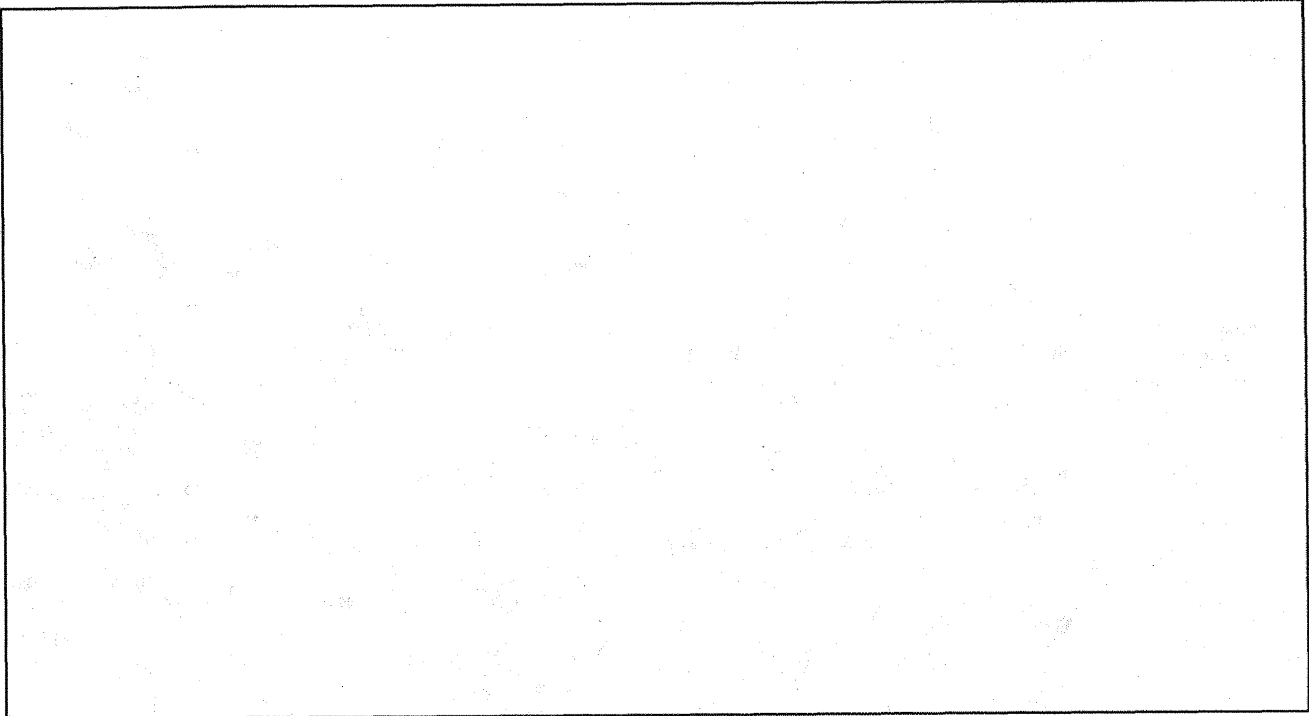
**(d) Eligibility:**

- (1) Employees, including members of the SIS and SES-equivalent personnel serving in the Agency, must exceed established performance criteria and demonstrate behavior consistent with the Agency's core values and fundamental attributes. Lump-sum cash awards to SIS/SES officers must be publicized Agency-wide and include the specific performance and contributions that the awards recognize.**



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**(2) SUGGESTION AWARDS.** The Agency grants monetary suggestion awards as follows:

- (a) When a suggestion results in monetary savings (tangible savings), the award amount is a percentage of the suggestion's estimated value. The award amount may be determined on the basis of first year savings or calculated on projected future year benefits.
- (b) When an improvement cannot be appraised on the basis of monetary savings (intangible benefits), the scope of application is considered and the award amount is based on the anticipated benefits to Agency operations.
- (c) When an invention developed within or outside of the inventor's job responsibilities results in the execution of a patent application with a license to the government or is used in the public interest, an invention disclosure award of \$100 is paid to the inventor by the Agency. If two or more employees are coinventors, each receives the \$100 disclosure award. Upon issuance of a patent or Notice of Allowability by the United States Patent Office when the application is placed under secrecy, an additional award of \$300 is paid to the inventor. When more than one inventor is involved, a final award of \$150 is paid to each eligible coinventor. Employees continue to be eligible for awards based on the invention's value according to paragraphs (a) and (b).
- (d) Employees will not be precluded from receiving suggestion and invention awards during periods of reprimands (see AR 13-1).

**d. (U//AIUO) APPROVAL AND ADMINISTRATION**

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(1) Each Directorate establishes its own nomination and approval procedures for EPAs and Suggestion Awards (monetary and nonmonetary). **Directors** may delegate these responsibilities to Operating Officials and to Chiefs of Installations. Each Directorate budgets and authorizes award and related expense payments. Monetary awards are taxable. Authorized officials issuing letters of reprimand will be responsible for reviewing the circumstances leading to the reprimand and determining restrictions on the granting of monetary awards during the period of reprimand (see AR 13-1).

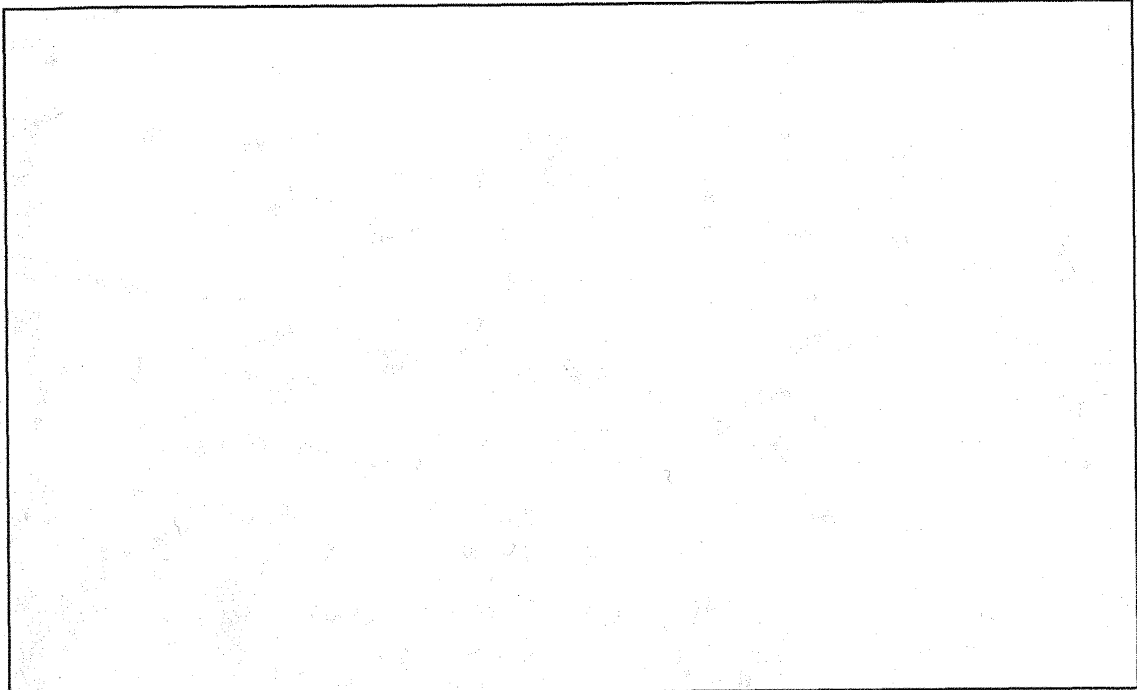
(2) **EXCEPTIONAL PERFORMANCE AWARDS:**

(a) **Lump-Sum cash awards:**

- (1) **Directors;** the Deputy Director, National Reconnaissance Office (DD/NRO); and Heads of Independent Offices approve awards up to \$10,000. These authorities may be redelegated.
- (2) The **Associate Deputy Director of the Central Intelligence Agency (ADD/CIA)** certifies for Office of Personnel Management approval of awards in excess of \$10,000 but not more than \$25,000 for highly exceptional and unusually outstanding achievements. When necessary to protect sensitive operations, developments, and accomplishments from disclosure, or when necessary to protect sources and methods, the **ADD/CIA** approves awards over \$10,000 but not to exceed \$25,000 under section 8 of the CIA Act of 1949.
- (3) The Executive Director for Intelligence Community Affairs approves awards of \$5,000 or less.
- (4) **Directors,** the DD/NRO, and Heads of Independent Offices prepare annual reports on all cash awards up to \$10,000 for **Executive Leadership Review Board** and **ADD/CIA** review. The reports should include the number and average amount of awards for managers and nonmanagers, and be broken out by granting office, office of assignment, race/ethnicity, and gender.
- (5) Name checks will be requested from the Inspector General when award amounts are \$5,000 and above.

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**(3) SUGGESTION AWARDS**

- (a) Heads of Career Services approve awards up to \$5,000.
- (b) Heads of Career Services may delegate approval authority for award amounts up to \$2,500 to Operating Officials or Heads of Independent Offices. The Deputy Director of the Central Intelligence Agency must approve any further delegation.
- (c) The Honor and Merit Awards Board (HMAB) approves awards above \$5,000.
- (d) HR provides policy support, maintains a central record, acts as interagency suggestion focal point, and serves as referent for interdirectorate coordination issues.

**e. (U//AIUO) SPECIAL PROVISIONS**

- (1) Acceptance of a monetary award constitutes an agreement that government use of any idea, method, or device for which the monetary award is granted will not form the basis of a further claim of any nature upon the government by the recipients, their heirs, or assignees.
- (2) When an Honor and Merit Award is recommended in conjunction with a cash award, Form 600 (Recommendation for Honor or Merit Award) is used for both recommendations. The form is sent to the HMAB for review of the Honor and Merit Award recommendation. The HMAB forwards it to the appropriate directorate for action on the cash award recommendation.
- (3) Award nominations for sensitive operational accomplishments are submitted to the appropriate **National Clandestine Service** component for processing and approval.
- (4) Awards submitted and approved during an individual's Agency employment may be

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awarded after separation or posthumously.

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(b) (3)**Date:** 05/29/2007**Category:** 20 - Human Resources**OPR:** SC

**Title:** AR 20-40 THE OFFICIAL SEAL OF THE CENTRAL INTELLIGENCE AGENCY, THE AGENCY FLAG, THE AGENCY PLAQUES, AND THE AGENCY NAME AND INITIALS.

**REVISION SUMMARY:** 29 May 2007

This regulation supersedes AR 20-40 dated 16 July 1998.

AR 20-40 is revised to reflect the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service and remove "Deputy Director" designation from the other Directorates and replace it with "Director." This revision also reflects the 4 January 2005 decision to abolish the Mission Support Offices and establish the Directorate of Support. Additionally, this revision reflects the updated DS organizational titles and OPR. This revision also incorporates AR 20-40, Figures 9-11.

AR 20-40, Figures 9-11 is hereby rescinded.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Office of Security @ DS\_SC\_*

**40. (U) THE OFFICIAL SEAL OF THE CENTRAL INTELLIGENCE AGENCY, THE AGENCY FLAG, THE AGENCY PLAQUES, AND THE AGENCY NAME AND INITIALS**

**(U) SYNOPSIS.** This regulation sets forth policy and responsibilities pertaining to the reproduction and use of the official Agency seal, the Agency flag, the Agency plaques, and the Agency name and initials.

- a. (U) AUTHORITY.** The official seal, or seal of office, of the Central Intelligence Agency (see Figure 9 within this regulation) was approved under Executive Order 10111, dated 17

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February 1950 pursuant to the CIA Act of 1949. Section 13 of the CIA Act of 1949 (50 U.S.C. 403m) prohibits the misuse of the Agency name, initials, or seal.

**b. (U) POLICY**

- (1) No person may knowingly use the name, initials, or seal of the Agency or any colorable imitation of such name, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Agency, except as authorized by **Director, Office of Security (D/OS)** in writing, in coordination with the General Counsel. The General Counsel will request the Attorney General or United States Attorney, as appropriate, to take whatever legal action is necessary whenever it appears that any person is engaged or about to engage in an act or practice which constitutes or will constitute misuse under section 13 of the CIA Act of 1949 of the name, initials, or seal of the Agency.
- (2) The Agency seal is the only seal approved for reproduction on the Agency flag, in the form of Agency plaques, and on Agency publications and documents. The seal may be reproduced only as described in this regulation, except as may be otherwise authorized by the **D/OS**. This **D/OS** authority is nondelegable.

**c. (U) RESPONSIBILITIES**

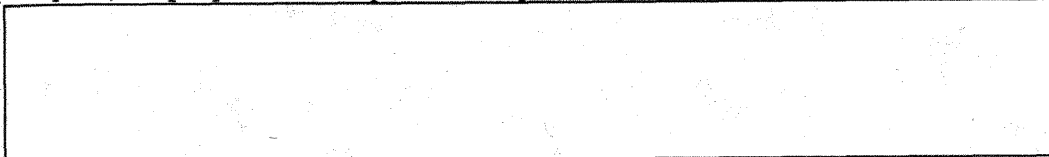
- (1) **AGENCY FLAG.** The Agency flag (see Figure 10) is displayed as a symbol of the CIA.
  - (a) The official Agency flag may be issued for official display on a permanent basis in auditoriums, offices, and other areas where such symbolism is appropriate. When displayed by individuals in their offices, the flag normally is considered an insignia of leadership or rank. To obtain an official Agency flag for such official display, the **Director**, Head of Independent Office, or Operating Official concerned will submit to the **D/OS** a written request stating the intended use of the flag. Upon approval by the **D/OS**, the flag can be requisitioned from **DS/GS/Logistics Support (LS)**.
  - (b) The official Agency flag may be issued on a temporary basis for ceremonial use upon written request by a Director, Operating Official or Head of Independent Office. Such requests will be sent directly to **DS/GI/Facilities Support (FS)**. The flag will be returned to **FS** after it has served the purpose for which it was loaned.
  - (c) The **D/OS** will maintain records on all dispositions of the official Agency flag except when the flag is issued on a temporary basis.
  - (d) A commemorative version of the Agency flag is authorized for sale at the Employee Activity Association store.
- (2) **AGENCY PLAQUES.** The Agency plaques (see Figure 11), both in color and bronze, are displayed as symbols of present or past association of an individual or organization with the Agency and are interchangeable.
  - (a) The Agency plaques may be issued for official display within Agency-controlled premises. To obtain an Agency plaque for display, the **Director**, Head of Independent Office or Operating Official concerned will submit a written request to the **D/OS**

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justifying the intended use of the plaque. Upon approval of the request, the plaque can be requisitioned from LS.

- (b) The Agency plaques may be presented to U.S. organizations or U.S. citizens closely associated with the Agency. To obtain an Agency plaque for such award or presentation, the Operating Official concerned will submit a written request to the D/OS justifying the award or presentation of the plaque. Upon approval of the request, the plaque can be requisitioned by the requester for award or presentation.




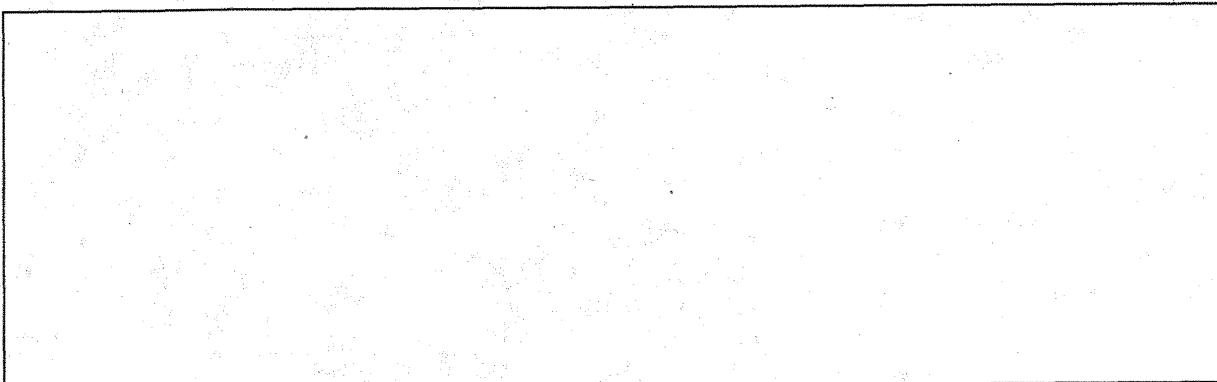
- (c) The D/OS will maintain records on dispositions of Agency plaques.

**(3) AGENCY PUBLICATIONS AND DOCUMENTS**

- (a) The General Counsel is the custodian of the press by which the official Agency seal is affixed to documents for evidentiary purposes. Requests for such action should be addressed to the Office of General Counsel.
- (b) Requests for the production of initial stocks of stationery, publication covers, and the like, upon which the Agency seal is to be reproduced, will be submitted to the **Chief, DS/LS/Imaging & Publishing Support (IPS)**. C/IPS will monitor the use of the Agency seal and will ensure that an exact likeness of the approved Agency seal is reproduced on such stock.
- (c) A facsimile of the official Agency seal can be reproduced in color or in line-cut form.

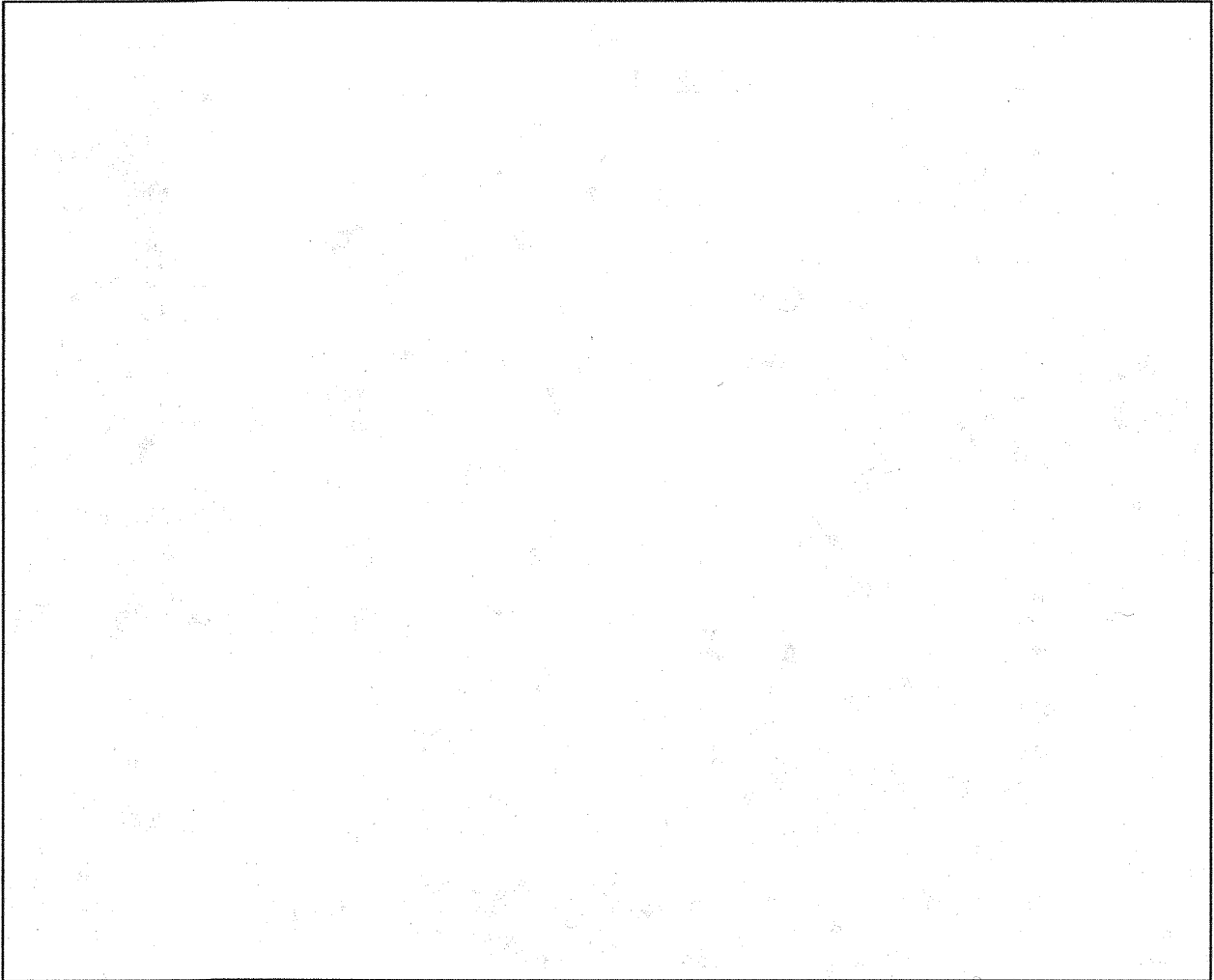
**d. (U) SECURITY CONSIDERATIONS**

- (1) The issuance and display of the official Agency flag and the issuance, display, and award or presentation of the Agency plaques will be consistent with Agency security and cover requirements.
- (2) The Agency seal, flag, and plaques will not be retained in the Agency's overseas facilities. Requests for exceptions should be submitted to Chief  **National Clandestine Service**. This provision does not apply to the temporary storage required for material that is forwarded to the Agency's overseas facilities to be presented to individuals or organizations outside Agency facilities.



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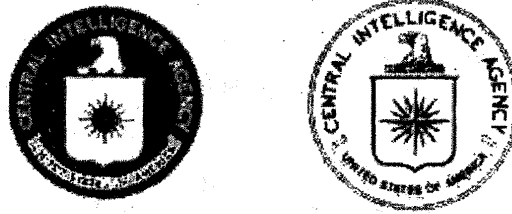


Figure 9  
Official Seal of the Central Intelligence Agency



Figure 10  
Agency Flag



Figure 11  
Agency Plaques

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**Date:** 08/09/2004

**Category:** 20 - Human Resources

**OPR:** HR

**Title:** AR 20-41 (U) FEDERAL EMPLOYEES WORKERS'  
COMPENSATION ACT

**REVISION SUMMARY:** 9 August 2004

This regulation supersedes AR 20-41 dated, 25 March 1996

AR 20-41 is revised to be consistent with guidance provided by the Department of Labor's Office of Workers' Compensation Programs Guide, *Injury Compensation for Federal Employees*. The revised regulation provides specifics on eligibility, entitlements, and employee obligations.

*Because this regulation has been extensively revised, boldfaced text has not been used.*

*This regulation was revised by Chief Human Resource Office, HR Policy @ da.*

**41. (U) FEDERAL EMPLOYEES WORKERS' COMPENSATION PROGRAM**

**(U) SYNOPSIS.** This regulation includes general policy guidance, authorities, and responsibilities for benefits provided under the Federal Employees' Compensation Act (FECA). The Chief Human Resources Officer (CHRO) administers the program based on Department of Labor guidelines, rules, and regulations.

**(U) Table of Contents**

- a. Authorities**
- b. Purpose**
- c. Definitions**
- d. Conditions of Eligibility**
- e. Conditions of Coverage**

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- f. Medical Benefits**
- g. Continuation of Pay (COP)**
- h. Disability Compensation – Temporary Total Disability (TDD) and Partial Disability**
- i. Disability Compensation – Schedule Awards**
- j. Disability Compensation – Loss of Wage-Earning Capacity**
- k. Disability Compensation – Disfigurement**
- l. Not Used**
- m. Disability Compensation – Attendant's Allowance**
- n. Disability Compensation – House and Vehicle Modifications**
- o. Death Benefits**
- p. Dual Benefits**
- q. LWOP Consequences After 365 Days – Separation/Medical Disability Retirement**
- r. Employee Considerations**
- s. Retention Rights Under FECA**
- t. OWCP/DOL Administration of FECA Claims**
- u. Employee Reference Material**
- v. Responsibilities**
  
- a. (U) AUTHORITIES**
  - (1) Title 5 U.S.C., section 8101 et seq.
  - (2) The Code of Federal Regulations, 20 CFR Part 10
  - (3) The Federal (FECA) Procedure Manual
  - (4) The Office of Workers' Compensation Program Publication CA-810
- b. (U) PURPOSE.** The Federal Employees' Compensation Act (FECA) provides compensation benefits to civilian employees of the U.S. government for disability due to personal injury or disease "sustained while in the performance of duty." The FECA also provides for payment of benefits to dependents if a work-related injury or disease causes an employee's death.
 

Benefits provided under the FECA constitute the sole remedy against the U.S. for work-related injury or death. A Federal employee or surviving dependent is not entitled to sue the U.S. or recover damages for such injury or death under any other law.
- c. (U) DEFFINITIONS**

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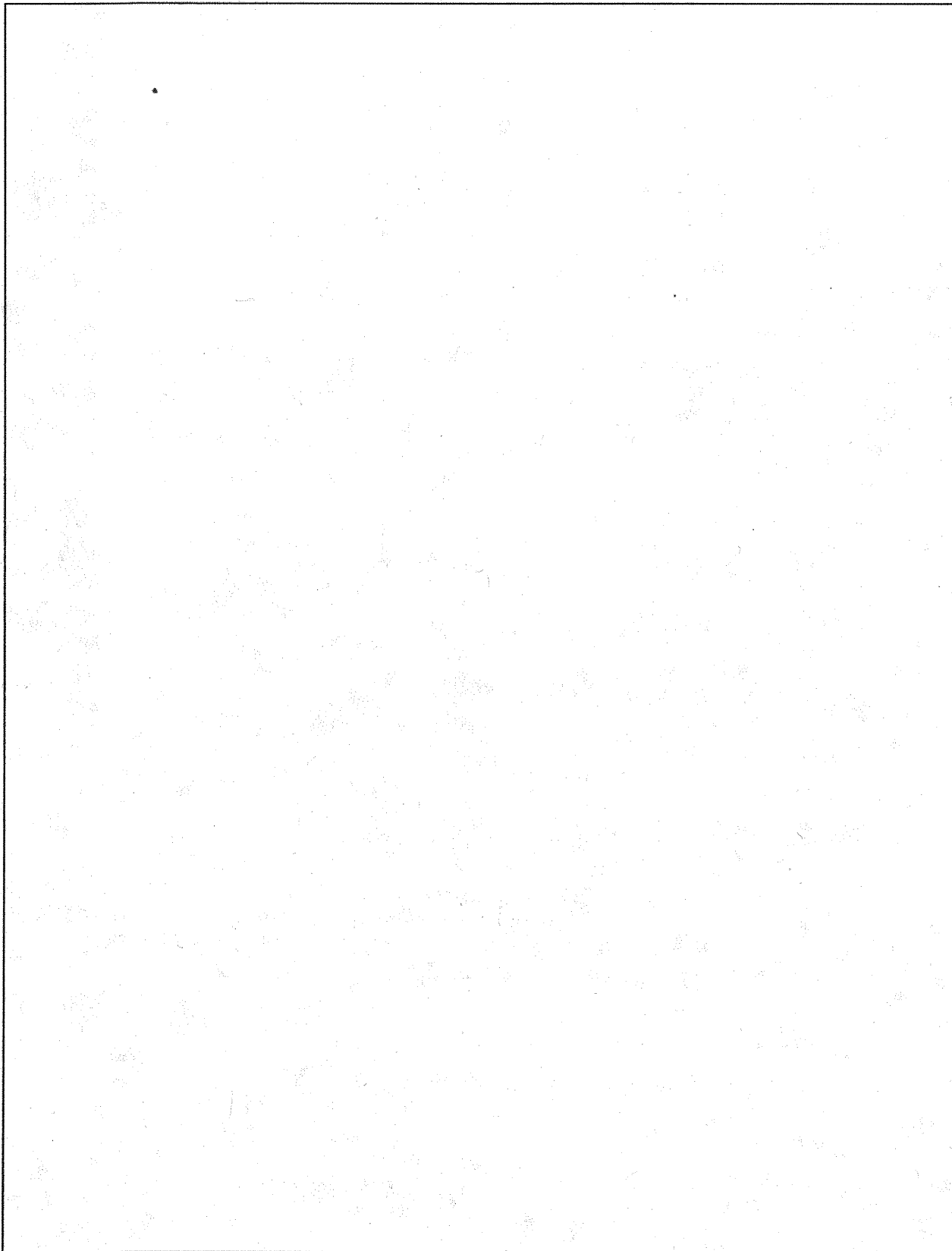
- (1) **Injury.** An injury by accident or a disease proximately caused by employment.
  - (a) **Traumatic Injury.** A wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single day or work shift. *The employee must use Form CA-1 to report a traumatic injury claim.*
  - (b) **Occupational Disease.** A condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infection; repeated stress or strain; exposure to toxins, poisons, fumes; or other continuing conditions of the work environment. *The employee must use Form CA-2 to report an occupational disease claim.*
- (2) **In The Performance Of Duty.** Directly attributed to or materially aggravated by an employee's work or working conditions.
- (3) **Employee.** A civilian employee of the U.S. government.
- (4) **Temporary Total Disability (TTD).** The inability to return to the position held at the time of injury or earn equivalent wages, or to perform other gainful employment, due to the work-related injury. Except under circumstances in which a permanent total disability is presumed, an employee's disability is always considered temporary pending return to work.
- (5) **Partial Disability.** The ability to return to some gainful employment, but not to the position held at the time of injury (or to a position that would earn equivalent wages) due to the work-related injury.
- (6) **Physician.** Includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. The term *physician* includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation shown to exist by x-ray.

**d. (U) CONDITIONS OF ELIGIBILITY**

- (1) The Office of Workers' Compensation Programs Department of Labor (OWCP/DOL) reviews employee claims and determines eligibility for benefits under FECA.
- (2) FECA benefits are not payable if the injury or death is:
  - (a) Caused by the employee's willful misconduct; or
  - (b) Caused by the employee's intent to bring about injury or death to oneself or another;  
or
  - (c) Proximately caused by the employee's intoxication.
- (3) Employees injured as a result of a war-risk hazard or restraint by a hostile force while employed outside the continental U.S. are eligible for FECA benefits.



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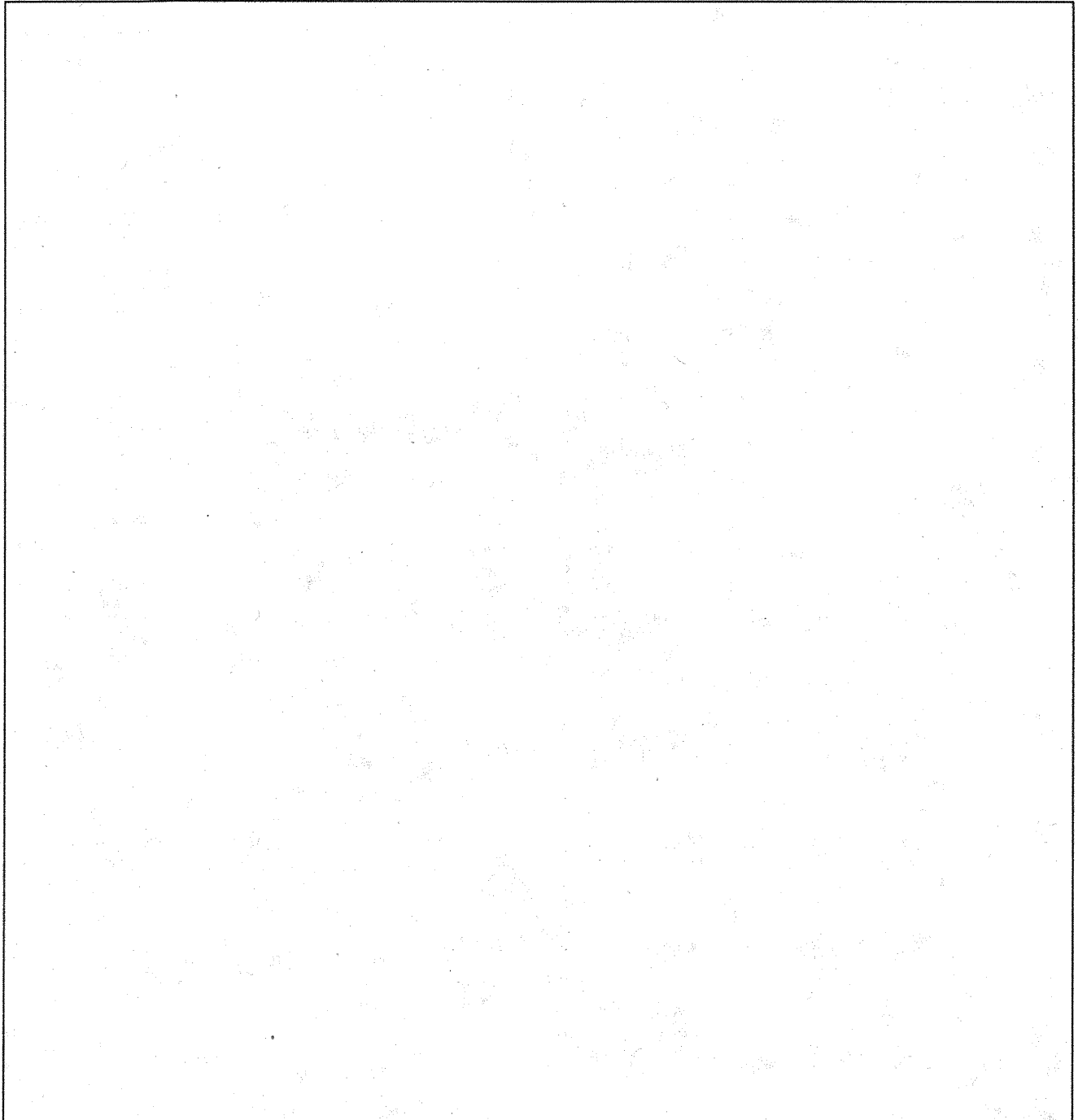
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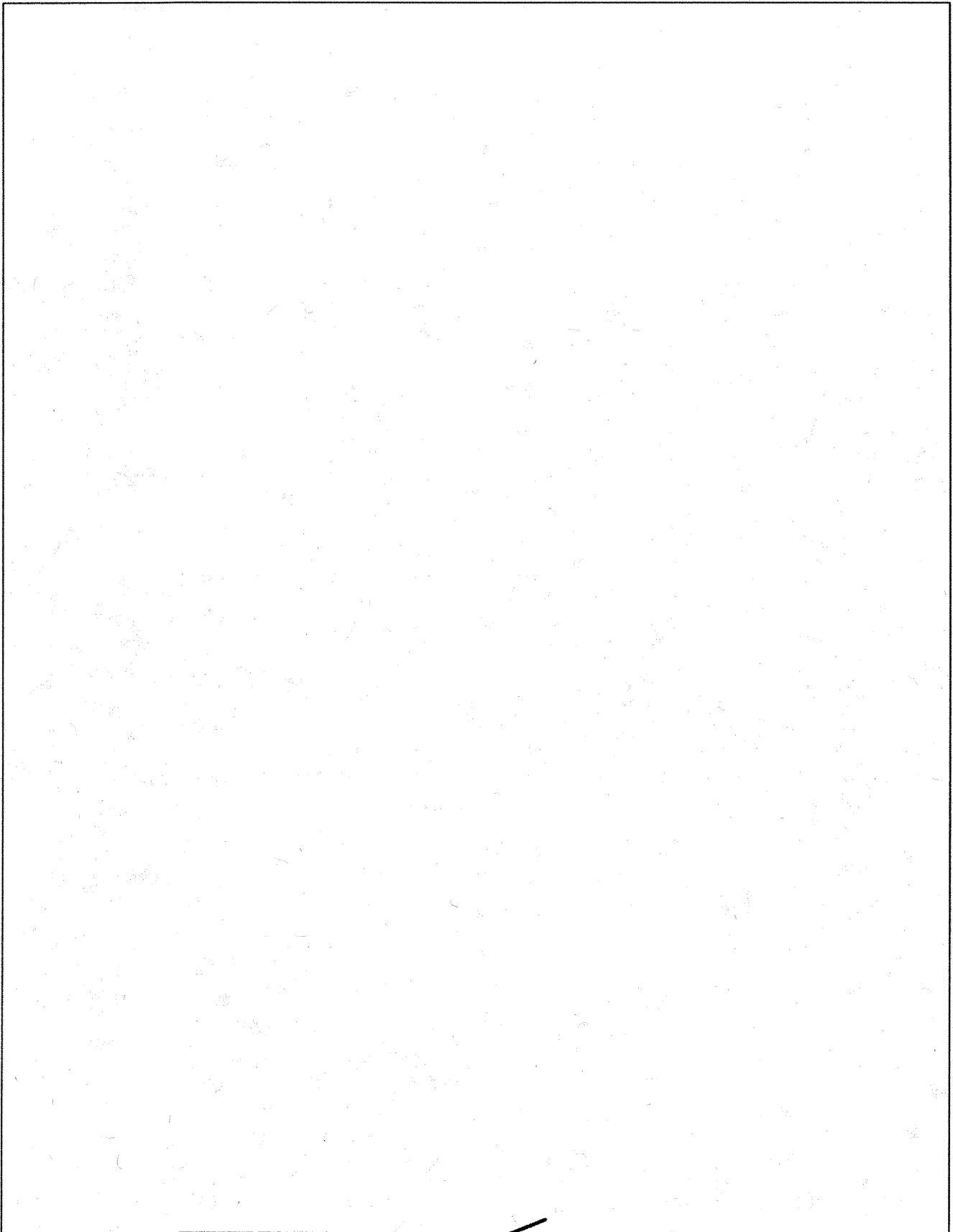
f. **(U) MEDICAL BENEFITS.** The FECA authorizes medical services for treatment of work-related conditions. No limit is imposed on the amount of medical expenses or the length of time for which they are paid as long as:

- The charges represent the reasonable and customary fees for the services involved; and
- The need for the treatment can be shown.



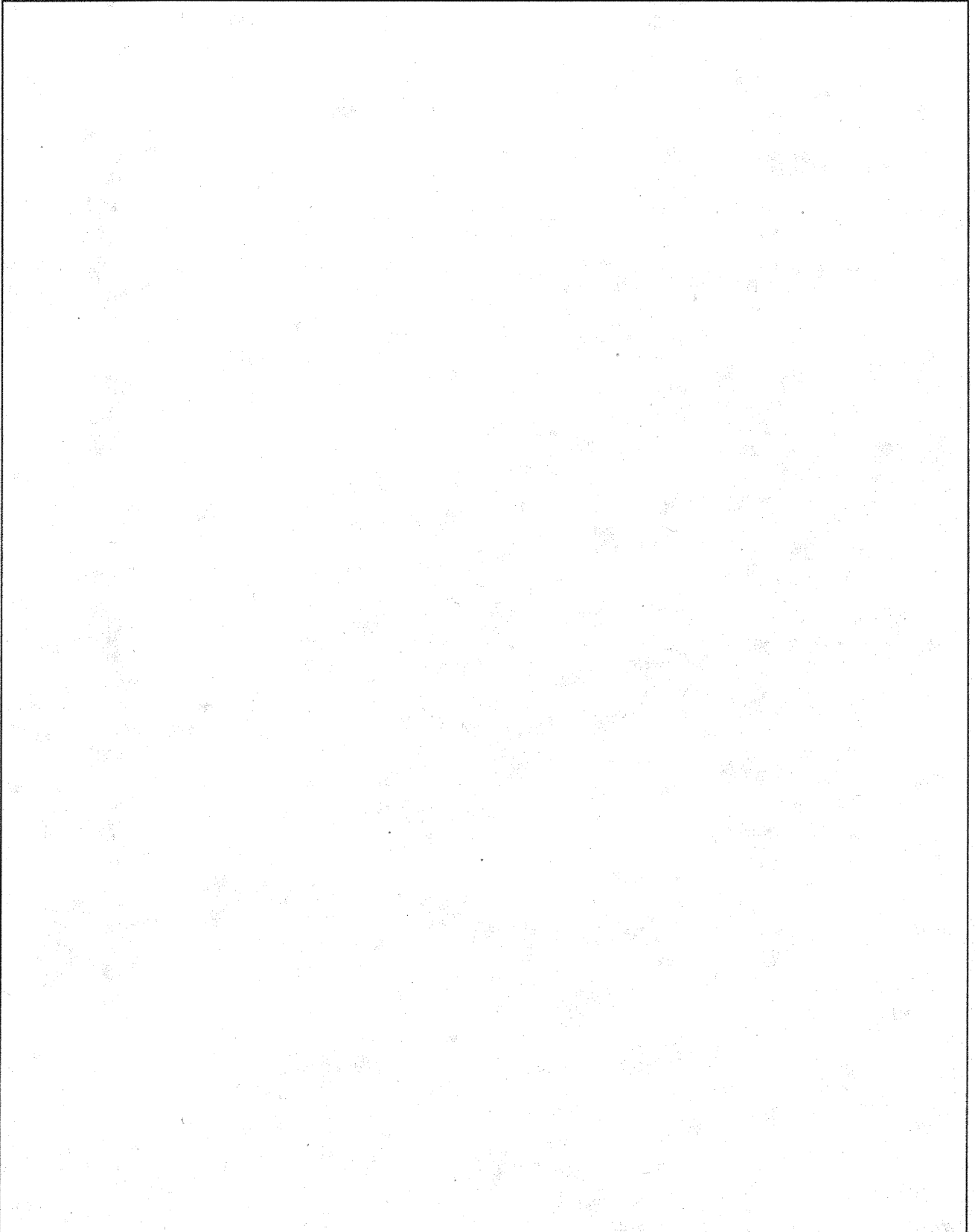
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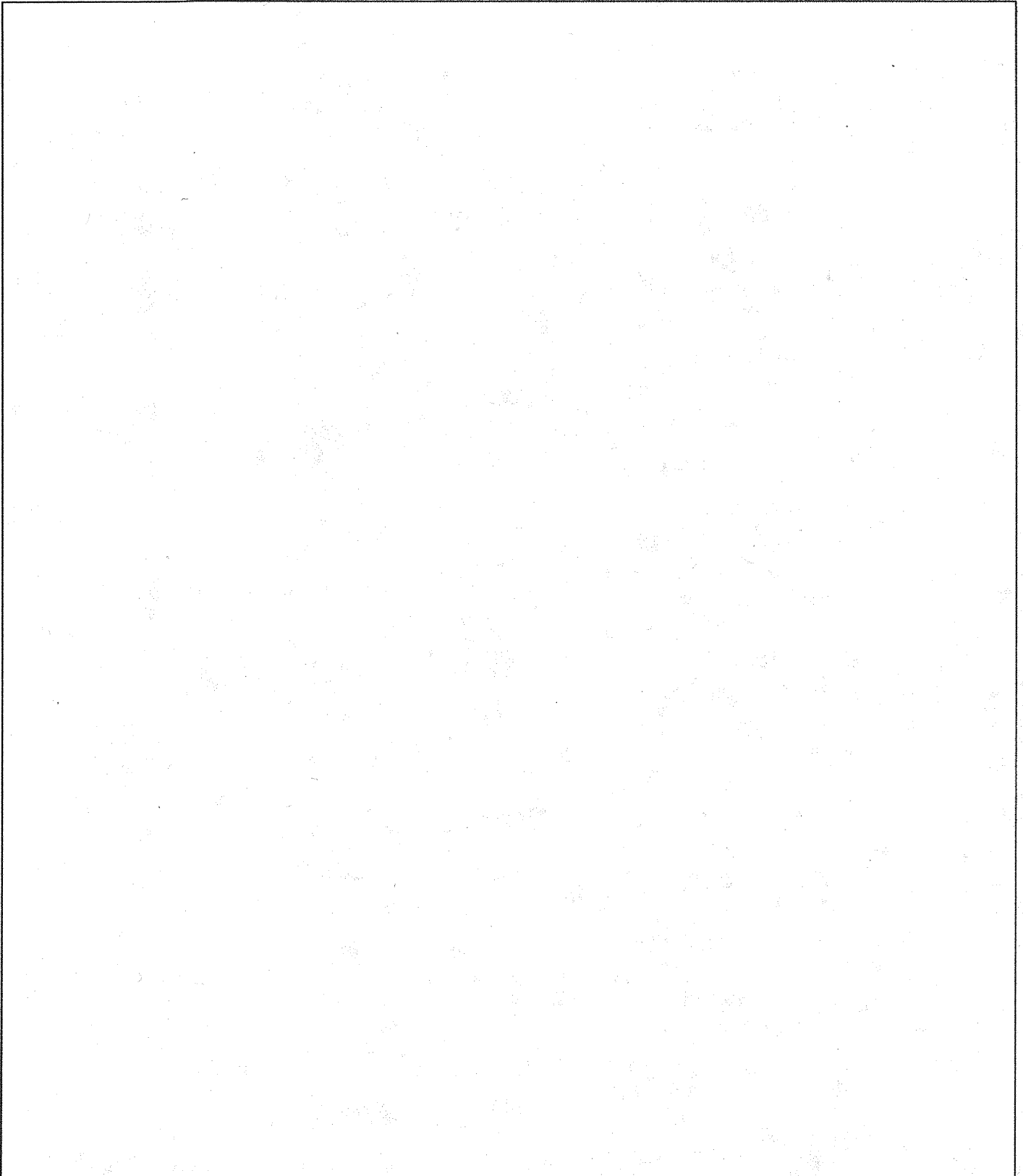
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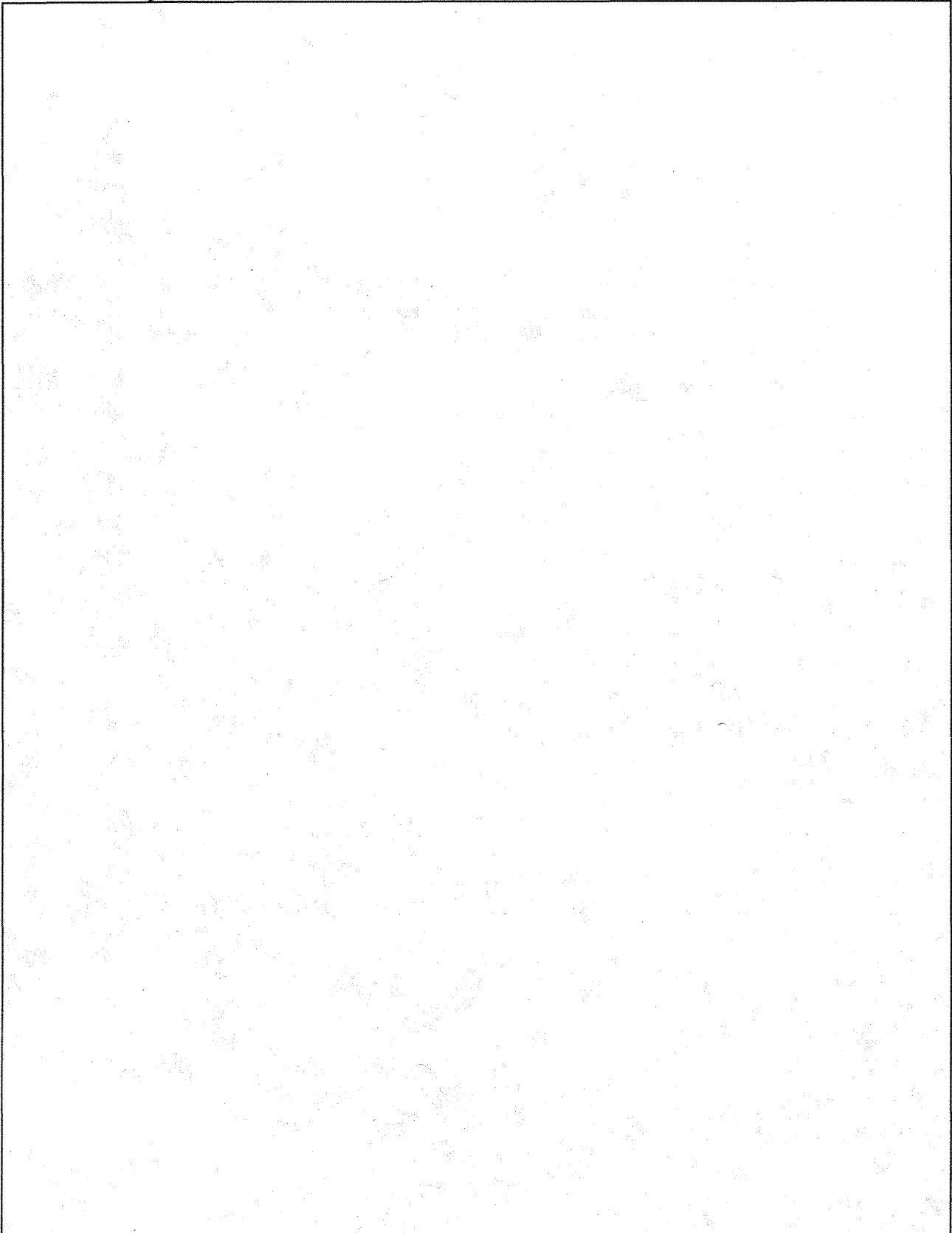
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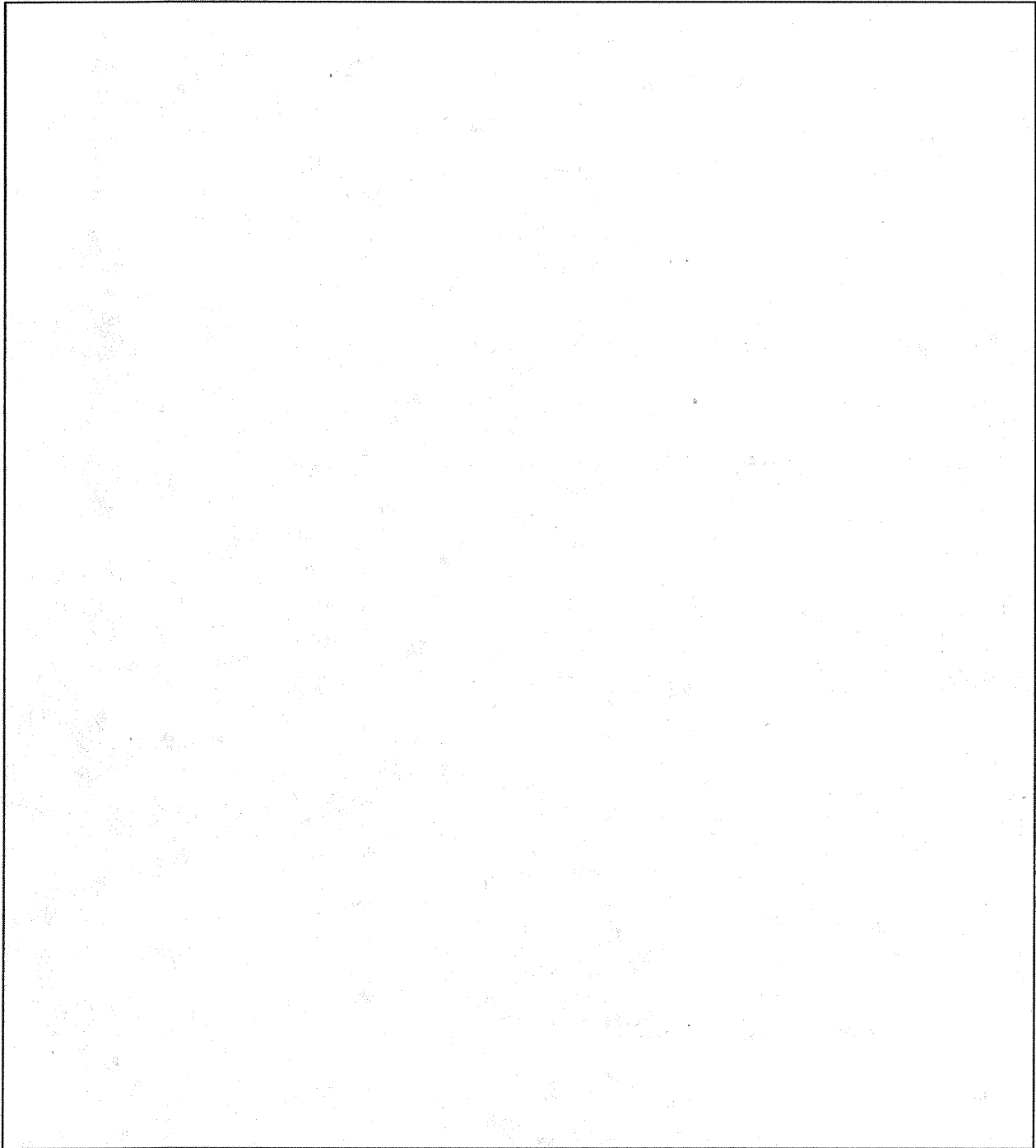
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(b) (3)**Date:** 02/07/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-42 (U) COMPENSATION OF IMPRISONED FOREIGN NATIONALS**REVISION SUMMARY:** 07 February 2002 (0609)

This regulation supersedes AR 20-42, dated 23 July 1997.

AR 20-42 is revised to update organizational and officer titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices (MSOs).

*Boldfaced text in this regulation indicates revisions .*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy@DA.*

**42. (U) COMPENSATION OF IMPRISONED FOREIGN NATIONALS**

**(U) SYNOPSIS.** This regulation states Agency policy for compensating foreign national employees imprisoned by foreign governments as a result of their Agency employment. It excludes agents and other independent contractors; they are not U.S. Government employees.

- a. **(U) AUTHORITY.** 22 U.S.C. Section 3970 (1990).
- b. **(U) POLICY.** CIA may compensate foreign national employees if the Director of Central Intelligence or designee determines that such imprisonment is the result of the employment of the foreign national by the Agency.
- c. **(U) DEFINITIONS**
  - (1) **EMPLOYEE.** Any current or former foreign national employee of the Agency or any foreign national who is or was employed under a personal services contract by the



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Agency, who is or has been imprisoned by a foreign government.

- (2) **CLAIMANT.** An employee, dependent, executor of a former employee's estate, court-appointed guardian, or other person legally qualified to file a claim.
  - (3) **COMPENSATION.** Basic salary, including regular within-grade increases, and other authorized pay or allowances.
  - (4) **DEPENDENT.** Spouse, dependent unmarried child (including unmarried stepchild or adopted child) under 21 years of age, a parent whom the employee has designated as a dependent in official Agency records, or an individual the **Chief Human Resources Officer** determines to be an employee's dependent.
- d. **(U) QUALIFYING TERMS AND CONDITIONS.** The following terms and conditions govern claimant compensation:
- (1) Claimant, if the Agency employee, was an employee at the time of imprisonment by a foreign government and the imprisonment was a result of this employment.
  - (2) Claimant, if other than the employee, has a right to payment as determined by the **Chief Human Resources Officer**. Payment is authorized to the employee or to the dependents if the employee remains imprisoned or died during imprisonment.
  - (3) Claimant is required to file within three years after:
    - (a) The termination of the period of imprisonment; or
    - (b) The date of the claimant's first opportunity thereafter to file such a claim as determined by the **Chief Human Resources Officer**.
  - (4) A claimant is barred from assigning rights or benefits granted under this regulation.
  - (5) The claimant is not otherwise entitled to benefits under the Missing Persons Act.
- e. **(U) COMPENSATION.** The **Chief Human Resources Officer** establishes a compensation rate for salary and benefits approximating that which the employee would have received under the relevant local compensation plan had the employee remained employed during imprisonment. A period of imprisonment is not creditable for:
- (1) Civil Service retirement, unless the employee was covered by the Civil Service Retirement and Disability System during the period of employment immediately preceding imprisonment, or the employee qualifies for annuity benefits for other service.
  - (2) Workers' compensation under title 5, U.S.C. 81(I), unless the employee was employed by the U.S. Government at the time of imprisonment.
- f. **(C) AUTHORITIES AND RESPONSIBILITIES**
- (1) **CHIEF HUMAN RESOURCES OFFICER.** The Director of Central Intelligence (DCI) has delegated all authorities vested in him by 22 U.S.C. Section 3970 (1990) to the **Chief Human Resources Officer**. In particular, the **Chief Human Resources Officer**:

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- (a) Determines if the foreign national employee's imprisonment is the result of Agency employment.
  - (b) Coordinates with [REDACTED] to ensure that the affected employee receives appropriate benefits.
  - (c) Ensures that Operating Officials comply with this regulation.
  - (d) Coordinates each case with the Chiefs, Counterintelligence Center and [REDACTED]  
[REDACTED] the Office of General Counsel, and other appropriate offices.
- (2) **OPERATING OFFICIALS.** The Operating Official with jurisdiction over an imprisoned employee, or over the area to which the employee is assigned must report to the **Chief Human Resources Officer** all information about the individual's arrest and imprisonment including: the individual's pay status; the time, place, and cause for imprisonment; and statements of witnesses.

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(b) (3)**Date:** 02/14/2002**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-44    CIVIL SERVICE RETIREMENT SYSTEM AND  
FEDERAL EMPLOYEES RETIREMENT SYSTEM**REVISION SUMMARY:** 14 February 2002 (0618)

This regulation superseded AR 20-44, dated 10 June 1997.

AR 20-44 is revised to update organizational titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001 to abolish the Directorate of Administration, and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions.**This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff.***44. CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES  
RETIREMENT SYSTEM****SYNOPSIS.** This regulation states policies, authorities, and responsibilities for administration of the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) for Agency employees.

- a. AUTHORITY.** 5 U.S.C. Chapters 83 and 84 and the CIA Act of 1949.
- b. POLICY**

**(1) DEFINED BENEFIT PLANS AND OTHER RETIREMENT PROVISIONS.** In accordance with Office of Personnel Management (OPM) regulations, except as modified by Agency regulations and to the extent that the Director of Central Intelligence (DCI) determines to be appropriate, the Agency will process retirement claims, pay benefits, and administer other requirements of CSRS and FERS for Agency personnel and their survivors and/or former spouses as set forth in this regulation.

**(2) THRIFT SAVINGS PLAN.** The Agency administers the Thrift Savings Plan (TSP) for

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Agency personnel, except for Thrift Savings Fund investments, under DCI-established procedures and in consultation with the Executive Director, Federal Retirement Thrift Investment Board (FRTIB).

**c. GENERAL**

- (1) Unless otherwise stated, Agency procedures for administration of retirement programs were effective 1 January 1987.
- (2) This regulation follows CSRS and FERS statutes, OPM guidance for CSRS and FERS, and FRTIB guidance on TSP.

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## PART I

### GENERAL AUTHORITIES AND RESPONSIBILITIES

**a. CIVIL SERVICE RETIREMENT SYSTEM (CSRS) AND FEDERAL EMPLOYEES RETIREMENT SYSTEM (FERS)**

- (1) By statute, the Director, OPM has authority and responsibility to administer CSRS and FERS.
- (2) The Director, OPM is authorized to inspect and audit Civil Service Retirement and Disability Fund disbursements.

**b. THRIFT SAVINGS PLAN (TSP).** By statute, the Executive Director, FRTIB administers the TSP. FRTIB, an executive branch agency independent of OPM, is also authorized to invest TSP moneys and to inspect and audit Agency TSP disbursements.

**c. ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY OF THE DIRECTOR OF CENTRAL INTELLIGENCE**

- (1) As specified in the FERS Act of 1986, the DCI has authority to administer CSRS, FERS, and TSP for Agency employees, to the extent the DCI considers appropriate and as embodied in regulations submitted in advance to the Congressional intelligence committees.
- (2) After consultation with the Director, OPM and the Executive Director, FRTIB, the DCI will advise them which CSRS, FERS, and TSP functions the Agency will administer.

**d. DELEGATION OF AUTHORITY**

- (1) The DCI has delegated to the **Chief Human Resources Officer** all Agency administrative functions and authorities relative to CSRS and FERS, except those reserved for the DCI or specifically delegated to other Agency officials.
- (2) The **Chief, Pay & Benefits (C/P&B)** or designee establishes and maintains liaison with OPM and FRTIB officials to:
  - (a) Advise the Director, OPM and Executive Director, FRTIB which functions the Agency will administer.
  - (b) Consult and exchange information with these officials.
  - (c) Administer other related CSRS, FERS, and TSP matters.

**e. ISSUANCE OF REGULATIONS AND INSTRUCTIONS**

- (1) OPM and FRTIB issue regulations, instructions, and guidance to Federal agencies on general CSRS, FERS, and TSP administration. Agency regulations for administering CSRS, FERS, and TSP substantially follow OPM and FRTIB regulations, except for special provisions to protect intelligence sources, methods, and activities or for specific statutory provisions applying only to Agency employees. The Agency also substantially

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follows OPM's and FRTIB's interpretation of their regulations.

- (2) The C/P&B or designee consults with OPM officials and the Executive Director, FRTIB, as necessary, to develop procedures for Agency-administered functions.

**f. RESPONSIBILITIES**

- (1) **HEADS OF CAREER SERVICES** will ensure that appropriate representatives provide retirement counseling and discuss retirement planning with employees before retirement.

- (2) **HUMAN RESOURCES (HR)**

- (a) **Regarding CSRS and FERS, HR will:**

- (1) Conduct a retirement services program including advice on preretirement planning, benefits and entitlements briefings, and external employment assistance.
    - (2) Determine benefits entitlements on the basis of Federal service for current employees, certain former employees, or those initially employed or reemployed with the Agency on or after 1 January 1987. Certify, process, and adjudicate applications for all Federal retirement systems claims covering Agency employees. This includes retirement, disability, dependent, survivor, former spouse, and other benefits claims. Answer third-party inquiries on employee and former employee entitlements. Responses will comply with the Privacy Act of 1974, as amended, 5 U.S.C. 552a.
    - (3) Maintain records on service, including the retrieval of prior Federal service records from OPM. Compute amounts and collect remittances for deposits to be made by employees, their spouses, and former spouses for prior creditable service. Make lump sum credit payments.
    - (4) Compute benefits using the employee's retirement system criteria, including benefits for employees eligible to elect an alternative form of annuity (AFA). The AFA is administered in accordance with 5 U.S.C. 8343a and 8420a and OPM regulations in 5 CFR 831 and 842.
    - (5) Notify OPM of Agency security standards and clearances required for OPM inspections and audits of Civil Service Retirement and Disability Fund disbursements. The DCI's responsibility to protect sources and methods determines the access allowed to OPM auditors. In conjunction with the Audit Staff, brief OPM auditors on Agency retirement procedures. Maintain records of Agency-authorized disbursements for OPM's on-site inspection and audit in accordance with Agency and OPM procedures. Recommend, when appropriate, use of DCI authority to waive the recovery of erroneous fund payments. Such waivers will follow procedures and delegated authorities in HR 20-33 and OPM-prescribed standards.
    - (6) Request information and services from OPM on a reimbursable basis when necessary for Agency administration of retirement functions. Answer OPM's

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information requests in a way that protects sensitive intelligence information.

- (7) After completion of the appeals process in paragraph g below, provide unclassified information, as necessary, to enable employees or former employees to exercise their right to appeal decisions to the Merit Systems Protection Board (MSPB) and in some cases petition judicial review (as specified in 5 U.S.C. 8347(d) and 8461(e)). In consultation with the Office of General Counsel (OGC), the Office of Security (OS), and other appropriate Agency offices, the C/P&B will advise MSPB of security procedures to protect sensitive information in accordance with clear statutory intent (under the Civil Service Retirement Act and the FERS Act) that such proceedings be conducted in a secure manner. OGC, in consultation with C/P&B, will determine when to invoke statutory or other evidentiary privileges in a particular proceeding where MSPB has not agreed to follow the Agency's recommended procedures. OGC also is responsible for communicating with Federal courts on security procedures for judicial proceedings on retirement matters involving Agency employees, former employees, or similar parties. This procedure does not alter OPM's substantive statutory authority for MSPB appeal cases.

- (8) Withhold and maintain records of retirement deductions. Send retirement deductions and deposits to OPM without Agency employee names. Pay benefits to retirees and other entitled persons, using procedures agreed to by the Agency and OPM.

- (9) Maintain documents normally in an OPM retirement file (such as Federal Employees' Group Life Insurance forms).

(b) Regarding TSP, HR will:

- (1) Inform employees of their TSP options during each open season.
- (2) Process employee TSP contribution and/or investment elections, determine required Agency contributions for each employee, send employee contributions and Agency contributions by investment category to the Executive Director, FRTIB, and maintain records on elections, contributions, and accounts.
- (3) Administer the TSP loan program. This includes:
- (a) Disbursing loans, disbursing loan proceeds against TSP balances, making other disbursements for returns of excess contributions, refunds of balances, and proceeds of balances for purchase of annuity for or on behalf of an employee and consistent with FRTIB procedures. Report disbursements to FRTIB in aggregate amounts by applicable investment and contribution category for adjustment of control account(s). Recover those amounts by offset against current period remittances to FRTIB.
- (b) Effecting payroll deductions for loan repayments and maintaining individual accounts for each loan and a control account on the aggregate amount of such loans that will be reconcilable at all times with the corresponding FRTIB

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control account.

- (c) Collecting remittances and sending collections of loan principal and interest payments to FRTIB. Advancing funds to facilitate the transfer of a TSP account with an outstanding loan balance from the FRTIB fund to the Agency system or providing a loan against TSP account balances not otherwise available in those cases determined by the DCI as necessary to protect intelligence sources, methods, and activities. Collecting remittances for loan payment by means other than payroll deduction when dictated by reasons of cover. Initiating distribution of the unpaid loan principal and interest upon default or upon retirement or resignation, if the employee so desires.
  - (4) Distribute FRTIB allocations of earnings and losses and operating expense assessments to individual accounts. Issue individual TSP account statements to employees based on the FRTIB schedule. Issue loan statements on a semiannual basis in conjunction with the individual TSP account statements.
  - (5) Distribute withdrawal packages to retirees or resignees and maintain records of returned forms.
  - (6) Answer third-party inquiries on TSP accounts in accordance with the Privacy Act of 1974 (5 U.S.C. 552a).
  - (7) Maintain liaison with the Executive Director, FRTIB, including notification that the independent public accountant or other designees engaged for inspections and audits of Agency-managed TSP accounts and disbursements must meet Agency security standards. Consult with the Executive Director, FRTIB and the accountant to ensure reports prepared for FRTIB and the Comptroller General of the United States do not contain sensitive information compromising intelligence sources, methods, and activities.
- (3) **OFFICE OF SECURITY** will:
- (a) Certify clearances for OPM staff members or other Director of OPM designees for liaison activities, procedural inspections, and audits of Agency-authorized CSRS or FERS disbursements.
  - (b) Certify clearances for the independent public accountant or others engaged by the Executive Director, FRTIB for inspections and audits of Agency-managed TSP accounts and disbursements.
- (4) **OFFICE OF INSPECTOR GENERAL.** The Audit Staff, Office of Inspector General, in conjunction with HR, develops procedures for OPM's inspection and audit of Agency-related Civil Service Retirement and Disability Fund disbursements and FRTIB's inspection and audit of Agency TSP disbursements. Inspections and audits will be conducted within Agency security constraints by individuals with appropriate security clearances.
- (5) **OFFICE OF MEDICAL SERVICES (OMS).** OMS will provide the services specified in AR 20-50 for CSRS and FERS disability cases.



~~ADMINISTRATIVE - INTERNAL USE ONLY~~**g. APPEALS PROCEDURES**

- (1) The Agency administers and processes appeals of HR decisions and adjudications under CSRS and FERS in accordance with this paragraph and paragraph f(2)(a)(7) above. Except as noted in paragraph (2) below, an individual whose rights or interests under CSRS or FERS are affected by an HR decision may submit a written request for reconsideration to HR. The request must state the basis for reconsideration of the decision.
- (2) Reconsideration requests for the following decisions are processed in accordance with the applicable law or court order:
  - (a) Forfeiture of annuity for conviction of certain criminal offenses relating to national security under 5 U.S.C. 8311-8322 (5 CFR 831, K). Decisions are not appealable to the MSPB under 5 U.S.C. 8347(d).
  - (b) Collection of debts due to the United States (5 CFR 831, M, and 845).
  - (c) Court orders affecting benefits under CSRS, FERS (both are covered by 5 CFR 838), or TSP (5 CFR 1650, I).
- (3) HR must receive a reconsideration request within 30 calendar days from the original decision date. The C/P&B or designee may extend the filing time limit when requesters show they were not notified of the time limit or were prevented by circumstances beyond their control from making the request within the limit.
- (4) The C/P&B or designee will issue a final written decision explaining the reconsideration findings and conclusions and the right to appeal to the MSPB.
- (5) An individual whose rights or interests under CSRS or FERS are affected by a final decision may request the MSPB review the decision in accordance with MSPB-prescribed procedures and Agency paragraph f(2)(a)(7) above of Part I.

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**PART II**  
**CIVIL SERVICE RETIREMENT SYSTEM:**

**a. GENERAL.** By statute, the Civil Service Retirement System (CSRS) is a defined benefit program that provides eligible Federal civilian employees, generally hired before 1984, with retirement benefits on the basis of length of service and average pay. Employees who are unable to perform job duties because of a disabling condition and dependents of deceased employees and retirees who meet qualifying conditions also receive benefits. This part highlights portions of the CSRS statute and OPM-prescribed regulations in 5 CFR 831 and is intended for use in conjunction with both. This regulation also includes Agency-unique provisions.

**b. ELIGIBILITY FOR PARTICIPATION**

- (1) CSRS provides retirement coverage for staff personnel who entered on duty prior to 1 January 1984, including third-country nationals (nonresident aliens) who entered on duty prior to 1 January 1990. It excludes temporary employees, certain contract employees, and employees whose appointment excludes them by law and/or OPM regulations. CSRS also provides coverage for:
  - (a) Staff and contract employees who are in an excluded category, provided their employment follows other employment covered under CSRS and there is no break in service in excess of three days.
  - (b) Employees who are rehired after a break in service of 365 days or less and who were covered under CSRS at the time of separation.
- (2) Contract employees, otherwise eligible for CSRS, must be US citizens under contract for more than one year, and employed in full-time or regularly scheduled part-time status.

**c. CSRS OFFSET**

- (1) Employees rehired after 31 December 1983 with a break in service of more than 365 days are subject to Social Security. Employees who were under Social Security when rehired or converted continue under Social Security. These and other employees may also qualify for CSRS under the CSRS offset provisions if they fall within the following categories:
  - (a) Employees rehired between 1 January 1984 and 31 December 1986 after a break in service of more than 365 days and with at least five years of CSRS-creditable civilian service as of 31 December 1986.
  - (b) Employees rehired after 31 December 1986 with a break in service of more than 365 days and who, at the time of separation, were under CSRS and had at least five years of CSRS-creditable civilian service.
  - (c) Contract employees excluded from CSRS who convert to covered service (for

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example, from intermittent to full-time) after 31 December 1983 without a break in service and with at least five years of CSRS-creditable civilian service as of 31 December 1986.

- (d) Employees rehired after 31 December 1986 with a break in service of more than three days and who, at the time of separation, were under Social Security, had at least five years of CSRS-creditable civilian service, and had some of that service under CSRS.
- (2) Under CSRS offset, employees contribute the same Federal Insurance Compensation Act (FICA) tax rate and defined benefit contribution rate as FERS employees, except the defined benefit contribution rate is seven percent of salary in excess of the FICA wage base.
- (3) The individual's CSRS annuity is reduced (offset) by the amount of the primary Social Security benefit attributable to Federal service, beginning the first month of eligibility for Social Security (usually at age 62), even if the person does not apply for such benefits.

**d. RETIREMENT ELIGIBILITY**

- (1) Employees must complete at least five years of creditable civilian service to be eligible for retirement.
- (2) Employees must complete at least one year of CSRS-creditable civilian service within the two-year period before the separation upon which the annuity is based, unless separation is due to disability. The year of service does not have to be continuous.
- (3) CSRS employees are eligible for optional retirement with 30 years of service at age 55, 20 years of service at age 60, or five years of service at age 62.
- (4) Firefighters are eligible for optional retirement with 20 years of firefighter service at age 50. Mandatory retirement is age 55 for firefighters with 20 years of firefighter service.

**e. ACCRUAL RATES**

- (1) Agency CSRS employees receive an annual accrual rate of 1.5 percent of the high-three average annual pay for the first five years of service, 1.75 percent for the next five years, and 2.0 percent for each year thereafter up to a maximum of 41 years, 11 months of service.
- (2) Firefighters receive an annual accrual rate of 2.5 percent of the high-three average annual pay for 20 years of firefighter service and 2.0 percent for each year in excess of 20 years even if those years do not include firefighter service. If a firefighter is not eligible for optional retirement and retires under disability provisions, the guaranteed minimum formula or the general formula determines the benefits, whichever provides the larger annuity.
- (3) Under the CIA Act of 1949 and Public Law 101-193, annuities for overseas service by Agency CSRS employees serving abroad after 31 December 1986 and retiring after 30 September 1989 are computed at 2.0 percent per annum. The increased accrual rate is

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applied to the employee's initial years of Federal service and the remaining years are computed using the general formula in paragraph (1) above. Service abroad is computed by total months of TDY and PCS duty. The increased accrual rates are portable if the employee transfers to another Federal agency.

**f. DISABILITY RETIREMENT ELIGIBILITY**

- (1) All CSRS employees are eligible for disability benefits if disabled after five years of creditable civilian service. As of 1 January 1987, all disability applications and claims will be processed and adjudicated in accordance with AR 20-50.
- (2) Except as provided in paragraph (3) below, disability retirement benefits for Agency CSRS employees are computed using CSRS criteria.
- (3) Under section 19(a) of the CIA Act of 1949 (50 U.S.C. 403s(a)), an Agency CSRS employee who upon application or the DCI's order, will retire on an annuity computed in accordance with AR 20-50 applicable to the computation of Central Intelligence Agency Retirement and Disability System (CIARDS) disability annuities if the employee:
  - (a) Has at least five years of creditable civilian service;
  - (b) Satisfies the requirements for CSRS disability retirement;
  - (c) Has not been designated a CIARDS participant; and
  - (d) Becomes disabled while assigned CIARDS-qualifying duties.
- (4) The CIARDS Fund pays the annuity provided under this paragraph.
- (5) The Agency administers and processes appeals of determinations and adjudications in accordance with Part I, paragraphs f(2)(a)(7) g.

**g. SPECIAL PROVISIONS FOR DEATH-IN-SERVICE BENEFITS**

- (1) Under section 19(b) of the CIA Act of 1949 (50 U.S.C. 403s(b)), an Agency CSRS employee's spouse, former spouse, and child or children will be entitled to a survivor annuity computed in accordance with AR 20-50 for CIARDS death-in-service benefits if the employee:
  - (a) Has at least 18 months of creditable civilian service;
  - (b) Has not been designated as a CIARDS participant;
  - (c) Dies while assigned to CIARDS-qualifying duties; and
  - (d) Is survived by a spouse, former spouse, and/or a child or children who would be entitled to a CSRS survivor annuity.
- (2) The CIARDS fund pays survivor annuities provided under this paragraph.

**h. ELIGIBILITY FOR THRIFT SAVINGS PLAN (TSP) PARTICIPATION AND CONTRIBUTION RATES**

- (1) CSRS employees may participate in TSP, which was established by FERS on 1 April

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1987.

- (2) **Upon the establishment of FERS, CSRS participants were able to contribute up to 5 percent of basic pay to TSP.**

From 1 April through 30 September 1987, CSRS participants could have contributed up to 7.5 percent of pay. The Internal Revenue Service (IRS) adjusts annually the contribution limit for TSP contributions. **There are neither automatic nor Agency-matching contributions.**

- i. **OPTION TO TRANSFER FROM CSRS TO FERS.** All CSRS participants as of 30 June 1987 had the option to transfer into FERS between 1 July and 31 December 1987. Those participants reemployed under CSRS after 30 June 1987 have six months from the reemployment date to transfer into FERS. Employees who transfer to FERS will have their annuities computed and adjusted according to the following special provisions:

- (1) Employees with at least five years of CSRS-creditable civilian service at the time of transfer will be eligible for an annuity consisting of two portions: one for all their pretransfer service (computed under CSRS) and the second for all service thereafter (computed under FERS).
- (2) Employees subject to the CSRS offset provisions in paragraph c above who transfer to FERS will have all years of offset service after 31 December 1983 computed under the FERS annuity formula. In instances where five or more years of creditable civilian service remain after converting the post-1983 offset service to the FERS annuity formula, the remaining creditable service will be computed under the CSRS annuity formula. If after conversion of the offset service less than five years of creditable civilian service remain, the balance of an employee's service (both military and civilian) will be computed under the FERS annuity formula.
- (3) For transferees to FERS, the cost-of-living adjustment for the portion of the annuity earned on the basis of CSRS creditable service will be computed under the CSRS formula, and the FERS cost-of-living formula will be applied to the portion of the annuity based on FERS service.

j. **REEMPLOYMENT OF CSRS ANNUITANTS**

- (1) **GENERAL.** CSRS annuitants are not barred from reemployment in an appointive or elective position in the Federal service. For the reemployment period, CSRS annuitants are provided CSRS coverage (or FERS coverage from the date of election in the case of those transferring to FERS during the reemployment period) unless the appointment is

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excluded from CSRS or FERS retirement coverage by law or OPM regulations.

**(2) REEMPLOYMENT COMPENSATION**

- (a) Reemployed CSRS annuitants who remain under CSRS will be entitled to receive their annuities during the reemployment period, but an amount equal to the annuity allocable to the period of actual employment will be deducted from their pay.
- (b) Paragraph (a) above will not apply to a disability annuitant whose annuity is terminated because of recovery or restoration of earning capacity or to an annuitant whose discontinued service annuity is terminated upon reemployment.
- (c) Upon reemployment, CSRS annuitants may elect to have deductions for the Civil Service Retirement and Disability Fund withheld from their pay. Individuals who are reemployed as CSRS annuitants but later transfer to FERS will, from the election date, be required to have deductions withheld from pay in the same manner and in the same amounts as FERS participants.
- (d) A reemployed annuitant who did not elect to have payroll deductions made to the Civil Service Retirement and Disability Fund may, at separation, elect to make a deposit to cover the reemployment service in order to become eligible for an additional supplemental annuity or a recomputation of the total annuity as outlined in the following paragraph.
- (e) **Upon termination of reemployment:**
  - (1) A CSRS annuitant who has served full-time less than one year or the part-time equivalent and who elected to have CSRS deductions withheld from pay during the reemployment period will, upon written application to **Pay & Benefits/HR**, be paid a refund of CSRS deductions.
  - (2) A CSRS annuitant who has served full-time for at least one year or the part-time equivalent will be entitled to a supplemental annuity for the reemployment period, provided the service is covered by retirement deductions, or a deposit equal to the retirement deductions that should have been taken (plus interest).
  - (3) CSRS annuitants who have served full-time for at least five years or the part-time equivalent may elect, instead of the supplemental annuity described in paragraph (2) above, to have their retirement rights redetermined, provided all required deductions or deposits, plus interest, for the reemployment period(s) have been made.
  - (4) CSRS law and OPM regulations in effect when the period of reemployment terminates determine eligibility for a supplemental annuity or option to elect a redetermined annuity.

**k. BENEFITS FOR SPOUSES AND FORMER SPOUSES OF CSRS PARTICIPANTS**

- (1) **SPECIAL PROVISIONS FOR CERTAIN FORMER SPOUSES OF AGENCY EMPLOYEES COVERED BY CSRS.** Section 14 of the CIA Act of 1949 (50 U.S.C. 403n) provides that a former spouse of an Agency employee who is a CSRS participant will have a statutory right to retirement and survivor benefits if the former spouse meets

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the criteria in paragraph (a) below. The benefits of a CSRS employee's former spouse are determined by the employee's entitlements in accordance with CSRS provisions of law and OPM regulations.

(a) To qualify for these statutory benefits:

(1) A former spouse divorced from an Agency employee or annuitant on or before 4 December 1991 must have been married to such employee for not less than 10 years of the employee's creditable service, during which both the employee and former spouse spent at least five years outside the United States during the employee's Agency service.

(2) A former spouse divorced from an Agency employee or annuitant after 4 December 1991 must have been married to such employee for not less than 10 years of the employee's creditable service, during which the employee spent at least five years outside the United States in Agency service or in a CIARDS-qualifying position. For this provision, United States means the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

(b) A qualified former spouse as defined in paragraph (a) above will be subject, in the same manner and to the same extent, to the requirements, limitations, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments as former spouses of CIARDS participants or annuitants.

**(2) GENERAL PROVISIONS FOR SPOUSES AND FORMER SPOUSES OF AGENCY EMPLOYEES COVERED BY CSRS**

(a) Current spouses and/or former spouses (who do not meet the criteria in paragraph (1)(a) above) of Agency employees or annuitants under CSRS will be subject to the rules, obligations, eligibility requirements, and entitlements relative to retirement annuities, survivor benefits, and lump-sum payments stated in CSRS provisions of law and OPM regulations.

(b) Under CSRS, a current spouse:

(1) Is a person married to a CSRS employee or retiree at the time of the employee's or retiree's death.

(2) If otherwise eligible, is entitled to a survivor annuity after the employee's or retiree's death if they had been married for at least nine months, a child was born of the marriage, or the employee's or retiree's death was accidental. For a deceased employee, the surviving spouse is entitled to a survivor annuity only if the employee had completed at least 18 months of CSRS-creditable civilian service. For a deceased retiree, the surviving spouse is entitled to a survivor annuity only if the retiree elected a reduced annuity to provide survivor benefits for the spouse.

(3) Is entitled to a survivor annuity that may be less than the maximum when a former spouse is entitled to a portion of the survivor annuity on the basis of a court order or election that expressly provides a survivor annuity for the former

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spouse.

(c) Under CSRS, a former spouse:

- (1) In connection with a court order affecting employee retirement benefits, is a person whose marriage to an employee or retiree has been subject to divorce, annulment, or legal separation resulting in a court order.
- (2) In connection with a court order awarding a former spouse survivor annuity, is a person married for at least nine months to a CSRS employee or retiree with at least 18 months of CSRS-creditable civilian service, and whose marriage was terminated before the death of the employee or retiree.
- (3) Is entitled to be paid a portion of the employee's refund of CSRS deductions or the retiree's monthly CSRS annuity only if a qualifying court order expressly provides for such payment. The former spouse's share must be stated as a fixed amount, percentage, or fraction of the benefit, or expressed as a formula that does not contain variables whose value is not readily ascertainable from the face of the order or Agency files.
- (4) Is entitled to a survivor annuity if divorced from the CSRS employee or retiree after 7 May 1985 and if the annuity is expressly provided for in a qualifying court order. If the court order does not state a fixed percentage, fraction, or amount of the survivor annuity awarded to the former spouse, the order will be interpreted as providing the maximum survivor annuity (equal to 55 percent of the retiree's annuity unreduced for survivor benefits). A former spouse may be eligible to receive a survivor annuity based on the employee's election, at retirement or within two years after the date of a postretirement divorce, to have the annuity reduced to provide a survivor annuity. The former spouse's entitlement to a survivor annuity terminates if the former spouse remarries before reaching age 55.
- (5) Is entitled to payment of a portion of the participant's TSP account balance provided the CSRS employee is a TSP participant and if expressly provided for in a qualifying retirement benefits court order. The Agency will administer this provision in accordance with FRTIB regulations in 5 CFR 1650, I.



~~ADMINISTRATIVE - INTERNAL USE ONLY~~**PART III****FEDERAL EMPLOYEES RETIREMENT SYSTEM:**

- a. GENERAL.** By statute, the Federal Employees Retirement System (FERS) is a three-tiered retirement system consisting of a basic FERS annuity, TSP, and Social Security benefits. FERS provides benefits for voluntary retirement, involuntary retirement, disability, or death of the employee or retiree. The basic annuity, a defined benefit, is computed on the basis of years of service and average pay. In contrast, TSP is a tax-deferred defined contribution plan, in which the amount of money accumulated in the employee's account through contributions and earnings determines the benefit. The Social Security Administration administers the Social Security tier. This part highlights portions of the FERS statute, OPM-prescribed regulations in 5 CFR 841 to 846, and Federal Retirement Thrift Investment Board (FRTIB) regulations in 5 CFR 1600 to 1690. This regulation also includes Agency-unique provisions.
- b. ELIGIBILITY FOR PARTICIPATION.** FERS provides retirement coverage for employees, including permanent resident aliens, who are eligible for Social Security and entered on duty on or after 1 January 1984. Excluded from coverage are employees who are not citizens or permanent resident aliens or whose appointments are temporary (limited to one year or less) or intermittent. FERS also excludes employees who entered on duty on or after 1 January 1984, with a break in service of 365 days or less, or with a break in service of over 365 days and creditable civilian service equal to five years or more before 1 January 1987 or the reemployment date, if later. Part I covers FERS Special Category employees.
- c. ELIGIBILITY FOR RETIREMENT**

- (1) The FERS minimum retirement ages (MRAs) are:

<b>Year of Birth</b>	<b>MRA</b>
Before 1948	55 years
1948	55 years 2 months
1949	55 years 4 months
1950	55 years 6 months
1951	55 years 8 months
1952	55 years 10 months
1953 to 1964	56 years
1965	56 years 2 months
1966	56 years 4 months
1967	56 years 6 months
1968	56 years 8 months
1969	56 years 10 months
After 1969	57 years

- (2) FERS participants are eligible for voluntary retirement with 30 years of creditable service at the MRA, 20 years of service at age 60, or five years of service at age 62. They are also eligible to receive an annuity with 10 years of service at the MRA, but

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with a reduced benefit of five percent for each year under age 62. Deferred annuities are available under the same age and length of service requirements as for immediate annuities.

- (3) Firefighters are eligible for voluntary retirement with 20 years of firefighter service at age 50 or with 25 years of firefighter service at any age. Mandatory retirement is age 55 for firefighters with 20 years of firefighter service. Firefighter service includes assignments to positions meeting criteria defined in 5 U.S.C. 8401(14)(A) and (B).

**d. ACCRUAL RATES**

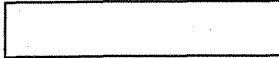
- (1) Agency FERS participants will receive an accrual rate of 1.0 percent of the high-three average annual pay for each year of service, except that the rate will be 1.1 percent for each year of service if retiring at or after age 62 with at least 20 years of service. For service abroad on or after 1 January 1987, Agency employees will receive an annual accrual rate of 1.7 percent in lieu of the above rates. Service abroad is computed on the basis of total months of TDY and PCS duty.
- (2) Firefighters receive an annual accrual rate of 1.7 percent of the high-three average annual pay for 20 years of firefighter service and 1.0 percent for each year of service in excess of 20 years even if this was not firefighter service.

**e. ELIGIBILITY FOR DISABILITY BENEFITS**

- (1) FERS employees are eligible for disability benefits if disabled after completing 18 months of creditable civilian service. Disability claims will be processed in the same manner as CIARDS disability cases (described in AR 20-50<sup>2</sup>).
- (2) The benefit will be calculated in the same manner as for FERS Special Category cases.
- (3) The Agency will administer and process appeals of determinations and adjudications in accordance with Part I, paragraph f(2)(a)(7) and g above.

**f. ELIGIBILITY FOR TSP PARTICIPATION AND CONTRIBUTION RATES**

- (1) FERS employees are eligible to elect to participate in TSP during open seasons via continuing payroll contributions.
- (2) FERS employees are entitled to an automatic Agency contribution of 1.0 percent of basic pay for each pay period even if they do not contribute to their TSP account.
- (3) FERS participants **were able to** contribute up to 10 percent of basic pay to TSP, subject to an IRS annually adjusted contribution limit, except as provided in paragraph (4) below.

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- (4) From 1 April 1987 through 30 September 1987, FERS participants could have contributed up to 15 percent of basic pay.
- (5) The Agency will match employee contributions as follows:

Employee Contribution	Agency-Matching Contribution
First 3% of pay	\$1.00 for \$1.00
Next 2% of pay	\$.50 for \$1.00
Over 5% of pay	None

- (a) The above Agency-matching contributions are in addition to the automatic 1 percent Agency contribution.
- (b) The above Agency-matching contributions were doubled from 1 April through 30 June 1987.

**g. REEMPLOYMENT OF FERS ANNUITANTS****(1) GENERAL**

- (a) FERS annuitants are not barred from reemployment in an appointive or elective position in the Federal service.
- (b) Reemployed FERS annuitants are provided FERS coverage for the reemployment period unless the appointment is intermittent or excluded from FERS coverage.

**(2) REEMPLOYMENT COMPENSATION**

- (a) A reemployed FERS annuitant (except a disability annuitant whose annuity is terminated because of recovery or restoration of earning capacity) will be entitled to receive an annuity during the reemployment period. However, a sum equal to the annuity allocable to the period of actual employment will be deducted from the pay. Reemployed annuitants will have deductions withheld from their pay, and Agency contributions will be made to the Civil Service Retirement and Disability Fund and to the appropriate Social Security fund in amounts prescribed by law for FERS participants.
- (b) Upon termination of reemployment, the annuity of FERS annuitants who served full-time for at least one year or a part-time equivalent shall be increased by an amount computed under the applicable FERS formula on the basis of the reemployment period and the basic pay (before deduction) averaged during the reemployment period.
- (c) Instead of the benefit provided in paragraph (b) above, reemployed annuitants who served full-time for at least five years or a part-time equivalent may elect to have their rights redetermined.
- (d) Annuitants whose reemployment was for a period(s) of less than one year or one-year equivalent shall, upon written application to **Pay & Benefits, HR**, be paid a refund of

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the total FERS contributions withheld from pay during the reemployment period.

- (e) The FERS statute and OPM regulations in effect when reemployment terminates determine eligibility for a supplemental annuity or option to elect a redetermined annuity.

#### **h. BENEFITS FOR SPOUSES AND FORMER SPOUSES OF FERS PARTICIPANTS**

##### **(1) SPECIAL PROVISIONS FOR QUALIFIED FORMER SPOUSES OF AGENCY EMPLOYEES COVERED BY FERS**

- (a) Section 304 of the CIA Retirement Act for Certain Employees (50 U.S.C. 403 note) provides that a qualified former spouse (as defined in paragraphs (1) and (2) below) of an Agency FERS employee is entitled to a statutory share of the retirement and survivor benefits payable under the FERS statute.
  - (1) For divorces occurring on or before 4 December 1991, a qualified former spouse is the former spouse of an Agency employee or annuitant married to such employee for not less than 10 years during periods of the employee's creditable service, of which both the employee and the former spouse spent at least five years outside the United States during the employee's Agency service.
  - (2) For divorces occurring after 4 December 1991, a qualified former spouse is the former spouse of an Agency employee or annuitant married to such employee for not less than 10 years during periods of the employee's creditable service, of which the employee spent at least five years outside the United States during the employee's service as an Agency employee or in a position that qualified the employee for FERS Special Category. United States means the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.
- (b) The retirement and survivor benefits of a qualified former spouse of a FERS participant are calculated on the basis of the participant's entitlements and are determined and adjudicated in accordance with section 304 of the CIA Retirement Act.

##### **(2) GENERAL PROVISIONS FOR SPOUSES AND FORMER SPOUSES OF AGENCY EMPLOYEES COVERED BY FERS**

- (a) Current spouses and/or former spouses (who are not qualified former spouses as defined in paragraph (1) above) of Agency employees or annuitants under FERS will be subject to the rules, obligations, eligibility requirements, and entitlements relative to retirement annuities, survivor benefits, lump-sum payments, and TSP accounts prescribed in the FERS and TSP laws and OPM and FRTIB regulations.
- (b) **Under FERS, a current spouse:**
  - (1) Is a person married to a FERS employee, separated employee, or retiree at the time of the employee's, separated employee's, or retiree's death. The term current spouse includes a spouse who is legally separated but not divorced from the employee, separated employee, or retiree.

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- (2) If otherwise eligible, can qualify for survivor benefits if the surviving spouse was married to the employee, separated employee, or retiree for at least nine months; a child was born of the marriage; or the employee's, separated employee's, or retiree's death was accidental.
- (3) If qualified under paragraph (2) above, is entitled to survivor benefits:
- (a) For a deceased employee, only if the employee had completed at least 18 months of FERS civilian service.
  - (b) For a deceased separated employee, only if the former employee had separated from service with title to a deferred annuity and was married to the current spouse on the separation date.
  - (c) For a deceased retiree, only if the retiree elected a reduced annuity to provide survivor benefits for the spouse.
- (4) Is entitled to survivor benefits that may be less when a former spouse is entitled to a portion of the survivor benefits on the basis of a court order or election that expressly provides survivor benefits to the former spouse.
- (c) Under FERS, a former spouse:**
- (1) In connection with a court order affecting employee retirement benefits, is a person whose marriage to an employee, separated employee, or retiree has been subject to a divorce or annulment. A separated spouse is a person whose marriage to an employee or retiree is currently subject to a court order granting a legal separation.
  - (2) In connection with a court order awarding former spouse survivor benefits, is a person who was married for at least nine months to a FERS employee, separated employee, or retiree with at least 18 months of FERS-creditable civilian service and whose marriage was terminated before the employee's death, separation, or retirement.
  - (3) Is entitled to be paid a portion of the employee's refund of FERS deductions or the retirees monthly FERS annuity only if and to the extent that a qualifying court order expressly provides for such payment. The former spouse's share must be stated as a fixed amount, percentage, or fraction of the benefit, or as a formula without variables whose value is not readily ascertainable from the face of the order or Agency files. This paragraph also applies to a separated spouse.
  - (4) Is entitled to survivor benefits if and to the extent expressly provided in a qualifying court order. If an employee dies after completing at least 18 months of civilian creditable service, the survivor benefit payable is the basic employee death benefit equal to 50 percent of the employee's final annual rate of basic pay (or average pay, if higher) plus \$15,000 as adjusted under 5 U.S.C. 8462(e). If an employee dies after completing at least 10 years of service, a survivor annuity equal to 50 percent of what the employees annuity would be (without reduction for age) is payable in addition to the basic employee death benefit. If a retiree

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dies, the survivor benefit payable is a survivor annuity equal to 50 percent of the retiree's annuity. A former spouse may be eligible to receive a former spouse survivor annuity on the basis of the employee's election at the time of retirement, or the retiree's election within two years after the date of a postretirement divorce, to have the annuity reduced to provide such survivor annuity. The former spouse's entitlement to survivor benefits terminates if the former spouse remarries before age 55.

- (5) Is entitled to payment of a portion of the FERS participant's TSP account balance if and to the extent expressly provided in a qualifying retirement benefits court order. The Agency will administer this provision in accordance with FRTIB regulations in 5 CFR 1650, I.

~~CONFIDENTIAL~~(b) (1)  
(b) (2)  
(b) (3)~~CONFIDENTIAL~~**Date:** 02/25/2002**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-45 (U) SOCIAL SECURITY AND UNEMPLOYMENT  
COMPENSATION BENEFITS**REVISION SUMMARY:** 25 February 2002 (0625)

This regulation supersedes AR 20-45 dated, 5 August 1996.

AR 20-45 is revised to update organizational titles. The organizational name changes are a result of the DCI's decision effective 4 June 2001, to abolish the Directorate of Administration and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions .*

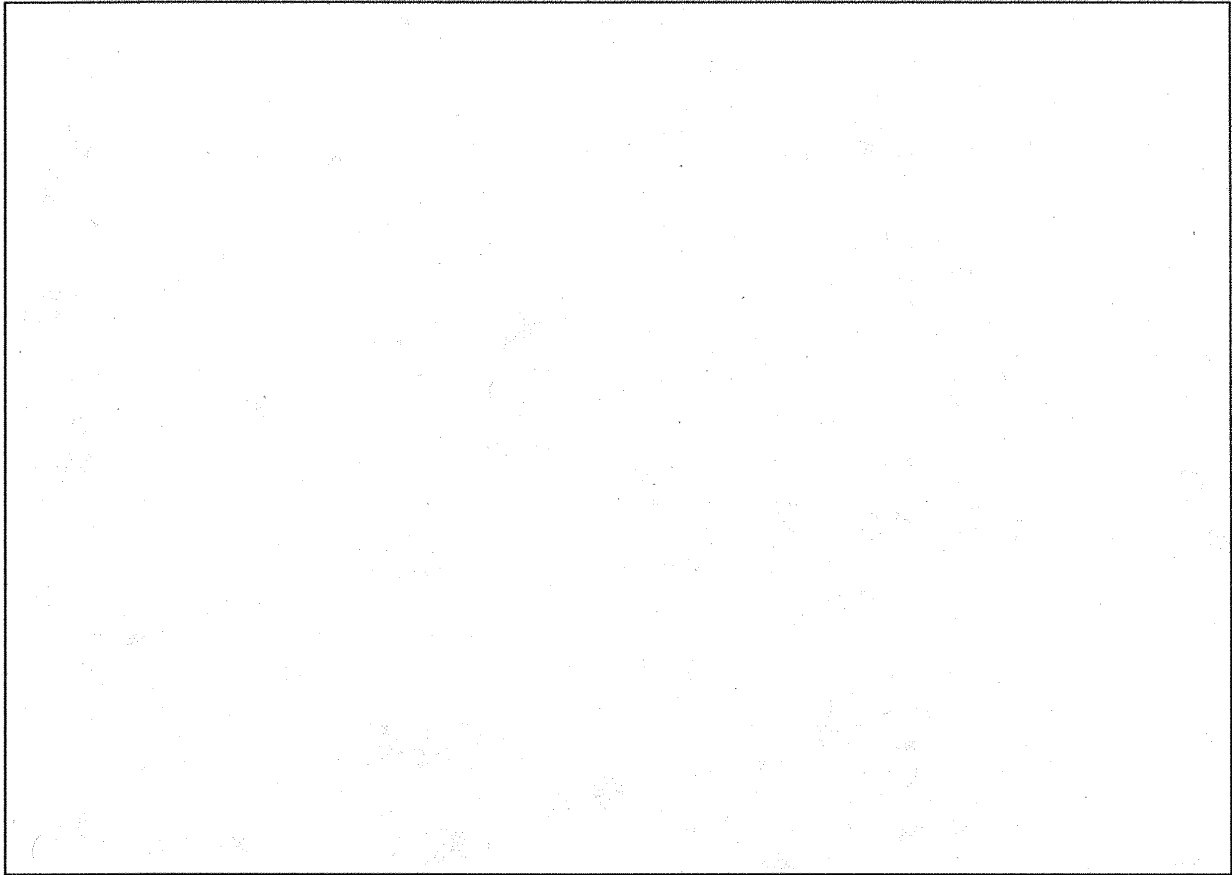
*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff at HRM Policy@DA.*

**45. (U) SOCIAL SECURITY AND UNEMPLOYMENT COMPENSATION BENEFITS**

**(U) SYNOPSIS.** This regulation states policy and guidelines on the Agency's handling of employees' Social Security and unemployment compensation benefits.

- a. (U) AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403j); sections 205 and 210 of the Social Security Act (42 U.S.C. 405 and 410); 26 U.S.C. 3121 and 3122; 5 U.S.C. 8501, et seq.).

**b. (C) SOCIAL SECURITY**~~CONFIDENTIAL~~APPROVED FOR RELEASE  
DATE: JAN 2008

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(7) All employees, regardless of cover, must pay the Medicare tax.

**c. (U) UNEMPLOYMENT COMPENSATION**

- (1) Employees may be eligible for Federal unemployment compensation depending on the circumstances of separation from or termination of employment as provided in the laws of the state with jurisdiction over the claim.
- (2) The Work and Family Center, **HR**, provides Standard Form 8, Unemployment Compensation for Federal Employees Program, to employees upon separation from Agency employment or placement in a nonpay status for seven or more consecutive days.

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~~ADMINISTRATIVE - INTERNAL USE ONLY~~~~ADMINISTRATIVE - INTERNAL USE ONLY~~(b) (2)  
(b) (3)**Date:** 12/03/2003**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-47 SPECIAL DEATH BENEFITS**REVISION SUMMARY:** 03 December 2003

This regulation supersedes AR 20-47, dated 28 February 2002.

AR 20-47 is revised to remove Part V, Disposition of Remains and Travel Expenses. This policy has been incorporated into AR 22-19, *Travel for Deaths and Medical Emergencies*.

*The remainder of the regulation is unchanged.*

*This revision was written by the Policy Team, Centralized and Deployed Human Resources, at HR Policy@ DA.*

**47. SPECIAL DEATH BENEFITS**

**SYNOPSIS.** This regulation states Agency policy governing death gratuity payments to the survivors of deceased employees, and provides for Agency payment of certain expenses associated with the death of an employee or eligible family member, including travel, shipment of effects, and disposition of remains.

- a. AUTHORITY.** Section 4 and section 11, CIA Act of 1949, as amended (50 U.S.C. 403e and 403k); section 5742, 5 U.S.C.; Section 651 of Public Law 104-208; 5 U.S.C. 5570, and 22 CFR 192.1 et seq. The Public Safety Officers' Benefits Act of 1976, as amended, 42 U.S.C. 3796, et seq., and 41 CFR Parts 300-2 and 300-3.

**PART I. GENERAL POLICY FOR DEATH BENEFITS  
UNDER SECTION 651 of P.L. 104-208**

- a. DEATH GRATUITY POLICY.** The Director of Central Intelligence (DCI) may authorize payment of a death gratuity to the personal representative of any Agency employee who dies from an injury (including disease caused by employment) sustained on or after August 2, 1990, in the line of duty. This includes any Agency employee who dies after separation from service, if the death is the result of an injury sustained in the line of duty. The gratuity would

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be unwarranted if the DCI determines that the employee's death was the result of willful misconduct.

**b. DEFINITIONS FOR PART I**

- (1) **EMPLOYEE.** Staff and contract employees, staff agents, and appointed foreign national employees. This definition does not include independent contractors.
- (2) **PERSONAL REPRESENTATIVE.** Generally, the formally designated executor or administrator of the employee's estate under state law.

**c. DEATH GRATUITY, COVERAGE, AND BENEFICIARIES**

- (1) The DCI authorizes payment in an amount, when combined with certain other payments, that does not exceed \$10,000. The other payments that must be considered in determining the amount of the gratuity are:
  - (a) \$200 payable under 5 U.S.C. 8133(f), for reimbursement of the costs of termination of the decedent's status as an employee of the United States.
  - (b) Up to \$800 payable under 5 U.S.C. 8134(a), for funeral and burial expenses in cases of employees who died as a result of an injury sustained in the performance of duty.

The amount paid under these two authorities, plus the gratuity paid under P.L. 104-208, may not total more than \$10,000.

- (2) The death gratuity payment, while not subject to Federal income tax withholding, is fully subject to Federal income taxes if the death occurred on or after August 20, 1996. If death occurred earlier, a \$5,000 exclusion will generally apply. The death gratuity is not subject to Social Security or Medicare taxes.
- (3) The death gratuity is paid to the personal representative of the employee as defined in Part I, b (2).
- (4) Only one Agency death gratuity--either Part I or Part II--will be paid; that is, the death gratuity of the highest value to the appropriate beneficiaries.

**PART II. GENERAL POLICY FOR AGENCY-SPECIFIC DEATH GRATUITY,  
SECTION 11 OF THE CIA ACT OF 1949**

- a. DEATH GRATUITY POLICY.** The DCI may authorize payment of a death gratuity to the surviving eligible family members of an Agency employee who dies as a result of injuries (other than from disease) sustained outside the United States if the injuries:


- (1) Result from hostile or terrorist activities; or
- (2) Occur in connection with an intelligence activity having a substantial element of risk.

**b. DEFINITIONS FOR PART II**

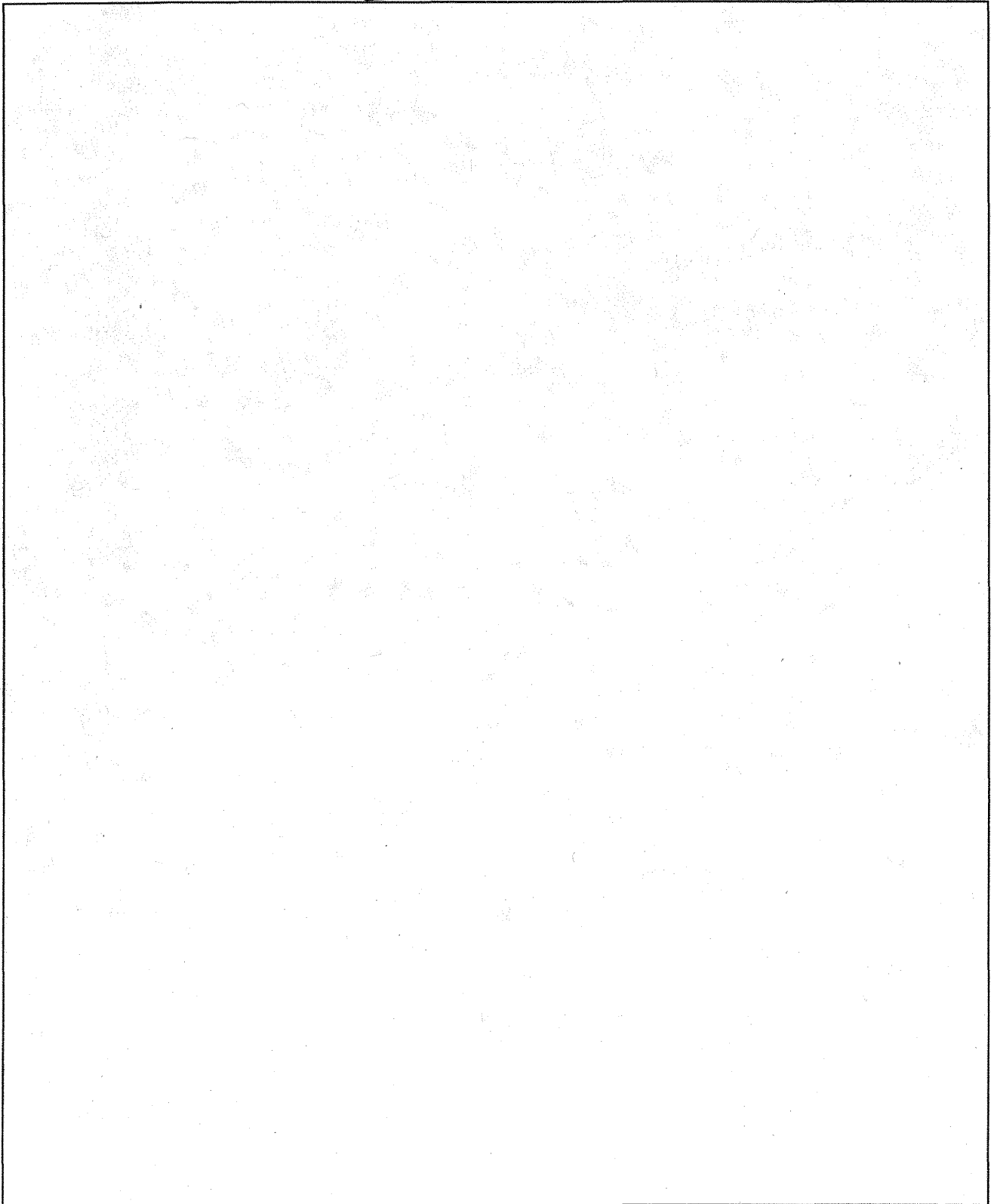
- (1) **EMPLOYEE.** Staff and contract employees, staff agents, and appointed foreign national employees. This definition does not include independent contractors.

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- (2) **WIDOW.** Wife living with or dependent on the decedent for support at the time of his death, or living apart for reasonable cause or because of his desertion.
- (3) **WIDOWER.** Husband living with or dependent on the decedent for support at the time of her death, or living apart for reasonable cause or because of her desertion.
- (4) **CHILD.** One who at the time of the employee's death is under 18 years of age or is incapable of self-support. This definition includes biological children including those born posthumously, stepchildren, and adopted children, but does not include married children. The definition also includes a student under 23 years of age who has not married; has not completed four years of education beyond the high school level; and is regularly pursuing a full-time course of study or training at a school, college, university, or other qualifying institution under the terms of 5 U.S.C. 8101 (17). An individual remains a student between school years if the interim is not more than four months and the student intends to continue full-time study immediately after the interim. A student whose 23rd birthday occurs during a semester or other enrollment period is a student until the end of the semester or other enrollment period.
- (5) **DEPENDENT PARENT.** (As defined in AR ) includes biological parents, stepparents, and parents by adoption.

**c. DEATH GRATUITY, COVERAGE, AND BENEFICIARIES**

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**Date:** 02/11/2002

**Category:** 20 - Human Resources

**OPR:** HR

**Title:** AR 20-49 (U) CASUALTY PLANNING FOR CERTAIN ACTIVITIES

**REVISION SUMMARY:** 11 February 2002 (0613)

This regulation supersedes AR 20-49, dated 16 April 1997.

AR 20-49 is revised to update organizational and officer titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001, to abolish the Directorate of Administration and establish the Mission Support Offices (MSOs).

*Boldfaced text in this regulation indicates revision.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff at HRM Policy@DA.*

**49. (U) CASUALTY PLANNING FOR CERTAIN ACTIVITIES**

**(U) SYNOPSIS.** This regulation states Agency policy on preparation of contingency casualty plans, assigns responsibilities for development and approval of the plans, and establishes standards for death and disability benefits for individuals who are ineligible for federal statutory programs. (See AR 230-8, Appendix C, for policy and approval authorities for benefit entitlements of proprietary hire employees.

- a. **(U) AUTHORITY.** The CIA Act of 1949, as amended.
- b. **(S) POLICY.** Agency components prepare contingency casualty plans when staff personnel, detailees, contract employees,  are or will be engaged in:

- (1) Hazardous undertakings, that is, activities that involve risking bodily harm, disability,

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death, capture, or imprisonment.

- (2) Activities where it reasonably may be assumed a casualty incident involving participating personnel would result in a compromise of Agency security, cover, or operations by disclosing Agency interest in the individual [REDACTED]. Independent contractors are excluded from the provisions of this regulation and are governed by the provisions of their contracts.

c. **(C) OBJECTIVES.** Contingency casualty plans must cover the possibility of death, disability, disappearance, capture, or imprisonment of participating personnel.

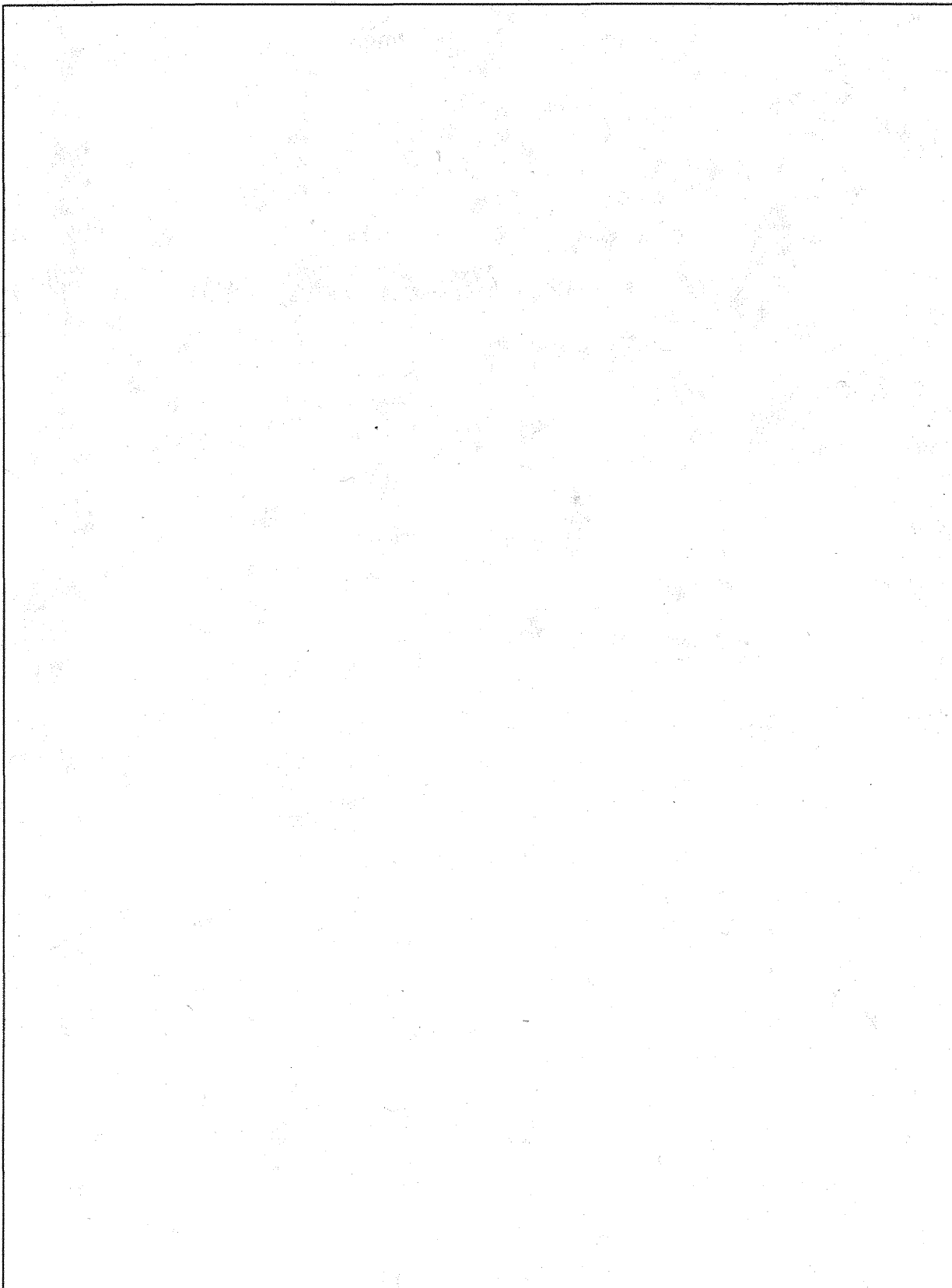
- (1) Contingency casualty plans will include the following:
- (a) Description of the activity, including how casualties might occur.
  - (b) List of insurance and other benefits available or recommended to participating personnel or their survivors or dependents.
  - (c) Statement affirming that an evaluation of the impact casualties may have on Agency security and operations has been made and by whom. This statement will include specific operational considerations, such as initial contact with emergency designees.
  - (d) Arrangements approved by the appropriate Operating Official for handling casualties, [REDACTED] specific responsibilities for implementing these arrangements must be assigned.
  - (e) An outline of alternative methods for settling death and disability benefits when security [REDACTED] problems are involved.
  - (f) Information about the employee(s), including Agency and personal biographic information and the employee's legal and administrative instructions.
- (2) Approved casualty plans must be kept current. Operating Officials or Heads of Independent Offices advise the **Chief Human Resources Officer** or designee of any changes in the data, including names of participating personnel, changes in beneficiaries or dependents, or changes in personal insurance coverage.

d. **(S) BENEFITS**

- (1) Staff personnel, contract employees, and civilian detailees normally are entitled to Federal Employees' Compensation Act benefits for injury, illness, or death sustained in the performance of duty. Military detailees receive death and disability benefits through their parent service.
- (2) The following benefits normally apply to employees who are ineligible for Federal statutory programs:
- (a) Death or Disability Benefits

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e. (C) **RESPONSIBILITIES AND APPROVAL AUTHORITIES**

- (1) Operating Officials who have hazardous activities under their jurisdiction must develop contingency plans and forward them through the appropriate Deputy Director or **Chief, Mission Support Office (C/MSO)** to the **Chief Human Resources Officer** or designee for approval before assigning personnel to such activities. Heads of Independent Offices submit these plans directly to the **Chief Human Resources Officer** or designee. Operating Officials and Heads of Independent Offices must ensure insurance coverage or other benefit commitments stated in the contingency plans are approved by the **Chief Human Resources Officer** or designee prior to implementation.
- (2) The **Chief Human Resources Officer** or designee approves casualty plans and ensures proper implementation. The **Chief Human Resources Officer** or designee ensures that contingency casualty planning is complete, plans have been coordinated with  and all other concerned components, and arrangements have been made for implementing the plans.
- (3) The **Chief Human Resources Officer** or designee authorizes payment of the benefits specified in paragraph d(2) above and may, with the appropriate Deputy Director's or **C/MSO's** recommendation, deviate from the normal standards by granting more or less coverage.

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(b) (3)~~ADMINISTRATIVE - INTERNAL USE ONLY~~**Date:** 05/22/2002**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-50    CIA RETIREMENT AND DISABILITY SYSTEM**REVISION SUMMARY:** 22 May 2002 (0668)

This regulation supersedes AR 20-50, dated 31 March 1995.

AR 20-50 is revised to update organizational and position titles. This revision reflects the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001, to abolish the Directorate of Administration, and establish the Mission Support Offices (MSO's)

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, HRM Policy @ DA.*

**50. CIA RETIREMENT AND DISABILITY SYSTEM**

**SYNOPSIS.** This regulation prescribes policies and rules governing the administration of the Central Intelligence Agency Retirement and Disability System (CIARDS).

**PART I - GENERAL**

- a. **AUTHORITY.** The authority for this regulation is derived from the Central Intelligence Agency Retirement Act (the Act).
- b. **AUTHORITIES AND RESPONSIBILITIES.** The **Chief Human Resources Officer** is responsible for the general administration of CIARDS in accordance with the provisions of this regulation. All authorities necessary for such administration, unless expressly reserved for the Director of Central Intelligence (DCI) in this regulation or by statute, are hereby delegated to the **Chief Human Resources Officer or designee.**

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- c. **DEFINITION.** CIARDS is a retirement and disability system separate from the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). It is designated for CIA employees who entered on duty prior to 1 January 1984 and who meet the criteria outlined below. Those employees who meet the criteria outlined below but entered on duty on or after 1 January 1984 are not eligible for CIARDS, but may be eligible for participation in the FERS Special Retirement System.
- d. **DESIGNATION OF PARTICIPANTS.** The Chief, Pay & Benefits (C/P&B) may designate employees entitled to become participants in CIARDS on the basis of 60 months of qualifying service. In order to qualify for designation to become a CIARDS participant, the individual must:
- (1) Be a United States citizen under the age of 60;
  - (2) Be serving on a career basis in a field that normally requires the performance of qualifying service as an integral part of a career in that field;
  - (3) Have signed a written obligation to serve anywhere and at any time according to the needs of the Agency; and
  - (4) Have completed a minimum of 60 months of qualifying service. Qualifying service is defined as performance of duty as an Agency employee as follows:
    - (a) When assigned outside the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam on either a permanent change of station (PCS) or temporary duty (TDY) assignment; or
    - (b) When assigned domestically, and supporting Agency activities abroad, and engaged in activities which:
      - (1) Result in substantial risk to the life or health of the employee; or
      - (2) Require the continued practice of tradecraft under the most stringent security conditions; or
      - (3) Cannot be disclosed to future employers for security reasons due to the extreme sensitivity or specialization of the duties, and without which disclosure, the employee will be unable to obtain employment for which otherwise qualified.
- e. **ELECTION TO BECOME A CIARDS PARTICIPANT.** Individuals designated by the C/P&B as entitled to become CIARDS participants must elect to join CIARDS. Participation or election will not be automatic. Participants are notified of the approval of their election in writing.
- f. **CIA SPECIAL RETIREMENT SYSTEMS BOARD.** The CIA Special Retirement Systems Board (SRSB) will assist and advise the C/P&B in the administration of CIARDS. The Chief Human Resources Officer will appoint the chairperson. The Board is composed of senior officials from the directorates and Mission Support Offices (MSOs) to include a primary representative and a corresponding alternate. SRSB members include:
- (1) One member to represent both the DCI and DI;

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- (2) **One member from the DO;**
- (3) **One member to represent the DS&T; and**
- (4) **One member representing the five MSOs. This responsibility will rotate among the MSOs periodically with the concurrence of the MSOs being represented.**

Members will be appointed by the **Chief Human Resources Officer**, with the concurrence of the Deputy Director or Chief, **Mission Support Office (C/MSO)** concerned. The Board will include a legal adviser provided by the Office of General Counsel as a non-voting member.

**g. NOTICE OF DETERMINATION OR RECOMMENDATION, RIGHT TO APPEAL, AND APPEAL PROCEDURE**

- (1) **NOTICE OF DETERMINATION OR RECOMMENDATION.** If the **Chief Human Resources Officer** makes either a determination or a recommendation for a determination by the DCI that affects the rights or benefits of an employee, participant, or annuitant, notification will be made to the individual in writing. The individual may appeal the determination or recommendation to the DCI as provided below.
- (2) **TIME PERIOD, FORM, AND CONTENT OF APPEAL.** An individual may make an appeal in writing to the DCI, through the **Chief Human Resources Officer**. Such an appeal will be submitted by the individual within 10 calendar days after receipt of written notice of the **Chief Human Resources Officer's** determination. The **Chief Human Resources Officer** may grant additional time to submit an appeal if the circumstances of the case or the location of the individual precludes compliance within 10 days. An appeal must state the basis on which review is requested and supply pertinent information to support such review.
- (3) **INVESTIGATION BY THE INSPECTOR GENERAL.** The Inspector General (IG) will receive appeals made to the DCI pursuant to this regulation and will make an independent investigation and recommendation to the DCI. The IG will not be limited in investigation to matters raised by or contained in the appeal but will consider any information which is pertinent and appropriate.
- (4) **NOTICE OF DECISION.** When the DCI has made a determination or has acted on an appeal that affects the rights or benefits of an employee, participant, or annuitant under CIARDS, the individual and the **Chief Human Resources Officer** will be advised in writing of the decision. Decisions made by the DCI, and authorized by the provisions of the Act, will be final and conclusive and not subject to review by any court. The **Chief Human Resources Officer** will institute any action that may be required to implement the decision.

- h. NOTICE OF EFFECTIVE DATE OF RETIREMENT.** When the retirement of a participant has been approved, the C/P&B will give the participant written notice of the determination in a timely and appropriate manner. The **Chief Human Resources Officer**, upon the written request of the Deputy Director(s) or Chief(s) of **Mission Support** concerned and the consent of the participant, may extend the effective date for a period of 60

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days. Any extension of such retirement beyond 60 days will require the approval of the DCI. The effective date of separation for disability retirement will be the date the disability retirement was approved or the date pay status terminated, whichever is later.

**i. COMPUTATION OF ANNUITIES.** All annuities provided through the CIARDS fund will be computed in accordance with the terms of the Act. The basic formula for computation of annuities is as follows:

- (1) The annuity of a participant will be equal to two percent of average basic salary for the highest three consecutive years of service (referred to as "high-three"), multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with the provisions of this regulation. The "high-three salary" figure is obtained by averaging the rate of basic salary in effect during any three consecutive years of service, with each rate weighted by the time it was in effect, including odd days. In determining the aggregate period of service upon which the annuity is to be based, a fractional part of a month will not be counted. Each annuity will be stated as an annual amount, one twelfth of which, rounded to the next lower dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.
- (2) In computing an annuity under this paragraph, the service credit of a participant who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the 70 percent limitation imposed by paragraph i(1) above, the days of unused sick leave as credit under a formal leave system, except that these days will not be counted in determining average basic salary or annuity eligibility.
- (3) There is a separate annuity computation method for disability retirement under CIARDS.
- (4) Additional information on computation of annuities for individuals should be obtained from **Pay & Benefits, Human Resources**.

**j. ANNUITIES FOR SURVIVING SPOUSE AND/OR FORMER SPOUSE**

- (1) The Agency is required by law to honor qualifying court orders and related property settlement agreements which divide the employee's federal retirement benefits, including his or her Thrift Savings Plan account, with the employee's former spouse(s). In addition, in the absence of a court order or property settlement agreement to the contrary, certain former spouses of CIARDS or CIARDS-eligible participants may be entitled by law to an automatic share of the participant's retirement benefits.
- (2) The **C/P&B** or designee will review any divorce decree or property settlement agreement that may affect the retirement benefits of CIARDS participants. The **C/P&B** or designee will notify the affected parties of the results of the review and of their appeal rights, if any.

**k. DEFERRED ANNUITY**

- (1) **ELECTION OF REFUND OF CONTRIBUTIONS OR DEFERRED ANNUITY.**  
Any participant who separates from the Agency may upon separation or at any time prior to becoming eligible for annuity elect either:
  - (a) To have the total amount of contributions to the Fund from his or her salary with

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interest thereon at 4 percent per year to 31 December 1947, and 3 percent per year thereafter compounded annually to 31 December 1956, except as provided in Section 281 of the Act, returned to him or her, subject to restrictions regarding notification and consent of a current spouse and the rights of a former spouse. A participant is entitled to be paid the lump sum provided he or she has been separated from the Agency for at least 31 consecutive days, files an application with the Agency for payment of the lump sum, has not been reemployed subject to CIARDS at the time he or she files the application, and will not become eligible to receive an annuity under CIARDS within 31 days after filing such application. The receipt of the lump sum payment by the person voids all annuity rights under CIARDS based on the service on which the lump sum is based, unless and until the person is reemployed in the service subject to CIARDS. The payment of the lump sum will include amounts deposited by the person covering earlier civilian service as well as any amounts deposited for prior military and naval service.

- (b) To leave contributions in the Fund and receive a deferred annuity, computed in accordance with the terms of the Act, commencing on the participant's 62nd birthday. This option is not available to a participant whose separation is determined by the DCI to be based in whole or in part on the ground of disloyalty to the United States.
- (2) **DEATH PRIOR TO RECEIPT OF DEFERRED ANNUITY.** If a participant who has elected to receive a deferred annuity dies before reaching age 62, contributions to the Fund, with interest, will be paid to the beneficiary.

**PART II - TYPES OF RETIREMENT**

- a. **VOLUNTARY RETIREMENT.** Participants who are at least 50 years of age and have 20 years of service credit may be retired from the Agency and receive immediate benefits in accordance with this regulation and applicable federal law provided such participant has been employed by the Agency for at least 10 years, of which at least 60 months have involved CIARDS qualifying service. A participant may retire at any age if they have at least 25 years of service (10 years with the Agency) and the Office of Personnel Management has authorized such voluntary separations. The C/P&B may approve such applications for voluntary retirement or refer such applications to the DCI for approval or disapproval. The DCI shall at all times retain the authority to disapprove a request for voluntary retirement.
- b. **MANDATORY RETIREMENT**
  - (1) **Involuntary Retirement.** The DCI may place in retired status any participant who is at least 50 years of age with 20 years of service credit or who has 25 years of service credit at any age, provided such participant has been employed by the Agency for at least 10 years, of which at least 60 months have involved CIARDS qualifying service.
  - (2) **Mandatory Retirement for Age.** Participants in grades SIS-3 and below will be separated upon reaching age 60. Participants in grades SIS-4 and above will be

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separated upon reaching age 65. If determined by the DCI to be in the public interest, the DCI may extend the service of a participant facing mandatory retirement for age for a period not to exceed five years.

**c. RETIREMENT FOR DISABILITY**

- (1) **ELIGIBILITY.** A participant will be considered disabled and will be retired only when there is a service deficiency caused by disease or injury, and the participant is unable to render useful and efficient service in the current position and is not qualified for reassignment, under procedures prescribed by the **Chief Human Resources Officer**, to a vacant position in the Agency at the same grade or level and commuting area, and every reasonable effort to preserve the participant's employment has failed. When the participant has made application, such retirement will require the approval of the **C/P&B** after a determination by the Board of Medical Examiners (see paragraph c(4) below) as to the nature, extent, and permanence of the claimed disability. When involuntary disability retirement action is initiated by the **C/P&B** on behalf of the participant, such retirement only will be upon order of the DCI after consideration of the findings of the Board of Medical Examiners and review by the Agency's People with Disabilities Program Manager, who shall independently determine if every reasonable effort to preserve the participant's employment has been undertaken.

**(2) INITIATION OF MEDICAL DISABILITY RETIREMENT ACTION**

- (a) **By Participants.** Participants who believe they may be eligible for retirement because of disability may apply in writing to the **C/P&B** for such retirement. The application must include a description of the disability and a full explanation of the manner in which it affects the performance of duties together with a physician's statement and a supervisor's statement. The **C/P&B** may request additional relevant information as necessary.
- (b) **By the C/P&B.** In the event a participant appears to be totally disabled or incapacitated but fails or is unable to make application for disability retirement, the **C/P&B** will institute such action on the individual's behalf. In such case, the **C/P&B** will obtain the advice of the Board of Medical Examiners, the Agency's People with Disabilities Program Manager, and the Deputy Director, **C/MSO**, or the Head of the Career Service having career jurisdiction over the employee concerned before making a recommendation to the DCI.
- (c) **Time for Filing.** Retirement for disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be extended by the **Chief Human Resources Officer** for any employee who at the date of separation from the Agency, or within one year thereafter, is mentally incompetent. Such application must be filed within one year from the date of restoration of the employee to competency, or the appointment of a fiduciary, whichever is earlier.

**(3) SUPPORTING DOCUMENTS REQUIRED**

- (a) **Applicant's Statement of Disability.** The applicant is responsible for preparing and

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submitting an Applicant's Statement of Disability.

- (b) **Supervisor's Statement.** The supervisor responsible for preparing the Performance Appraisal Report of a participant who applies for disability retirement, or whose disability retirement is initiated by the C/P&B, will submit a statement describing the applicant's deficiency in service with respect to performance, attendance, and conduct, or, in the absence of any service deficiency, a showing that the medical condition is incompatible with either useful service or retention in the position. If desired, the supervisor may transmit this statement directly to the C/P&B in a sealed envelope marked with the participant's name and the words "Medical Information-Privileged-Private." Such statement shall not be used for purposes other than a determination of medical disability, and shall not be retained outside of the medical disability file.
- (c) **Physician's Statement.** The applicant must provide a current statement from a physician regarding the disability.

(4) **MEDICAL EXAMINATION AND EVALUATION**

(a) **Board of Medical Examiners**

- (1) The Board of Medical Examiners will be responsible for conducting medical examinations and for evaluating the medical status of participants for whom an application for disability retirement is under consideration and for annuitants who have been retired for nonpermanent disability. The Board may require the applicant for disability retirement to appear before the Board.
  - (2) The **Chief, Office of Medical Services (C/OMS)**, or designee, will serve as Chairperson of the Board of Medical Examiners. The C/OMS, or designee, will nominate two other members (and alternates for each) to serve on the Board. Members and alternates must be qualified physicians or surgeons. At least one member (and the alternate) will not be in active Government service.
  - (3) If necessary, the Chairperson of the Board may designate qualified physicians or surgeons to conduct medical examinations of applicants for disability retirement or disability annuitants and to submit reports of such examinations to the Board for its evaluation.
- (b) **Conduct of Examinations.** If the Board cannot make a determination regarding a participant's condition based on information submitted by the participant, he or she will be given a medical examination by the Board of Medical Examiners or by a qualified physician or surgeon designated by the Chairperson of the Board.
  - (c) **Report of Medical Examination.** Based on the results of the medical examination and information submitted by the participant, the Chairperson of the Board of Medical Examiners will make a written report to the C/P&B or designee giving the Board's findings regarding the participant's claimed disability. The Chairperson of the Board of Medical Examiners also will furnish such other medical information as may be required by the C/P&B to act upon the application for disability retirement.

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**(5) PERIODIC REVIEW AND EVALUATION OF DISABILITY RETIREMENT STATUS**

- (a) Unless the Board of Medical Examiners determines that the disability is permanent, each annuitant retired for disability, or incapacity will be given a periodic medical examination, the results of which will be evaluated by the Board of Medical Examiners, until the mandatory retirement age is reached. The evaluation will include a finding as to whether the annuitant continues to be disabled or incapacitated for useful and efficient service, and whether the disability is permanent. This report will be submitted to the **C/P&B** for appropriate action.
  - (b) When the Board of Medical Examiners determines an annuitant's disability to be permanent, a medical examination will not be given again.
  - (c) When a nonpermanent disability annuitant fails to submit to a required examination, payment of the annuity will be suspended until continuance of the disability is established to the satisfaction of the **C/P&B**.
  - (d) Disability annuitants who have not reached age 60 will certify the amount of their income from wages and self-employment for a calendar year by 1 March of the following year. The certification form sent by the **Human Resources Office** must be signed by the annuitant (or if incapacitated, by a legal representative) and state the amount of income from wages and self-employment. The **C/P&B** may extend the date for filing the certification if the circumstances of the case warrant an extension. When a disability annuitant refuses or fails to certify to the **C/P&B** the amount of income from wages and self-employment for any calendar year, payment of the annuity will be suspended until certification is made.
- (6) ALLOWABLE EXPENSES FOR MEDICAL EXAMINATION.** Reasonable and necessary travel, subsistence, and related expenses and medical fees that are incurred in connection with required medical examinations and evaluations may be paid from the CIARDS fund if appropriate.

**(7) TERMINATION OF ANNUITY**

- (a) **Recovery from Disability.** If the Board of Medical Examiners determines that an annuitant has recovered to the extent that he or she can return to duty, the **C/P&B** shall continue payment of the annuity until a date one year after the date of the examination showing recovery or until the date of reemployment by any Government agency, whichever is earlier.
- (b) **Restoration to Earning Capacity.** The annuity of a disability annuitant who has not reached age 60 will be terminated if restoration is made to earning capacity. Restoration to "earning capacity" will be considered to be achieved if in any calendar year the annuitant receives income from wages and self-employment of at least 80 percent of the current rate of pay of the position occupied immediately before retirement. Termination of annuity under this paragraph will be effective 180 days after earning capacity is restored, or upon reemployment by the Government, whichever is earlier. The provisions of this paragraph apply to all individuals



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receiving a disability annuity on 1 October 1976 and to all individuals awarded a disability annuity after that date.

- (8) **CHANGE IN RETIREMENT STATUS.** If disability annuitants are found to be recovered and are not reemployed by the Government, or are restored to earning capacity, they are considered, except for service credit purposes, to have been separated from the service as of the date the annuity was discontinued and retirement rights are based on the law in effect on the date of discontinuance. Annuitants may be entitled to voluntary retirement, or may be placed by the DCI in an involuntary retired status, or may be eligible for a deferred annuity if they qualify under the pertinent provision of the Act. They also may become eligible for reinstatement of their disability annuities under conditions outlined in paragraph (10) below.
- (9) **REEMPLOYMENT.** A recovered disability annuitant may apply for reemployment in the Agency within one year from the date of recovery as determined by the **Chief Human Resources Officer**. The **Chief Human Resources Officer** may reinstate a recovered disability annuitant to the grade in which service was performed at the time of retirement, or may, by taking into consideration the annuitant's age, qualifications, experience, and present grade of contemporaries in the Agency, appoint the annuitant to a grade higher than the one in which service was performed prior to retirement.
- (10) **REINSTATEMENT OF DISABILITY.** If, based on a current medical examination, the Board of Medical Examiners determines that a recovered annuitant has, before reaching age 62, again become totally disabled due to recurrence of the disability for which originally retired, the **Chief Human Resources Officer** or designee shall reinstate the terminated disability annuity (same type and rate) from the date of such medical examination. If a restored-to-earning-capacity annuitant has not recovered medically from the disability for which retired and establishes to the **Chief Human Resources Officer's** satisfaction that income from wages and self-employment in any calendar year before reaching age 62 was less than 80 percent of the pay rate attached to the position from which retired, the terminated disability annuity (same type and rate) will be reinstated from the first of the next following year. If the individual has been allowed a nondisability retirement annuity in the meantime, the reinstated disability annuity is substituted for it unless election is made to retain the former benefit.

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(b) (3)**Date:** 04/22/2004**Category:** 20 - Human Resources**OPR:** HR**Title:** AR 20-59 TUITION ASSISTANCE PROGRAM**REVISION SUMMARY: 22 April 2004**

This regulation supersedes AR 20-59, dated 27 February 2002.

AR 20-59 is revised to provide a stipulation from the Office of Personnel Management which states that tuition assistance is available only for those students whose academic degree is part of an accredited academic program and is provided by a college or university that is accredited by a nationally recognized accrediting body as identified by the Department of Education.

*Boldfaced text in this regulation indicates revised text..*

*This regulation was written by the HR Policy Staff, Centralized and Deployed Human Resources, HR Policy@DA*

**59. TUITION ASSISTANCE PROGRAM**

**SYNOPSIS.** This regulation establishes Agency policy on the Tuition Assistance Program for undergraduate and graduate students attending accredited colleges or universities who plan to return to the Agency and convert to staff employees following completion of their degree requirements. This program aids undergraduate Student Trainees, Inroads, Inc. Students, Interns, and Graduate Fellows in their final year of study.

- a. **AUTHORITY.** The National Security Act of 1947, as amended, and the CIA Act of 1949, as amended.
- b. **POLICY.** This program was designed to enhance the Agency's competitiveness with the private sector, raise the student retention rate, and assist components in attracting needed

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manpower resources--critical skills--while helping students meet the high cost of education.

**c. DEFINITIONS**

- (1) **STUDENT TRAINEES.** "Student Trainees" are participants in the CIA Undergraduate Student Trainee Program (Co-Op), which provides undergraduate students with the opportunity to gain work experience on an alternating semester or quarter basis. Students typically spend a minimum of three work periods on the job prior to graduation. Participants are mainly selected from academic institutions with established cooperative education programs.

**e. ELIGIBILITY.** All Student Trainees, Inroads Students, Interns, and Graduate Fellows are eligible to receive tuition assistance provided the student:

- (1) Maintains a minimum overall undergraduate or graduate Grade Point Average (GPA) of 3.0 on a 4.0 scale.
- (2) Receives sponsorship by a specific component willing to accept the student as a staff employee within 60 days following graduation.
- (3) Is enrolled in an accredited program at an accredited college or university in a full-time student status (a minimum of 12 hours of course work each semester or quarter for undergraduates and 9 hours of course work each semester or quarter for graduates).

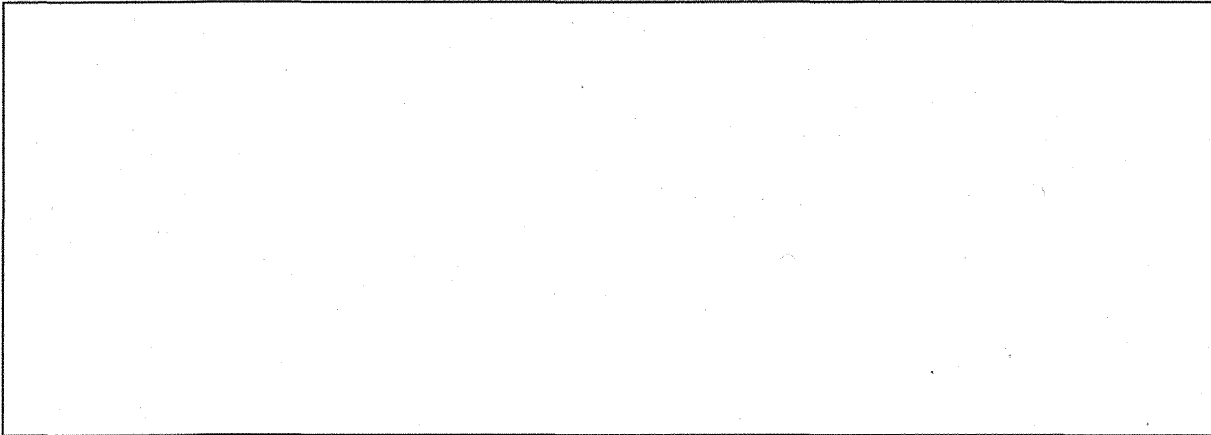
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- (4) **Is in his or her final year, semester, or quarter of course work prior to graduation.**
- (5) Signs a Letter of Intent to return to the Agency as a staff employee for a mandatory period of one (1) year or for a mandatory period of two (2) years should a participant receive tuition assistance as both an undergraduate and as a graduate student. (A Student Trainee, Inroads Student, or Intern may postpone temporarily the obligation to return as a staff employee if he or she continues academic studies at the graduate level, obtains component concurrence, and is accepted into the Agency's Graduate Fellow Program.)
- (6) Meets all clearance requirements for conversion to staff status.
- f. **AMOUNT OF PAYMENT.** Eligible students may receive a tuition payment of up to \$5,000 in their final year of course work. This amount cannot be exceeded. Under the Tuition Assistance Program, there is a \$5,000 limit for each individual in the Student Trainee, Inroads, and Intern Programs and for each individual in the Graduate Fellow Program. Tuition payments may be taxable. Refer to paragraph d above.

- g. **STUDENT RESPONSIBILITIES AND OBLIGATIONS.** In order to receive tuition assistance, a student must:

- (2) Work for a minimum period of one (1) year, or a minimum period of two (2) years should the student receive tuition assistance as both an undergraduate and a graduate, following entrance on duty as a staff employee. Students will be required to work for the sponsoring component unless the component agrees to the reassignment of the student to another component.
- (3) Meet all clearance requirements for conversion to staff status. Should a student fail to meet these standards or voluntarily decide not to return to the Agency upon graduation, all tuition assistance must be repaid to the Agency.

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**Date:** 03/06/2002

**Category:** 20 - Human Resources      **OPR:** HR

**Title:** AR 20-70 (U) DETAILED PERSONNEL

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**REVISION SUMMARY:** 6 March 2002 (0638)

This regulation supersedes HR 20-70, dated 15 October 1986.

HR 20-70 is revised and redesignated \*AR 20-70; and incorporates FR 20-70. Due to the Agency's organizational restructure that resulted from the DCI's decision, effective 4 June 2001, to abolish the Directorate of Administration, and establish the Mission Support Offices (MSOs), organizational titles have also been updated.

FR 20-70 is hereby rescinded.

\*This redesignation is part of an ongoing conversion to one set of Agency Regulations for both headquarters and the field.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Policy Team, Human Resources Strategy & Planning Staff, at HRM Policy@DA.*

**70. (U) DETAILED PERSONNEL**

**(U) SYNOPSIS.** This regulation governs the administration and support of personnel detailed to or from other Federal establishments.

- a. (U) GENERAL.** For the purpose of this regulation, a detailee is a civilian or military employee of the Federal Government provided by the parent organization for duty on a nonpermanent basis to another Federal establishment. Personnel are detailed to the Agency in the following broad categories:

**(1) CIVILIAN PERSONNEL**

- (a) Reimbursable Detail.** The employee is charged to Agency personnel ceiling and the Agency must reimburse the parent organization for the employee's salary and benefits.

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- (b) **Nonreimbursable Detail.** The employee is not counted against the Agency's ceiling and the parent organization is not reimbursed for the employee's salary and benefits.

(2) **MILITARY PERSONNEL**

(a) **Reimbursable Detail**

- (1) **Assigned.** Such military personnel are under the administrative command and control of the Agency and are charged to Agency ceiling. The Agency reimburses the parent service for the cost of their detail.
- (2) **Detailed for Duty With.** Such military personnel provide support to the Agency but are under the administrative control of their parent service. These individuals are not charged to Agency ceiling, but the Agency must reimburse the parent service for their services.

- (b) **Nonreimbursable Detail.** Same as paragraph a(2)a(2) above except that the Agency does not reimburse the parent service for the detail.

b. (U) **POLICY**

- (1) The Agency obtains civilian and military personnel on detail to use the backgrounds, qualifications, or associations of such individuals to fill positions or provide services for the Agency that require status or skills not otherwise available. In addition to normal pay and allowances, detailees may be authorized other allowances at the discretion of the Agency if warranted by the duties assigned and in accordance with applicable laws and regulations. However, duplication of entitlements granted by the parent establishment will not be made by the Agency. This prohibition includes but is not limited to precluding members of the Armed Forces from receiving benefits under both the Director's special authorities (in Section 4(b)(2) of the CIA Act of 1949, as amended) and Title 37, U.S. Code, for the same purpose.
- (2) The policies and regulations of the military services governing personnel administration normally take precedence over those of the Agency in providing administrative support to military detailees; however, all detailees are otherwise subject to Agency rules and regulations (including security and conflict of interest matters) notwithstanding any requirement of the parent establishment. Thus, detailees will execute Agency secrecy agreements, obtain approval for participation in outside activities, and submit manuscripts for review prior to publication, as appropriate. However, "detailed for duty with" and "nonreimbursable detail" military personnel will not be polygraphed without approval of the Secretary of Defense.
- (3) The Agency may arrange with other Federal establishments for the detail of Agency personnel to those establishments when such details are in the national interest. The host organization (where the Agency employee is on detail) may provide supervision to the detailee and may assign work. In addition, it may prepare performance evaluations on the work performed by the employee.
- (4) An Agency employee detailed elsewhere within the Federal Government will be responsible to the host agency and will not report to CIA on the affairs of the host agency,

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except as may be directed by the latter. The head of the host agency and any successor will be informed of the detailee's association with the parent agency.

c. (U) **PERSONNEL DETAILED TO THE AGENCY**

(1) **PROCUREMENT**

- (a) **The Chief, Recruitment Center (C/RC) or designee** is responsible for requesting the detail to the Agency of employees from other Federal establishments. Operating Officials may enter preliminary discussions with a parent establishment for the services of an employee, but should coordinate with the **C/RC or designee** in advance of such discussions. As a matter of policy, the Department of Defense discourages the identification of specific individuals to fill other Federal agency requirements.
- (b) Operating Officials will request detailed personnel by initiating a memorandum to the **C/RC or designee**. Each request will justify and describe the services to be performed, estimate the period for which services will be required, and advise if the detail will be reimbursable or nonreimbursable. All detailed civilian personnel are subject to Agency medical and security approval. Agency medical and security clearances for "detailed" and "detailed for duty with" military personnel are dependent on requirements of the duties to which assigned and are determined on a case-by-case basis. All requests will include a Form 1152, Request for Personnel Action.
- (c) The **C/RC or designee** will conduct the necessary liaison with the other establishments for the proposed detail and will prepare appropriate correspondence officially documenting the detail. In accordance with AR 30-2~~4~~, the financial arrangements involved in the agreement will be coordinated with the Director of Finance.

(2) **ADMINISTRATION**

- (a) Operating Officials are responsible for:
  - (1) Submitting Personal History Statement data and a Form 1152, Request for Personnel Action, for prospective detailees.
  - (2) Supervising detailed personnel and meeting the administrative requirements of the parent agency.
  - (3) Coordinating with **Human Resources (HR)** the administrative actions involving civilians and assigned military personnel (for example, reporting change of duty or station, TDY, leave, sickness).
  - (4) Providing **HR** with copies of all administrative correspondence pertaining to detailed personnel.
  - (5) Informing the **C/RC or designee** of terminations, cancellations, or proposed changes in the Administrative Agreement of personnel.
- (b) The **C/RC or designee** is responsible for:

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- (1 ) Obtaining appropriate medical and security clearances on receipt of Form 1152.
  - (2 ) Authenticating Form 1152.
  - (3 ) Establishing an entrance-on-duty date in coordination with the parent agency and the host Agency component.
  - (4 ) Arranging for appropriate entrance-on-duty briefings.
  - (c) Financial arrangements for use of detailed personnel must be referred to the Director of Finance for concurrence. The Director of Finance is responsible for making payments specified in agreements with the parent establishments.
  - (d) Military personnel "detailed for duty with" the Agency are administered by their respective military services through the military's focal point officer.
- d. (U) **AGENCY PERSONNEL DETAILED TO OTHER ESTABLISHMENTS.** Agency personnel detailed to other Federal establishments will continue to receive Agency entitlements while on detail.
- (1) Operating Officials are responsible for:
    - (a) Initiating a memorandum to Chief, Transactions and Records **Division, HR**, outlining the pertinent information, including length of detail, reimbursable or nonreimbursable arrangements, and the name and title of the individual in the host agency who agreed to the detail.
    - (b) Submitting a Request for Personnel Action, for the proposed detailee to the **C/RC or designee** with the Administrative Agreement information.
    - (c) Informing the **C/RC or designee** of proposed termination, cancellation, or changes in the Administrative Agreement.
    - (d) Ensuring that Agency personnel detailed to other organizations are included in the Career Service competitive evaluation process.
  - (2) The **C/RC or designee** is responsible for:
    - (a) Obtaining security and medical clearances for the proposed assignment on receipt of Form 1152.
    - (b) Conducting the liaison necessary for the proposed detail with the host agency's Director of Personnel.
    - (c) Preparing appropriate correspondence to the host agency officially documenting the detail.
    - (d) Coordinating with **Director of Finance** financial arrangements involved in any Administrative Agreement.
  - (3) The Director of Finance is responsible for collecting any reimbursements specified by the Administrative Agreement.
  - (4) Under certain limited conditions specified below, Agency personnel may be detailed to

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other Federal agencies without the full administrative processing otherwise required by this regulation. Such details will be authorized only where particular Agency technical expertise is required for a short-term or single instance and under time constraints that do not allow for full administrative processing. Such special detailing requires:

- (a) A request for assistance from an appropriate official of the requesting agency;
  - (b) Acknowledgment by the detailee that, during the detail, he or she will only receive tasking by the host agency and will not report back to CIA concerning the information acquired during the course of the detail except as directed by the host agency; that the detailee understands that he or she may receive no tasking from CIA either before or during the detail for activities to be accomplished during the course of the detail; and that he or she understands that his or her activities must be strictly limited to the terms of the detail. Each detailee will be briefed on these requirements by the Office of General Counsel (OGC);
  - (c) Approval of the appropriate Deputy Director or **Chief, Mission Support Office (C/MSO)**, except where a higher level approval is required by Executive Order 12333 or its implementing procedures;
  - (d) General Counsel or Acting General Counsel concurrence;
  - (e) Notification of an appropriate official of the requesting agency that the detailing is to take place;
  - (f) In emergency circumstances, the requirements of (b) through (e) above may be fulfilled orally, and followed up subsequently in writing;
  - (g) An appropriate official is someone determined by OGC to have the authority to commit the host agency with respect to the assistance/detailing arrangement; and
  - (h) All special details will be for a specified duration and will be limited to providing the requested assistance.
- e. **(C) DETAILED MILITARY PERSONNEL (REIMBURSED).** In addition to the policies and procedures set forth above, the following also apply:
- (1) **LENGTH OF AGENCY DUTY.** Military personnel are assigned or detailed for duty with the Agency in accordance with policies and regulations of the military services. Since a prolonged assignment to the Agency may adversely affect the individual's military service career, the Agency will not, as a matter of general policy, request extensions of tours of military personnel except in unusual and important cases. In such cases, **HR/RC** is authorized to request a 1-year extension of the normal tour. Requests involving an extension or repeated extensions of more than 1 year will be justified fully and submitted to the **C/RC** or **designee** for consideration. All extensions are subject to approval by the military services.
  - (2) **EFFICIENCY REPORTS.** Efficiency reports are required for assigned military personnel and must be prepared to meet the requirements of the military services. **HR/RC** will notify appropriate Operating Officials when reports are required and provide guidance for preparation. Operating Officials will notify **HR/RC** of changes in

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supervisors of assigned military personnel so that proper initiation of reports can be maintained.

- (3) **LEAVE.** Detailed military personnel are entitled to leave in accordance with the policies of their parent service.

- (4) **MILITARY ENTITLEMENTS.** Detailed military personnel are entitled to retain, from either their parent service or the Agency, the military salary, allowances, and other benefits authorized for their military grade and the type and post of assignment. When detailed military personnel are prevented by cover or security from claiming and receiving from their parent service any military entitlements, the Agency will satisfy the entitlements by providing the benefits or making payment therefor. Before any payments are made by the Agency, a claim must be submitted to the Operating Official concerned by or on behalf of the individual. The claim must be supported by a statement from the individual's supervisor that for cover or security reasons a claim for payment by the parent service is not feasible. Upon receipt of payment, military detailees will certify that they have not received and retained and will not receive and retain duplicate payments from the parent service. When payments are to be made by the Agency on a continuing basis, the certifications are required only when the initial and final payments are made. The following entitlements that would have been borne by the parent service had the individual been on active overt duty may be satisfied by the Agency:

- (a) **Per Diem at Headquarters.** For cover or security reasons, military personnel are frequently ordered to Washington, D.C., on permanent change of station orders for processing before assignment outside the Washington, D.C., area. The Agency considers such personnel to be in Washington on "temporary duty en route to permanent station" and provides per diem allowances as prescribed by the Joint Travel Regulations.
- (b) **Incentive or Special Pay.** Payment for aviation, parachuting, demolition, or diving will be made in accordance with the applicable military regulations upon certification by the supervisor that the duty justifying the pay was performed during the period for which the pay is claimed.
- (c) **Travel, Transportation, and Related Expenses.** Expenses for these purposes will be allowed only when incurred at the specific direction of an authorizing official (as defined in AR ☐). Payments by the Agency are subject to the standards and limitations set forth in and in conformance with the eligibility and other requirements of the Joint Travel Regulations and, where applicable, the regulations of the parent service, except concerning formal civilian clothing as discussed later in this regulation. Military entitlements that may be satisfied by the Agency include:
- (1) Travel expenses incurred by detailed military personnel and their dependents (as defined in the Joint Travel Regulations) between permanent posts of duty, subject to emergency restrictions of the parent service. Allowable expenses include either the actual cost of transportation (as directed by the Agency) and military per diem or the applicable military mileage allowance.
- (2) Transportation and related expenses incurred on permanent change of station

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orders for a personal automobile at and between ports of embarkation and debarkation.

- (3) Transportation and related expenses incurred for household goods at and between permanent posts of duty, subject to emergency restrictions of the parent service. Allowable expenses include storage charges for household goods that are not moved, provided that the total amount of household goods stored does not exceed the total weight allowance prescribed for the individual's grade in the Joint Travel Regulations.
- (4) Transportation (including priority baggage by surface transportation) and related expenses for baggage in the course of permanent change of station and temporary duty travel.
- (5) Travel expenses incurred for authorized temporary duty travel. In addition to military per diem and in lieu of transportation, the applicable military mileage allowance may be allowed.
- (6) A dislocation allowance in an amount equal to 1 month's payment of the basic allowance for quarters, provided transportation of dependents is authorized in connection with a permanent change of station directed by the Agency.
- (d) **Medical Expenses.** Any normal medical expenses incurred by detailed military personnel and their dependents that would have been borne by the parent service had the individual been on active overt duty will be paid by the Agency, provided the medical services for which the expenses were incurred could not have been performed for the individuals and their dependents without charge by cover facilities or by the military services.
- (e) **Schooling for Dependent Children.** Military entitlements that may be paid by the Agency include a schooling allowance for dependent children equivalent to that furnished by the parent service to military personnel under bona fide military orders at the same post of duty. The individual will submit to the Operating Official concerned receipts for the services provided by the school and will certify the amount of the military schooling allowance paid by the parent service in the area of assignment. Payments will not be authorized for quarters, subsistence, travel, or clothing incidental to schooling. If any adjustments are made by the parent service in the schooling allowance paid in an area of assignment, the allowance paid by the Agency will be adjusted accordingly.
- (f) **Clothing Allowances (Enlisted Personnel).** The Operating Official concerned may authorize nonaccountable clothing allowances for detailed enlisted personnel as follows:
  - (1) When they are assigned on temporary duty and, in order to carry out assigned duties, are required to wear civilian outer clothing, they may be authorized an allowance for the purchase of such clothing. The amount of this allowance may not exceed the maximum that the parent military service could authorize for enlisted personnel on temporary duty under the same conditions.

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- (2) When they are assigned permanently and, for operational, cover, or security purposes, are required to wear civilian outer clothing on a continuing basis, they may be authorized an allowance for the purchase of such clothing. The amount of this allowance may not exceed the maximum that the parent military service could authorize for enlisted personnel assigned to the same location.
- (3) A civilian clothing maintenance allowance may be granted in conformance with applicable regulations of the parent military service. Any military clothing maintenance allowance received from the parent service will be offset against the civilian clothing allowance.
- (5) **SPECIAL AUTHORIZATIONS.** At the discretion of the C/RC or designee, detailed military personnel may be granted entitlements of Agency civilian employees for purposes other than travel in lieu of the corresponding entitlements of the parent service, but no combination of parent service entitlements and civilian entitlements will be authorized, except under the provisions of paragraph (d) below. The basic consideration in granting any civilian entitlements to military personnel is that the individual will incur substantial personal expenses as the direct result of operational assignment or cover circumstances for which military entitlements are inadequate. In no event may duplicate payments be provided.
- (a) **Letters of Authorization.** HR/RC will execute and issue a Letter of Authorization for each detailed military person who is to receive civilian entitlements in lieu of military entitlements. The letter will set forth the nature and amount of all allowances and other benefits authorized to the individual that vary from the military entitlements set forth in paragraph e(4) above.
- (b) **Assimilated Civilian Grades.** When military personnel are authorized by Letter of Authorization to receive a civilian entitlement in lieu of a comparable military entitlement, the assimilated civilian grade shown below will be used when the entitlement is based on grade. The base pay of the civilian grade will be used when the entitlement is based on salary.
- (c) **Unusual Expenses.** Letters of Authorization may authorize reimbursement to military personnel for unusual or extraordinary expenses directly and necessarily incurred because of the security or operational requirements of assigned Agency duties if and to the extent otherwise permitted by law.
- (d) **Offset.** Should cover circumstances necessitate the continuation of basic military entitlements, notwithstanding the fact that civilian entitlements have been authorized by the Agency, only the difference between the authorized civilian entitlements and the military entitlements being drawn from the parent service will be paid by the Agency. The individual will promptly repay to the Agency any overpayments necessitated by cover or security considerations.
- (e) **Allowances for Civilian Clothing (Officer Personnel).** Letters of Authorization may authorize a nonaccountable clothing allowance of not more than \$150 to detailed officer personnel for the purchase of ordinary civilian clothing. (Up to \$300 may be approved by the Deputy Director or C/MSO concerned when a tie and dress clothing

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assignment and administration of military personnel "assigned" to the Agency and subsequently detailed to other establishments will be in accordance with paragraph d above. **HR** must be included in the coordination of all correspondence and personnel actions.

- g. (U) **DETAILED MILITARY PERSONNEL (NONREIMBURSED)**. Certain Agency components are authorized to use military personnel on a nonreimbursable basis. The agreement for such use may be formal or informal and arrangements are made directly with the appropriate military services by the Operating Officials. The **C/RC or designee** will be informed in advance when a component plans to initiate such arrangements. Military personnel in the category are administered and controlled by the parent service. Operating Officials who enter into such agreements will prepare a Request for Personnel Action, for each military detailee of this type and forward it to **HR** for authentication. Using components are responsible for obtaining any security clearance required.

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**Date:** 02/19/2002

**Category:** 20 - Human Resources

**OPR:** HR

**Title:** AR 20-71 CONSULTANTS

**REVISION SUMMARY:** 19 February 2002 (0621)

This regulation supersedes AR 20-71 dated, 21 December 2000.

AR 20-71 is revised to amend the conditions under which consultants may serve as members of DCI advisory panels; and to require that all recommendations for continued use of consultants are submitted through the Chief Human Resources Officer, in addition to the General Counsel. This revision also reflects the change in organizational and position titles that resulted from the DCI's decision effective 4 June 2001, to abolish the Directorate of Administration and establish the Mission Support Offices.

*Boldfaced text in this regulation indicates revisions .*

*This revision was written by the Policy Team, Human Resources Strategy & Planning Staff at HRM Policy@DA.*

**71. CONSULTANTS**

**SYNOPSIS.** This regulation states policies, authorities, and responsibilities for engaging consultants to serve as members of DCI advisory panels.

**a. AUTHORITY.** Section 8 of the Central Intelligence Agency Act of 1949, as amended, and Section 303 of the National Security Act of 1947, as amended.

**b. POLICY**

(1) The Agency will use consultants only as members of DCI advisory panels and under the following conditions:

(a) The consultant's term of panel membership normally is three years. The Executive Director (EXDIR) may extend the term for up to three additional years.

APPROVED FOR RELEASE  
DATE: JAN 2008

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- (b) There is a need for exceptional or specialized services that cannot be met by available Agency employees.
  - (c) Consultant service is beneficial to the Agency administratively and financially.
  - (d) The consultant's service is not obtainable under other employment categories.
  - (e) The consultant's service will not violate conflict of interest statutes, **Executive Orders, or Agency regulations.**
- (2) Because many qualified persons are willing to serve the Agency without compensation, officials first should consider obtaining a consultant's service on a "without compensation" (WOC) basis.
  - (3) An Agency official may not make a commitment to engage a prospective consultant before obtaining EXDIR approval.
  - (4) The EXDIR may waive any of the policy restrictions on employment of consultants when a determination is made that such a waiver is necessary for the performance of the Agency's mission.
- c. **DEFINITION.** Consultants are individuals with unique skills, knowledge, or experience engaged under contract as independent contractors to serve on DCI advisory panels. Consultants draw on their expertise to recommend approaches, methods, techniques, or solutions to problems. Consultants are not Government employees and may not perform employee-type duties. Further, Agency officials may not supervise or direct the work of consultants and may not exercise control over the manner, means, or details by which consultants provide agreed-upon services.
- d. **PERIOD OF SERVICE AND COMPENSATION**
- (1) Contracts engaging consultants must be renewed each fiscal year. Consultants normally provide their services intermittently. They may not serve more than 130 days during any period of 365 consecutive days.
  - (2) The rates of compensation for paid consultants will vary with the type and level of proposed services and individual qualifications. Compensation will not exceed the daily rate of GS-15, step 10, unless the EXDIR approves a higher rate.



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**g. ETHICS RESTRICTIONS.** Consultants are independent contractors who are not legally subject to the ethics laws as contained in Title 18 of the US Code. Nevertheless, for reasons of policy, the Agency has chosen to apply certain ethics restrictions to consultants, and these restrictions should be contained in their contracts. The restrictions, which are set forth below, are divided between those that apply while serving as consultants and those that apply after leaving the Agency.

- (1) The following restrictions will apply while consultants serve with the Agency:
  - (a) They may not, except in the discharge of their official duties, represent a third party before the United States on any particular matter in which the United States is a party or has a direct and substantial interest if they participated personally and substantially as consultants or Government employees on that particular matter or if the particular matter was pending with the Agency while they served if they served longer than 60 days.
  - (b) They may not participate personally and substantially in their government capacity in any particular matter in which they or any person whose interests are imputed to them have a financial interest if the particular matter will have a direct and predictable effect on that financial interest. An interest is considered imputed to a consultant if the financial interest is held by the consultant's spouse; the consultant's minor child; the consultant's general partner; an organization or entity which the consultant serves as an officer, director, trustee, general partner, or employee; or a person with whom the consultant is negotiating an arrangement concerning prospective employment.
- (2) The following restrictions will apply after consultants are no longer independent contractors for CIA:
  - (a) They are permanently barred from representing anyone (other than the U.S. Government) before any official or agency of the U.S. Government in which the U.S. is a party or has a direct and substantial interest on a particular matter in which they are personally and substantially involved as Agency consultants.
  - (b) They are barred for two years after the consultant relationship has ended from representing anyone (other than the U.S. Government) before any official or agency of the U.S. Government in which the U.S. is a party or has a direct and substantial interest concerning any particular matter that was pending under them during the last year of their Agency consultantship.

**h. APPROVAL AUTHORITIES**

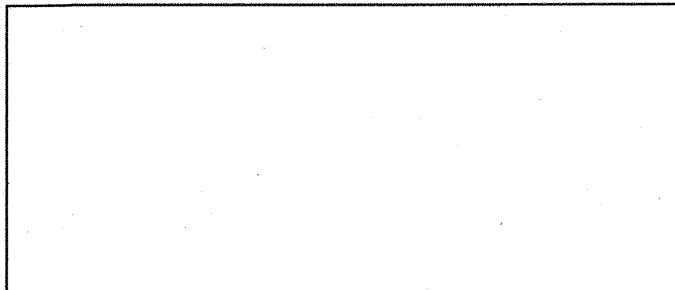
- (1) The EXDIR will approve the engagement of each individual as a consultant and that person's rate of compensation.
- (2) The Director of Security (D/OS) will issue security approval for each consultant.

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~~ADMINISTRATIVE - INTERNAL USE ONLY~~**i. RESPONSIBILITIES**

- (1) The Chairperson, National Intelligence Community (NIC), has administrative and financial responsibility for all consultants and will:
  - (a) Determine the need for consultants and submit requests for their use through the **Chief, Recruitment Center (C/RC)** to the EXDIR for approval.
  - (b) Review annually, during the month of July, the use of all consultants to determine if their contracts should be extended or terminated and forward the proposals from this review through the C/RC or designee for the EXDIR's approval.
  - (c) Review each section, Statement of Employment and Financial Interests, of Form 2553 submitted by consultants for possible conflicts of interest to ensure that the consultant's proposed service will not violate conflict of interest statutes. Complete each section, Certification of Using Official, of Form 2553.
- (2) The C/RC or designee will:
  - (a) Review requests for the continued use of consultants and submit recommendations to the EXDIR through the **Chief Human Resources Officer** and the General Counsel for approval.
  - (b) Ensure that each prospective consultant receives, certifies as having read, and agrees to the provisions of Executive Order 12731, dated 17 October 1990, "Principles of Ethical Conduct for Government Officers and Employees" and extracts of the conflicts of interest provisions of Title 18, U.S.C.
  - (c) Ensure that each consultant files a Form 2553, Statement of Employment and Financial Interests, prior to execution of original contract and as of 1 October of each succeeding year.
  - (d) Designate as consultants at the initiation of their contracts all persons who meet the definition set forth in paragraph c above.
- (3) The **Chief Human Resources Officer** or designee will:
  - (a) Ensure that consultants earning compensation receive an IRS Form 1099 each calendar year or upon termination of their contracts.
- (4) The General Counsel will:
  - (a) Review each Statement of Employment and Financial Interests to determine if a conflict or possible conflict of interest exists.
  - (b) Furnish guidance to the consultant, if the General Counsel determines a conflict or apparent conflict of interest exists, and forward the case to C/NIC via C/RC or designee with a recommendation of action to resolve the conflict. Such action may include, but is not limited to:

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(b) (3)**Date:** 04/07/2005**Category:** 20 - Human Resources      **OPR:** HR**Title:** AR 20-72 (U) CONTRACT EMPLOYEES**REVISION SUMMARY:** 7 April 2005

This regulation supersedes AR 20-72, dated 19 February 2002.

AR 20-72 is revised to redelegate the authority to terminate contract employees from the Chief, Recruitment Center to the Deputy Directors and Heads of Independent Offices. This revision also reflects the Agency's organizational restructuring that resulted from the DCI's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by DS/CSC/Office of Human Resources, Centralized & Deployed Human Resources, Policy Staff (HR Policy@DA).*

**72. (U) CONTRACT EMPLOYEES**

**(U) SYNOPSIS.** This regulation states policy, authorities, and responsibilities for managing contract employees. It does not apply to individuals engaged as independent contractors (AR [redacted] and consultants (AR 20-71 [redacted]), [redacted]

- a. **(U) AUTHORITY.** Central Intelligence Agency (CIA) Act of 1949, 50 U.S.C. 403, as amended; National Security Act of 1947, 50 U.S.C. 402 et seq., as amended; and the CIA Retirement Act of 1964, 50 U.S.C. 2001 et seq., as amended.

**b. (C) POLICY**

(1) Contract employees may be hired when:

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- (a) Needed for [ ] support requirements, including long-term [ ] security needs, that cannot be met with staff personnel.
- (b) Services are required of well-qualified people who cannot meet all security or medical requirements for staff employment.
- (c) Required to meet temporary [ ] security needs.

c. (U) **DEFINITIONS.** Contract employees are appointed employees of the U.S. Government and have the entitlements and responsibilities of government employment. Contract employees are required to take the oath of office by appointment affidavit. There are three categories of contract employees:

- (1) Career Associate (Type C) contract employees perform duties, [ ]  
[ ] on a career basis. [ ]  
[ ]  
[ ] A career associate requiring staff-like

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access to an Agency installation or classified information must meet the same security and medical clearance criteria as staff employees.

- (2) Internal (Type I) contract employees are hired for a specific term and normally work inside Agency installations. They must meet the same criteria for security and medical clearances as staff employees, but have access to classified information only as authorized in their security clearance.
  - (3) External (Type E) contract employees are hired for a specific term and normally work outside Agency installations. These employees must meet the same medical criteria as staff employees. However, they need not meet the same security clearance criteria and do not have the same access to Agency installations as staff or internal contract employees. Access to classified information is based on specific duties as authorized in their security clearance.
- d. **(U) ELIGIBILITY FOR BENEFITS.** The eligibility of contract employees for various benefits, such as retirement, insurance, leave, and overseas entitlements, is the same as that for staff employees. The type of benefits depends on whether the employee is a U.S. citizen or a permanent resident alien, and whether employment is temporary or term, as well as full-time, part-time, or intermittent (when actually employed). The component HR office will provide specific eligibility information on a case-by-case basis.
- e. **(C) RESPONSIBILITIES**
- (1) Deputy Directors or Heads of Independent Offices will:
    - (a) Ensure uniformity in managing contract employees within their jurisdictions in matters such as position classification, qualifications determination, compensation, allowances and benefits, systematic cost accounting, performance evaluations, cover determination, and training.
    - (b) **Initiate amendments and renewals of employment contracts.**
    - (c) **Terminate contracts of contract employees.**
  - (2) The C/RC or designee will:
    - (a) Formulate policies and procedures for managing contract employees and provide guidance on the program throughout the Agency.
    - (b) **Approve and execute contracts for employees entering on duty with the Agency.**
    - (c) Request security and medical clearances from appropriate offices.
    - (d) Ensure contract employee pay, leave, and allowance entitlements are consistent with contract provisions and cover requirements.

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contract approving authority may be delegated to Chiefs of Installations.

(5) Chiefs of Installations may, with prior Headquarters approval, amend contracts.

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~~SECRET~~(b) (1)  
(b) (2)  
(b) (3)**Date:** 08/31/2004**Category:** 20 - Human Resources**OPR:** DDO**Title:** AR 20-73 CONTRACTUAL RELATIONS WITH ASSETS**REVISION SUMMARY:** 31 August 2004

This regulation supersedes AR 20-73, dated 18 January 2001

*Boldfaced text has been used to indicate changes.**This regulation was written by the Directorate of Operations***73. (C) CONTRACTUAL RELATIONS WITH ASSETS**

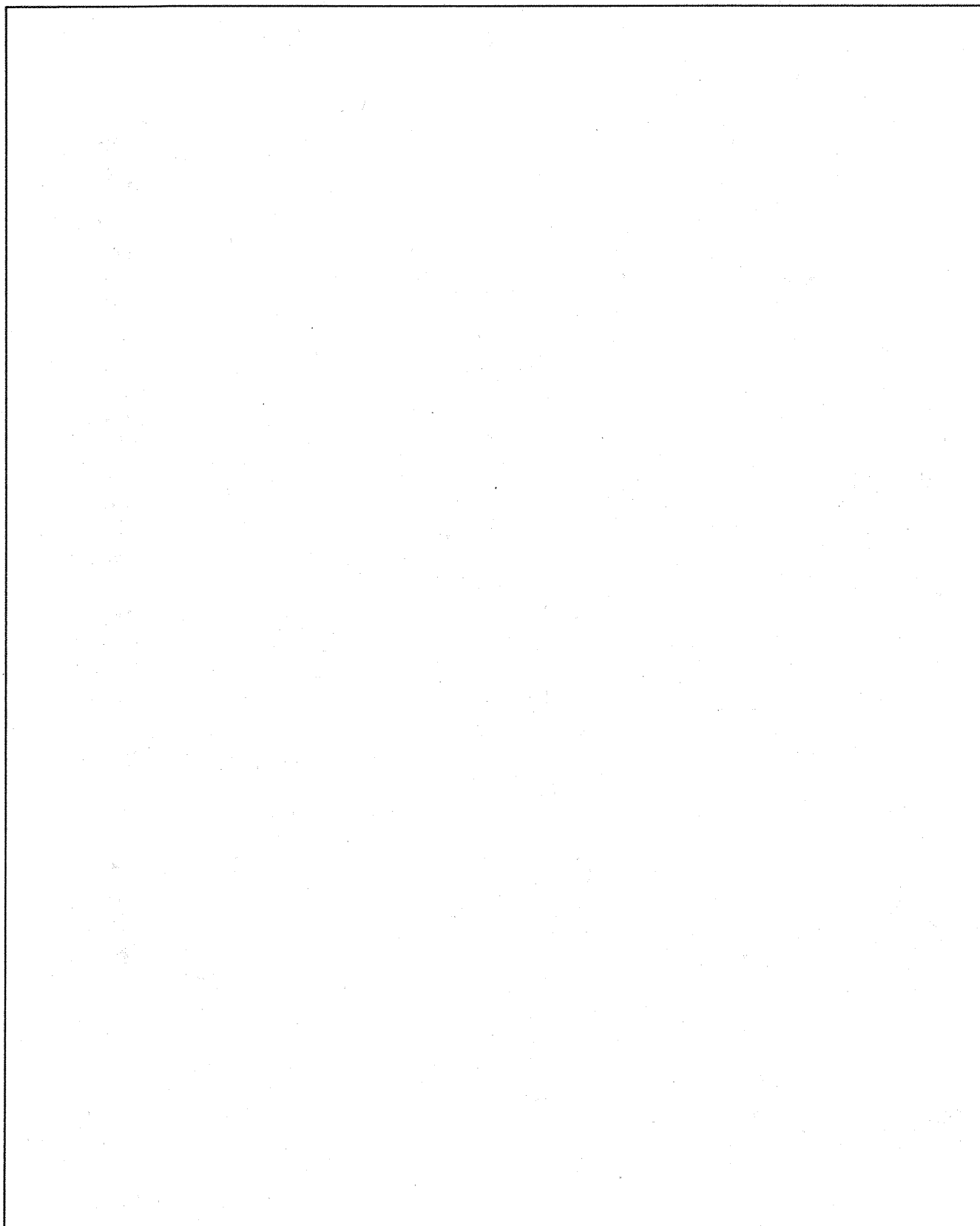
**(S) SYNOPSIS.** This regulation sets forth policy, responsibilities, and authorities concerning the engagement and management of human resource assets.

a. **(U) AUTHORITY.** The authority for the provisions of this regulation is derived from the Central Intelligence Agency Act of 1949, as amended.

b. **(S) GENERAL**

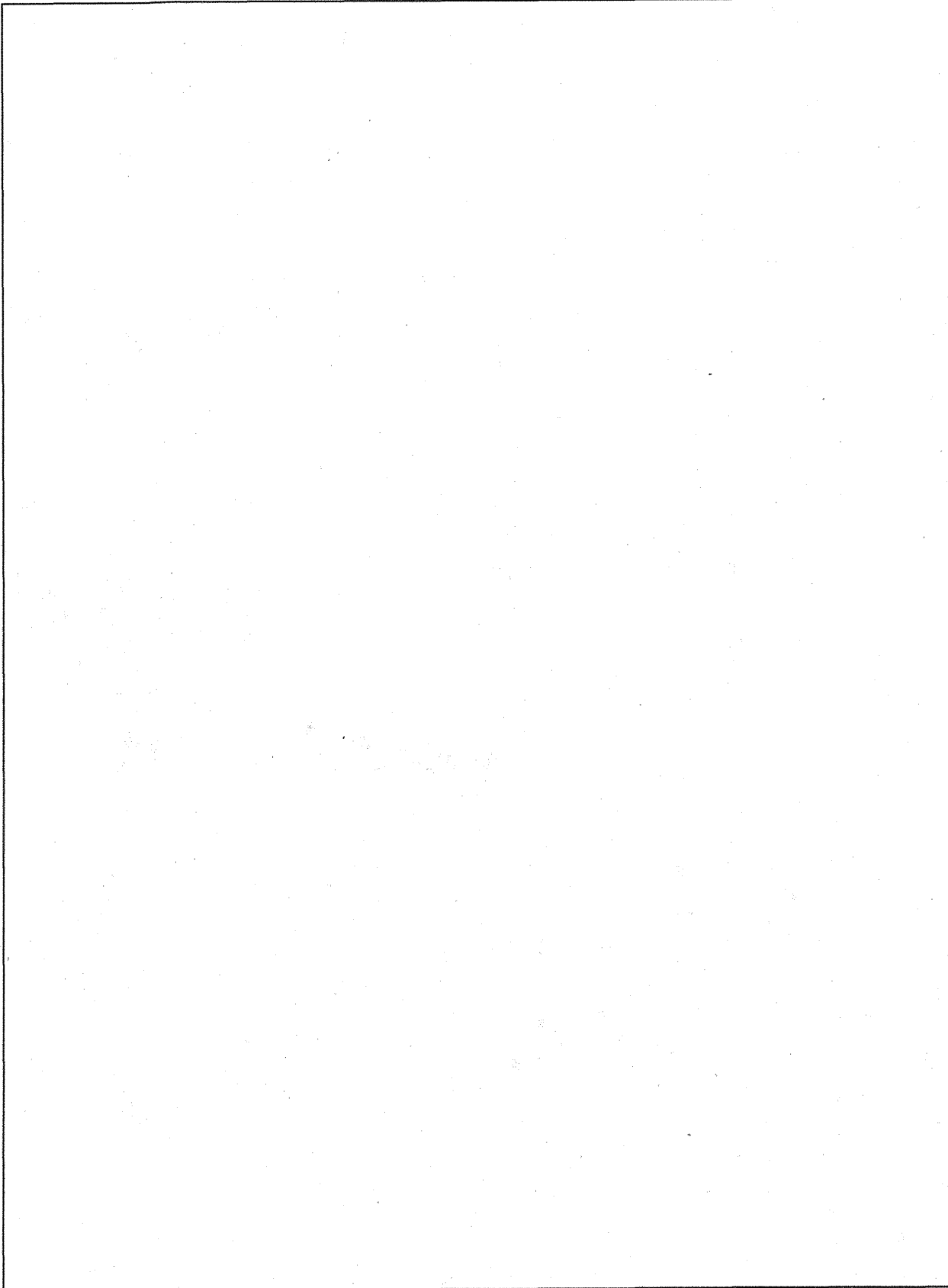


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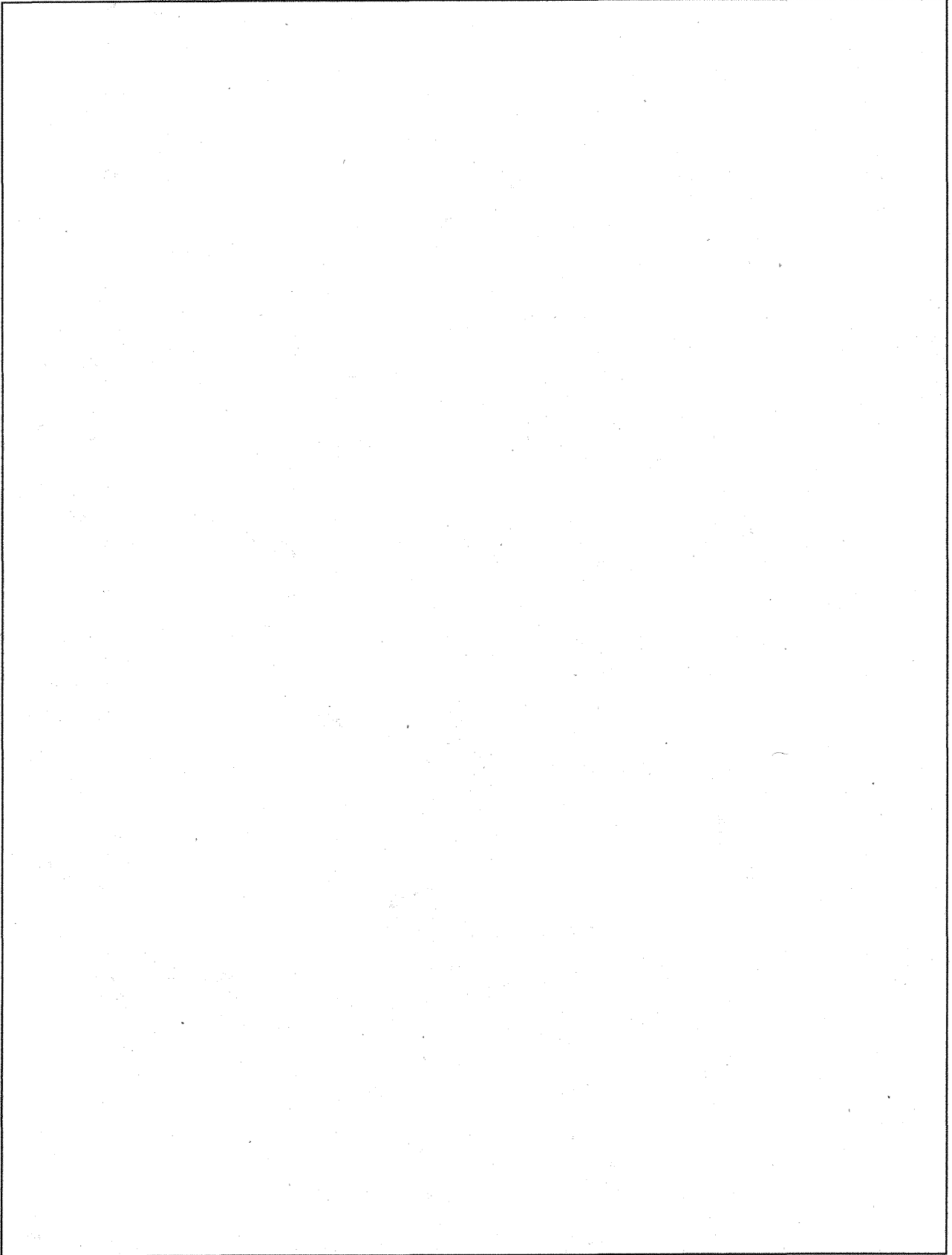
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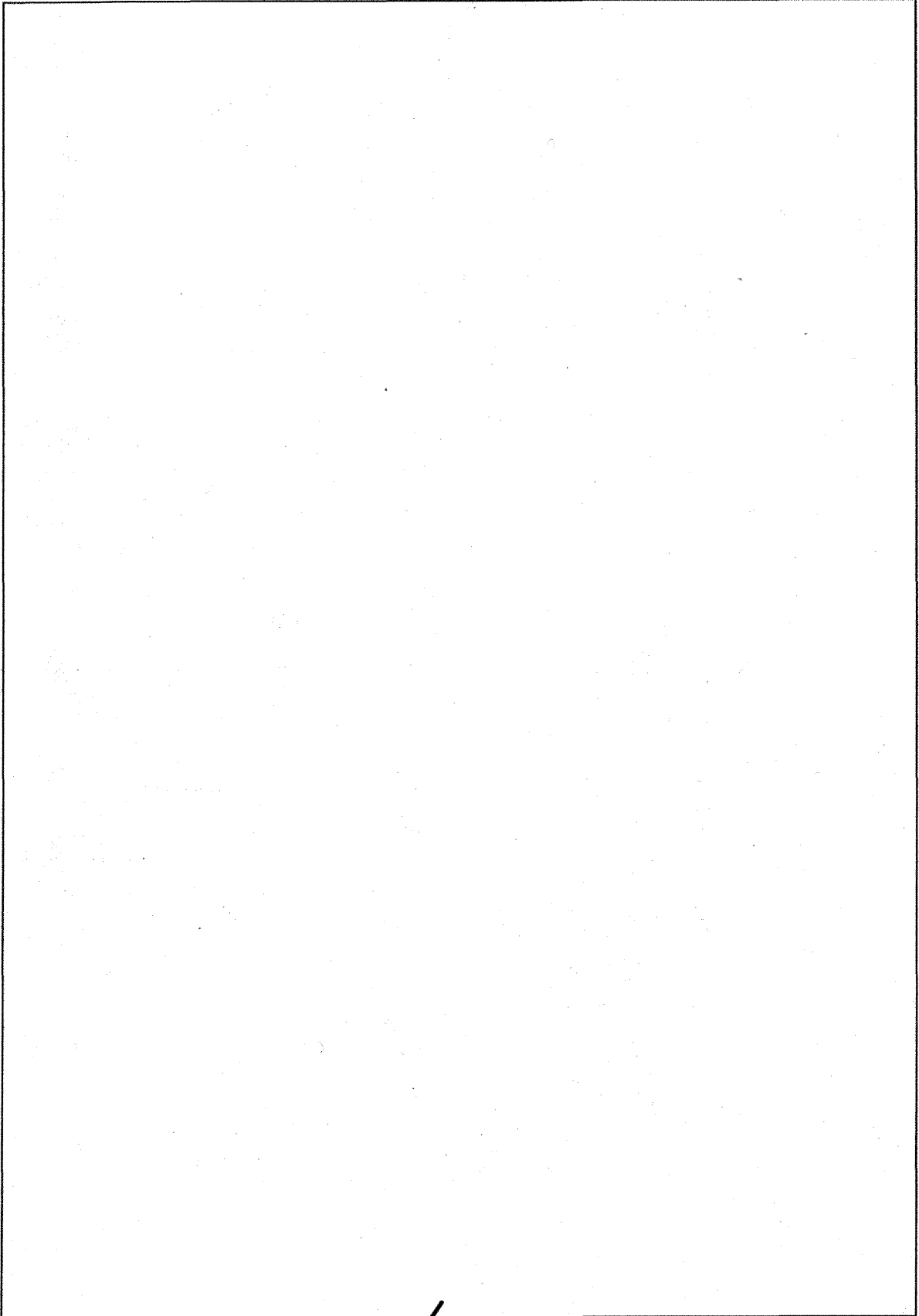
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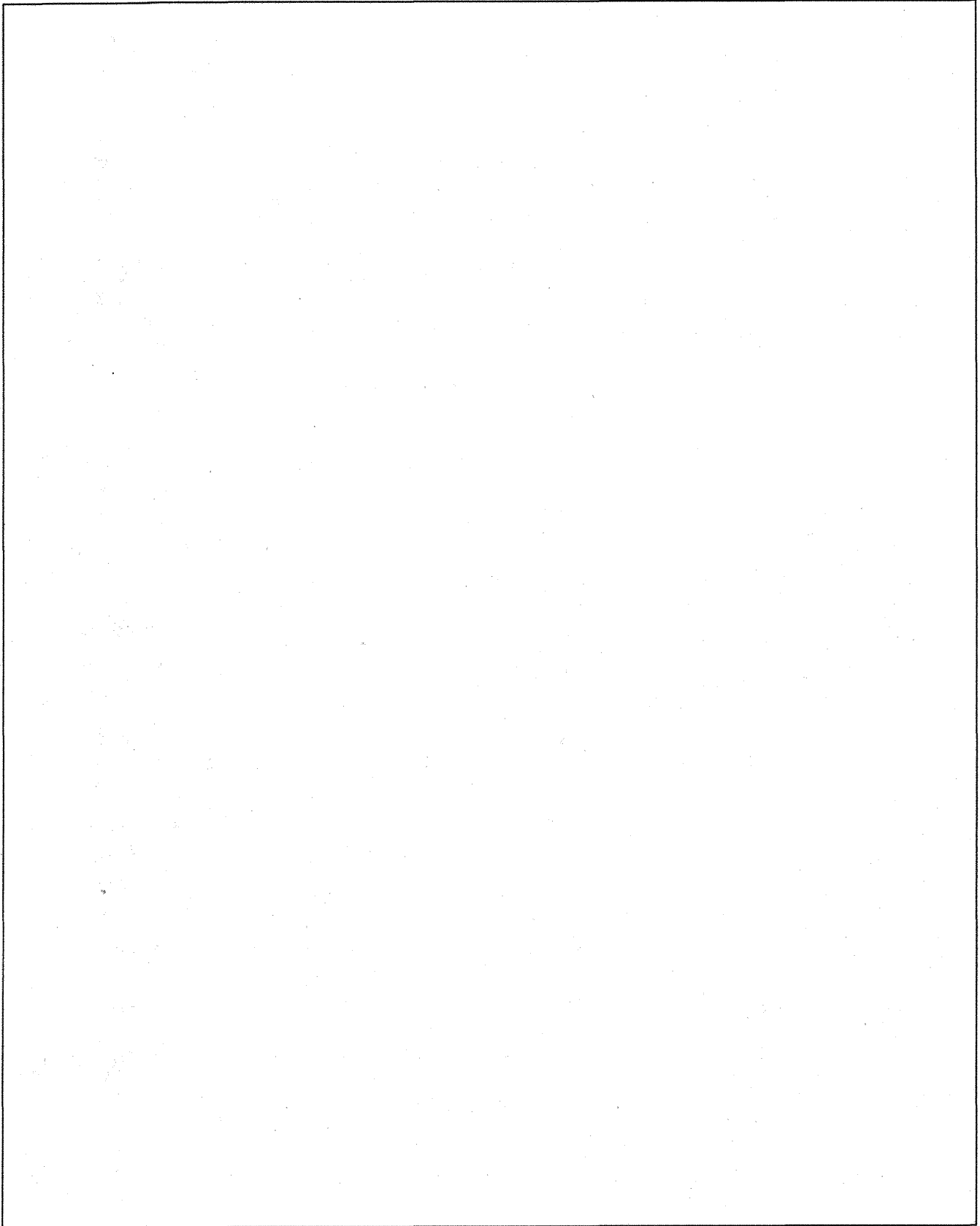
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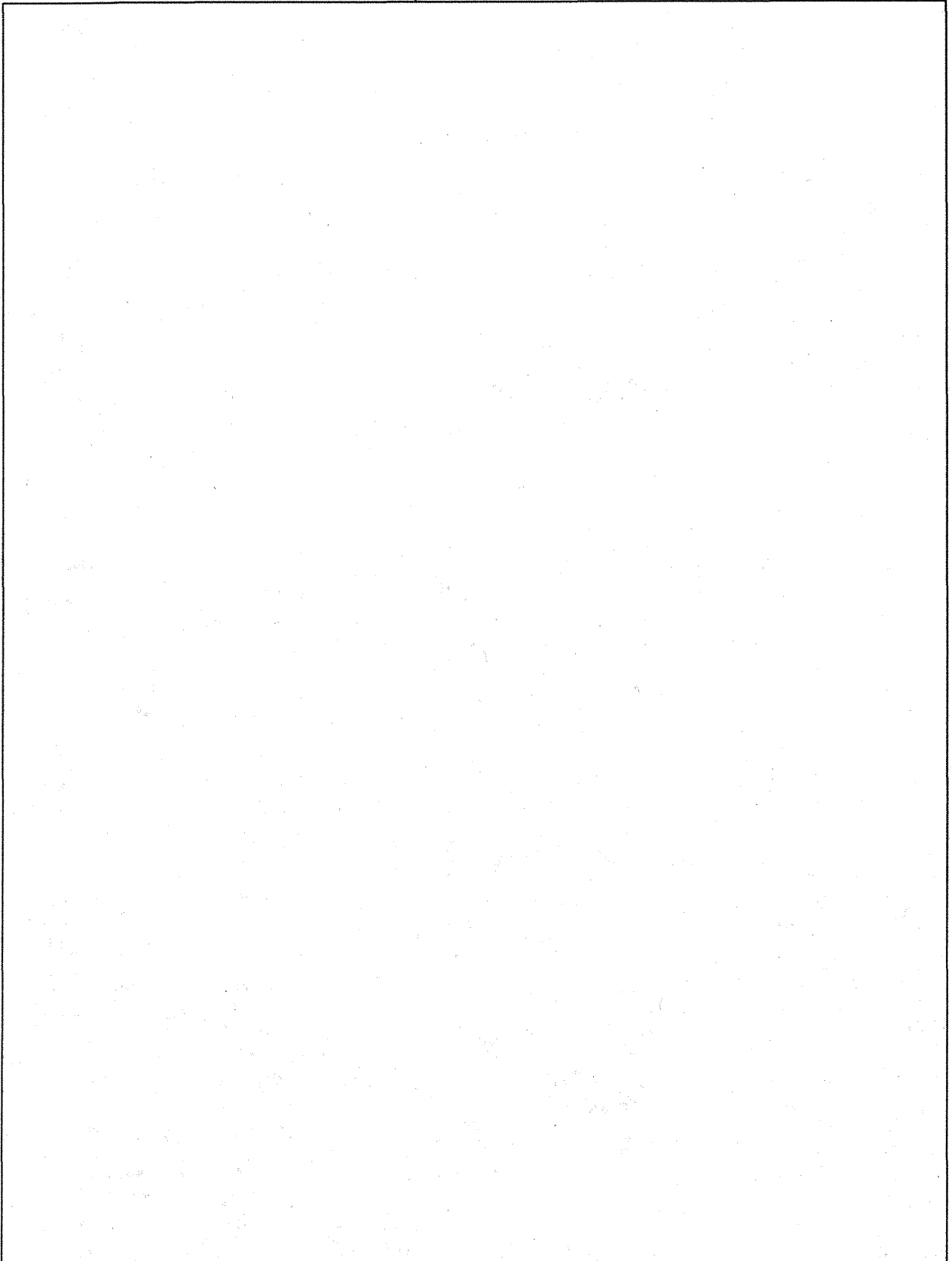
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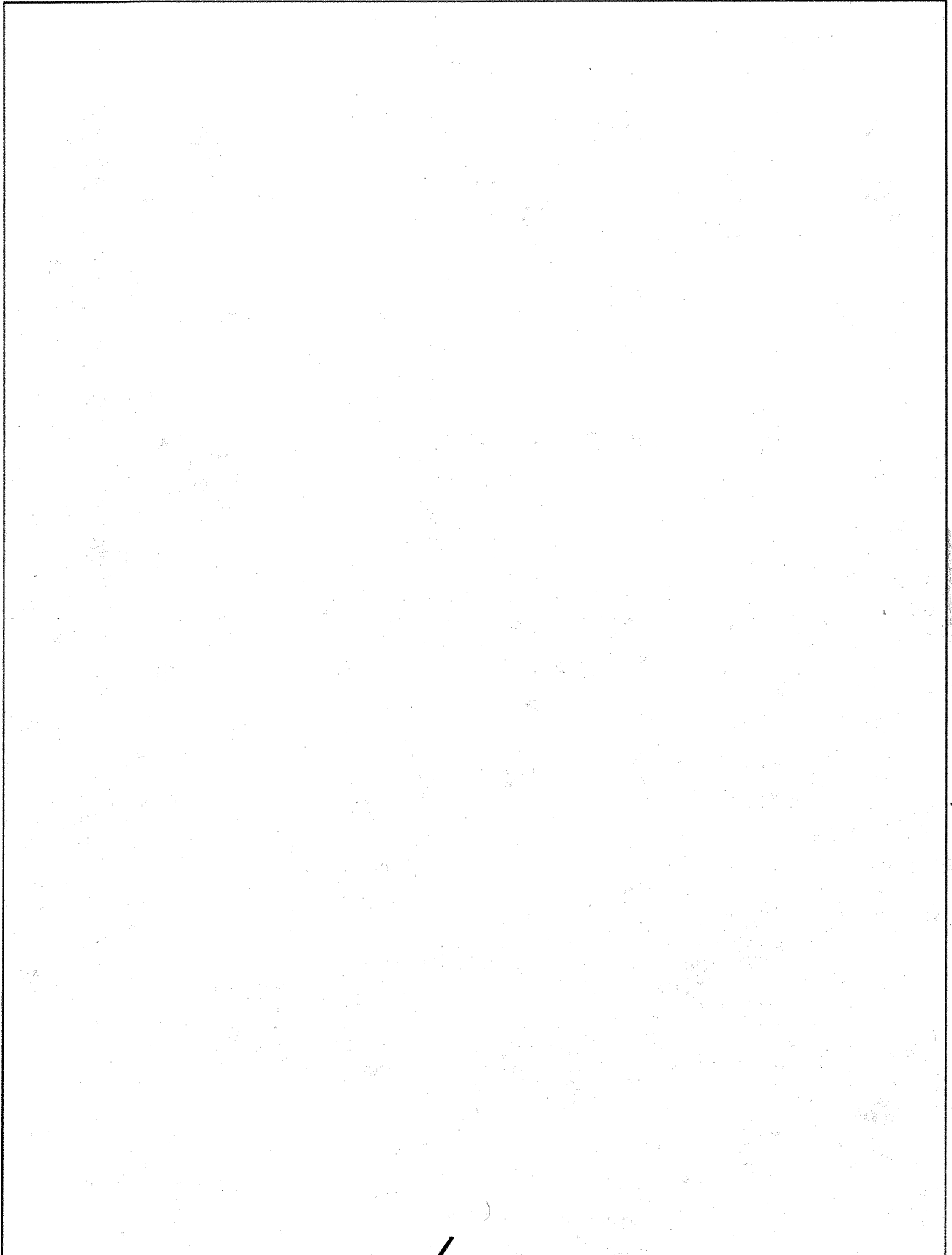
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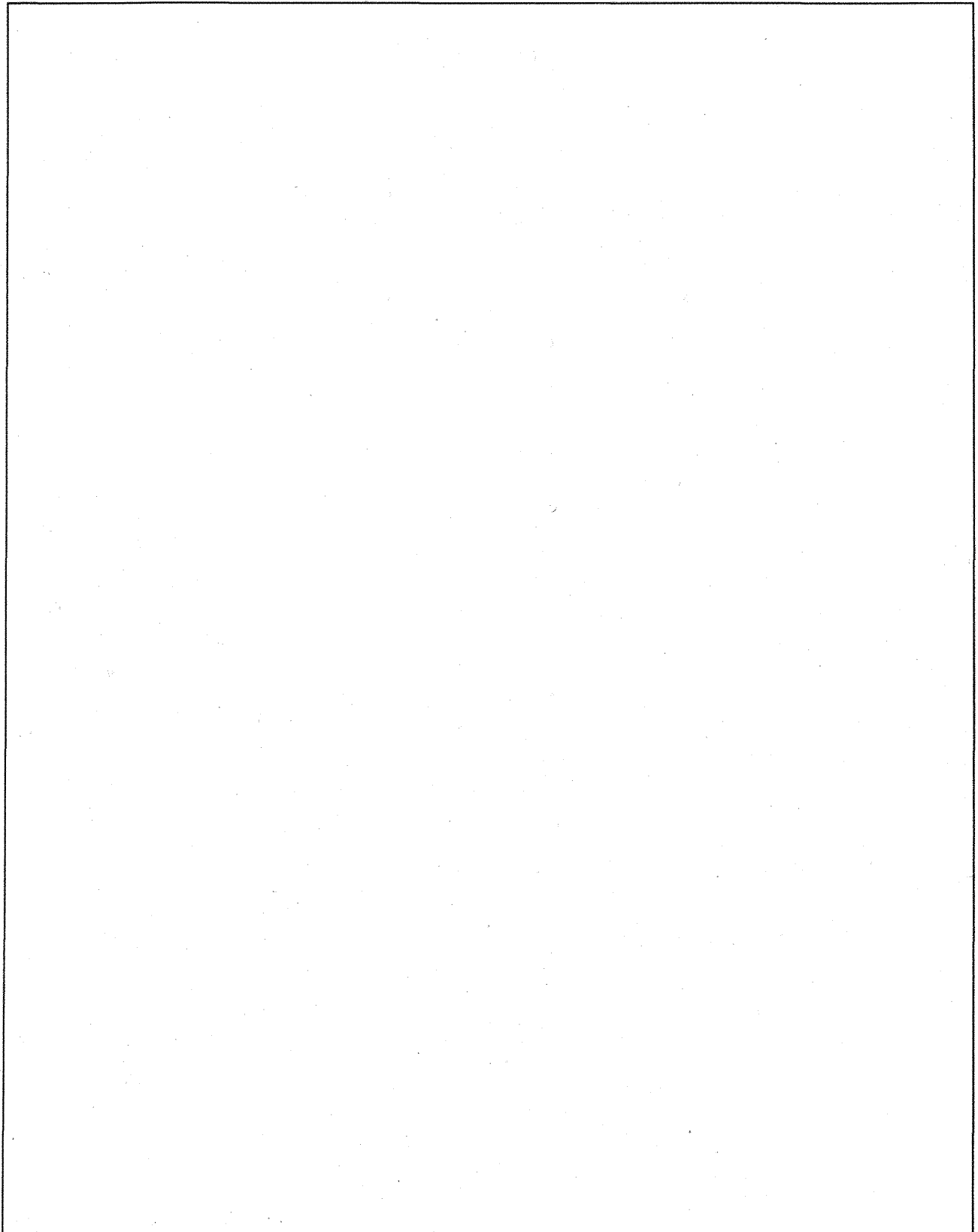
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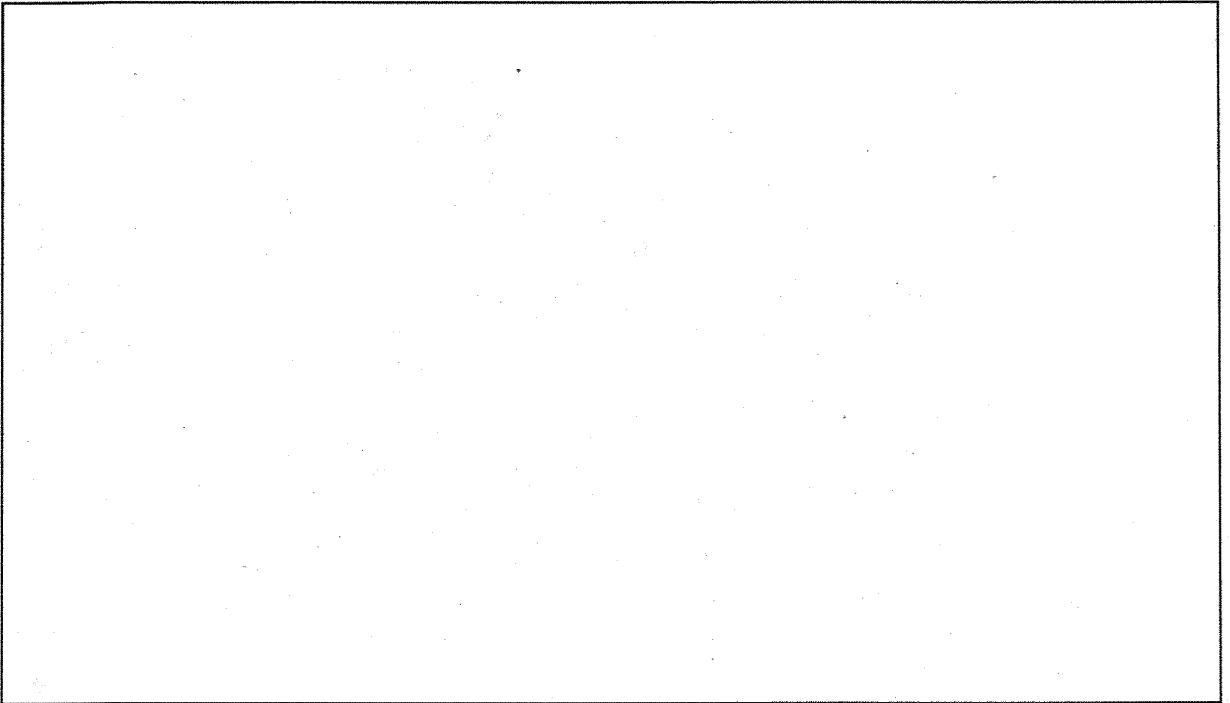
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(b) (3)~~ADMINISTRATIVE - INTERNAL USE ONLY~~**Date:** 06/03/97**Category:** 70 - Information and Records Management**OPR:** OIM**Title:** AR 70-5 DECLASSIFICATION AND RELEASE**PEN AND INK CHANGE:** 7 March 2001

On 18 August 2000, the Director of Central Intelligence Agency signed a delegation of authority giving the Deputy Executive Director authority to classify, declassify, and release Agency information. The change is reflected in paragraph f(3) and are designated by bold text.

*This regulation was written by the Office of the Associate Deputy Director for Administration/Information Services,*

**5. DECLASSIFICATION AND RELEASE**

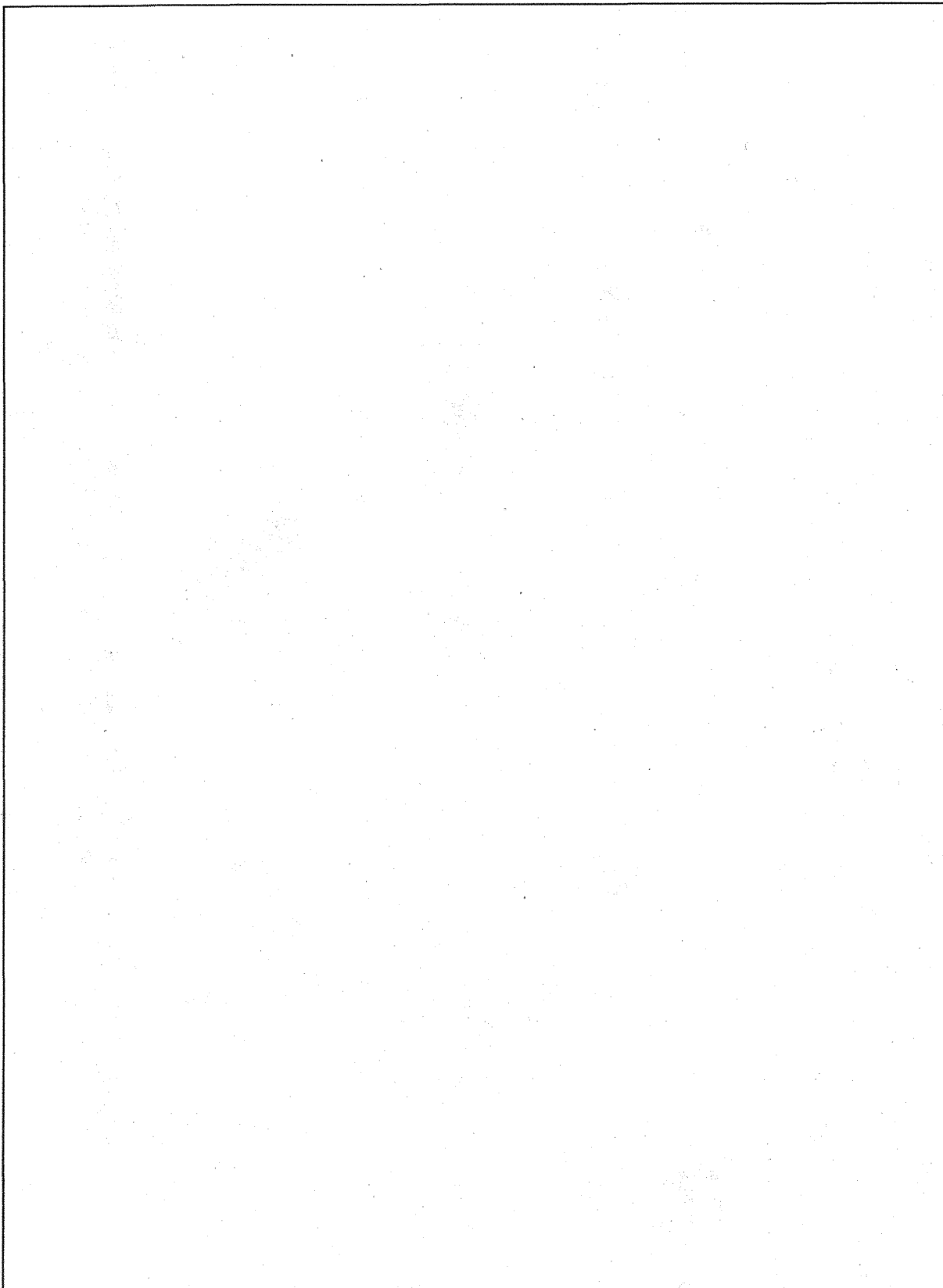
**SYNOPSIS.** This regulation provides policy and guidance regarding the declassification<sup>1</sup> and release<sup>2</sup> of information that documents Central Intelligence Agency activities, and the activities of predecessor organizations (hereinafter "Agency information").

<sup>1</sup>Declassification, as discussed in this regulation, refers to declassification carried out under the authority of Executive Order 12958. Thus, declassification, in the context of this regulation, does not apply to imagery, since the declassification of imagery is carried out under the separate authority of Executive Order 12951.

<sup>2</sup>Release, in the context of this regulation, relates only to unclassified information. Information which is classified and provided to authorized recipients outside of the Agency does not fall within the scope of this regulation.

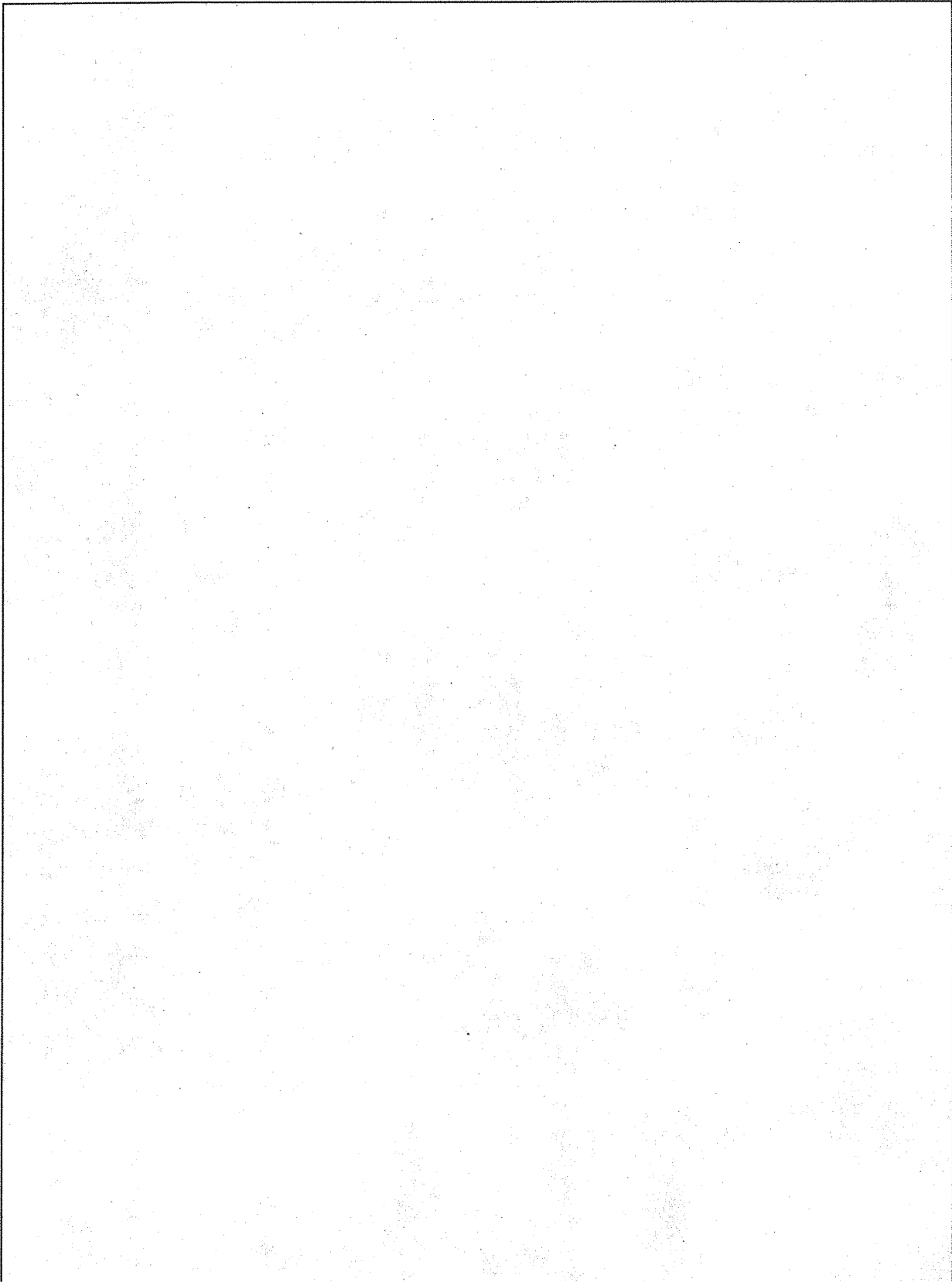
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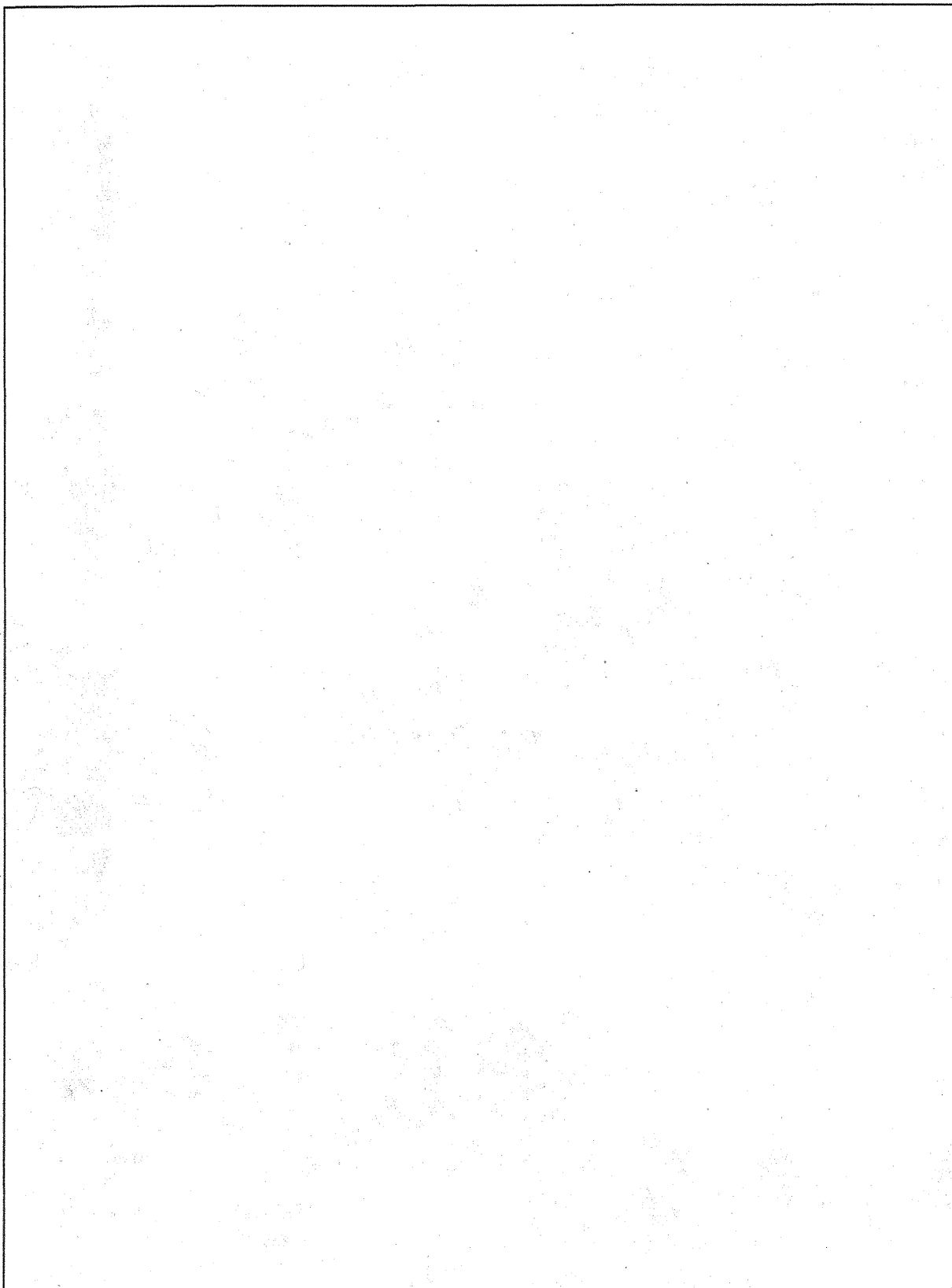
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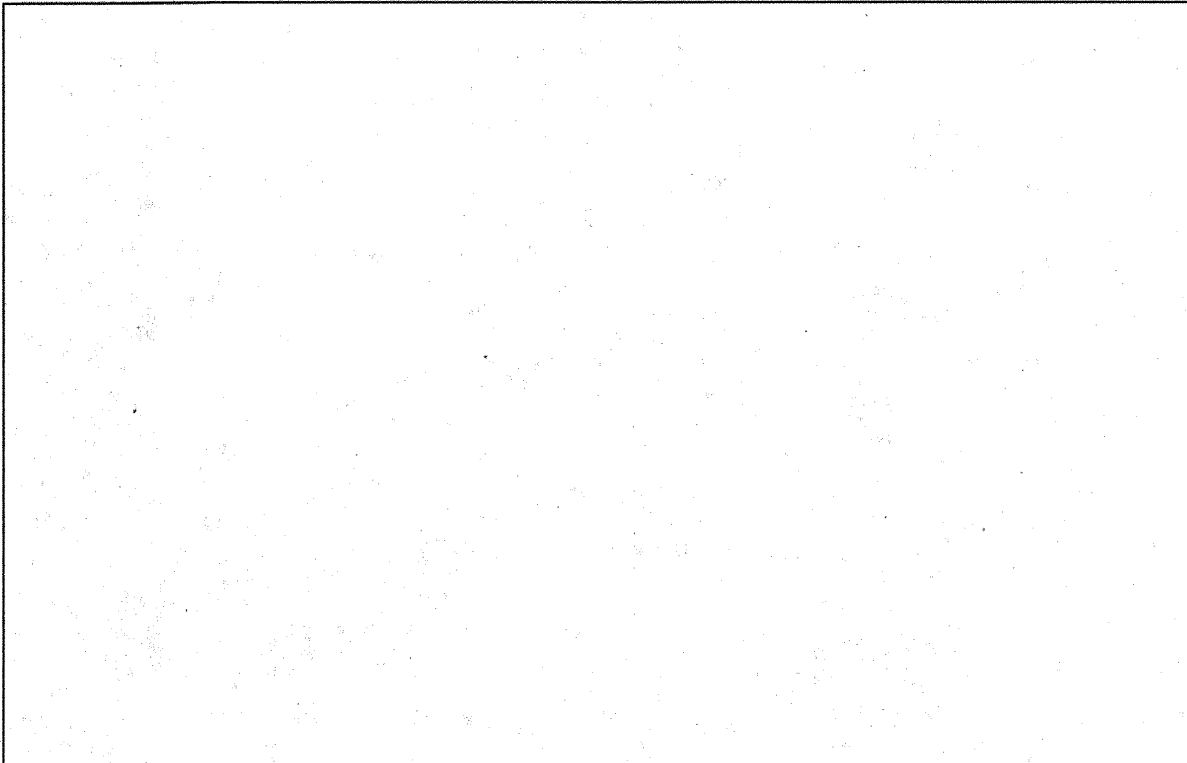


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**f. RELEASE OF INFORMATION.** A decision to publicly release any Agency information (orally, or in electronic or written format) requires not only a declassification review, but also a review to determine whether the Agency has a legal obligation, or the discretionary authority, to claim other exemptions or legal privileges against the disclosure of such information. Thus, the authority to declassify Agency information is not synonymous with the authority to publicly release Agency information. The authority to release Agency information is restricted to the following persons as set forth below, and any previous delegations of release authority are hereby rescinded:

- (1) The DCI, as the head of the CIA, has release authority with respect to all Agency information (including information under the cognizance of the statutory Office of the DCI) the disclosure of which is not precluded by law.
- (2) The Deputy Director of Central Intelligence is delegated release authority with respect to all Agency information (including information under the cognizance of the statutory Office of the DCI) the disclosure of which is not precluded by law.
- (3) The Executive Director **and Deputy Executive Director are** is delegated release authority with respect to all Agency information (except information under the cognizance of the statutory Office of the DCI) the disclosure of which is not precluded by law.
- (4) The Deputy Director of Central Intelligence for Community Management/Executive Director for Intelligence Community Affairs is delegated release authority with respect to all Community Management Staff information the

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disclosure of which is not precluded by law.

- (5) The General Counsel is delegated, consistent with DCI authority, release authority with respect to Agency information (including information under the cognizance of the statutory Office of the DCI) to be released to the courts, the Department of Justice, or otherwise in the conduct of the General Counsel's statutory responsibilities, when the disclosure of that information is not precluded by law.
- (6) The Inspector General is delegated, consistent with DCI authority, release authority with respect to Agency information (including information under the cognizance of the statutory Office of the DCI) to be released to the Congress or otherwise in the conduct of the Inspector General's statutory responsibilities, when the disclosure of that information is not precluded by law.
- (7) The Deputy Director for Administration, the Deputy Director for Intelligence, the Deputy Director for Operations, the Deputy Director for Science and Technology, and the heads of elements within the DCI Area are delegated release authority with respect to all Agency information within their functional responsibilities, when the disclosure of that information is not precluded by law.
- (8) Deputy Directors and heads of elements within the DCI Area may delegate release authority to subordinate officials as necessary. Such delegations shall be in writing and sent to the Director of Information Management who will maintain a file of such delegations.
- (9) The DCI Area IRO is delegated release authority for DCI Area information and each Directorate IRO is delegated release authority for information from that Directorate, when disclosure of that information is not precluded by law. The DCI Area IRO may release information within the functional responsibilities of an element within the DCI Area in coordination with that element or in accordance with mutually agreed upon procedures.
- (10) Deputy Directors and heads of elements within the DCI Area (or their designees) have the authority to authorize the release of material received from a current CIA employee that is intended for nonofficial publication when consistent with the standards of review required by AR 6-2 .
- (11) The DCI has designated the DDA as the "senior agency official" within the meaning of section 5.6 of Executive Order 12958. As such, the DDA has further delegated to the Director of Information Management (D/IM), as both the classification system manager for CIA and the Agency Information Review Officer, release authority with respect to material denied by the Agency on initial information requests, when that material is unclassified or has been declassified and the Agency does not claim any exemption or privilege from disclosure.
- (12) The Director of Congressional Affairs is delegated release authority with respect to Agency information (including information under the cognizance of the statutory Office of the DCI) to be released to Members of Congress, or Congressional committees, or Congressional staff, when that information is unclassified or has

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been declassified and the Agency does not claim any exemption or privilege from disclosure.

- (13) The Director of Public Affairs is delegated release authority with respect to Agency information (including information under the cognizance of the statutory Office of the DCI) to be provided to the media that is unclassified or that has been declassified and for which the Agency does not claim any exemption or privilege from disclosure.
- (14) The Information and Privacy Coordinator is delegated release authority with respect to Agency material (including material under the cognizance of the statutory Office of the DCI) responsive to Freedom of Information Act, Privacy Act, and Executive Order Mandatory Declassification requests, when that material is unclassified or has been declassified and the Agency does not claim any exemption or privilege from disclosure.
- (15) The Director of the Center for the Study of Intelligence (D/CSI) is delegated release authority with respect to 25 year old permanent Agency material exempt from automatic declassification, Agency material that is part of the Historical Review and Publications programs, Agency information requested by the Department of State for the Foreign Relations of the United States Series, and Agency materials provided as part of academic outreach programs under the purview of the D/CSI, when that information or material is unclassified or has been declassified and the Agency does not claim any exemption or privilege from disclosure. The Chief, Historical Review Group is delegated release authority, to be exercised on behalf of the D/CSI, for Agency information and material that has been reviewed for systematic declassification, when that information or material is unclassified or has been declassified and the Agency does not claim any exemption or privilege from disclosure.
- (16) The Automatic Declassification Program Manager is delegated release authority with respect to 25 year old or older permanent Agency records, not exempt from automatic declassification, when those records are unclassified or have been declassified and the Agency does not claim any exemption or privilege from disclosure.
- (17) All Agency focal point officers appointed by the EXDIR or D/IM for a special search are delegated release authority with respect to Agency information (including information under the cognizance of the statutory Office of the DCI) responsive to that special search, when that information is unclassified or has been declassified and the Agency does not claim any exemption or privilege from disclosure.
- (18) The D/IM is delegated exclusive authority (except as otherwise specifically set forth in this subsection) to publicly release or otherwise disclose to anyone outside the Agency all Agency-wide regulatory issuances; provided that no Agency-wide regulatory issuance may be publicly released or otherwise disclosed by the D/IM unless it has first been reviewed for release or disclosure by the Office of Primary

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Responsibility (OPR) and the appropriate IRO. Any decision by the D/IM whether or not to publicly release or otherwise disclose to someone outside the Agency an Agency-wide regulatory issuance may be appealed by the OPR or IRO to the DDA, the Executive Director, the DDCI, and, if necessary, to the DCI. The delegation of this authority to the D/IM does not divest the DDA, the Executive Director, or the DDCI of their authority to publicly release or otherwise disclose Agency-wide regulatory issuances, subject to DCI appeal, or the DCI of his authority to make such releases or disclosures. Any Agency-wide regulatory issuance that has previously been publicly released may be publicly released or otherwise disclosed to someone outside the Agency by the OPR or the appropriate IRO without obtaining D/IM approval.

- (19) AR  provides further detail on specific categories of unclassified Agency information where approvals may or may not be required prior to release. It also provides further detail on when employees may be in contact with persons or groups outside of CIA for the purpose of releasing unclassified Agency information. It is expected that consideration of particular release or contact approvals will be done in consultation or coordination with the designated IROs. Directorates or elements within the DCI Area may require, for information on certain topics, a higher level of approval for releases or contacts.
- (20) All individuals authorized to publicly release Agency information are responsible for verifying prior to any release, through actual knowledge or consultation with the appropriate IRO or other Agency official with actual knowledge, that any information which they intend to publicly release is unclassified or declassified, and the Agency will not claim any exemption or privilege from disclosure.
- (21) All individuals authorized to publicly release Agency information shall ensure, whenever they publicly release any Agency information in electronic or written format, that the information is provided to the manager of the Agency's database of released information in accordance with guidelines issued by the manager.

\_\_\_\_\_  
/s/

Acting Director of Central Intelligence

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**Date:** 10/15/2003

**Category:** 7 - Management      **OPR:** IG

**Title:** AR 7-6 GRIEVANCE RESOLUTION

*This regulation was written by the Office of Inspector General,*

## 6. GRIEVANCE RESOLUTION

**SYNOPSIS.** This regulation sets forth the basic rules applicable to the presentation and handling of grievances.

- a. **POLICY.** This regulation is applicable to grievances filed after 15 October 2003. The Agency will strive to create and maintain conditions of employment and a working environment conducive to effective accomplishment of the Agency's mission and employees' job satisfaction. In furtherance of these goals, it is Agency policy that employees have the opportunity to seek resolution of job-related grievances free from restraint, coercion, or reprisal and that the Agency provide for the prompt, competent, and just consideration of such grievances. Insofar as possible, the resolution of grievances will be accomplished informally, at the lowest appropriate level, by line supervisors, managers, component grievance counselors, and the employees concerned. Nothing in this regulation is intended to delay or preclude the separation of an Agency employee in accordance with AR 13-8.

~~ADMINISTRATIVE~~ INTERNAL USE ONLY**b. DEFINITIONS**

(1) A "grievance," subject to the limitations in paragraph (2) immediately below, is a formal written request by an employee, as defined in paragraph (4) below, for remedial action concerning work-related disputes, including career problems, management action, working conditions, or other matters that affect the employee and that are subject to control by Agency management. The filing of a grievance raises no presumption of improper action or wrongdoing by any party to the grievance. The Assistant Inspector General (AIG) for Investigations is authorized to make a finding regarding whether a matter constitutes a grievance under this regulation. A finding by the AIG for Investigations as to whether a matter is properly the subject of a grievance is a final Agency determination and may not be reviewed or appealed further within the Agency.

(2) Grievances will not include:

- (a) Claims of illegal discrimination as set forth in AR  or harassment as set forth in AR 9-2 , or denials of reasonable accommodation under AR . Employees should be alert to the differences in the processes contained in these regulations, including differing time limits for filing a complaint regarding those matters;
- (b) The content of published Agency-wide regulations and policy;
- (c) Any judgment of a board or panel in ranking or selecting employees for promotion or assignment on the basis of merit, unless the grievant can demonstrate with clear and convincing evidence that the record under consideration was significantly deficient or that the process was not carried out as set forth in AR 20-16  and AR 20-21 .
- (d) Any denial or recommended denial by an Agency panel or board of an employee claim, as set forth in AR 20-33 , AR 30-8 , and AR 45-6 .
- (e) Any recommendation of a Personnel Evaluation Board for disciplinary actions or termination, as set forth in AR .
- (f) Any nonadoption of an employee suggestion, as set forth in AR 20-38 .
- (g) Any disapproval of an honorary or discretionary award, as set forth in AR 20-37 .
- (h) Any recommendation of the CIA Retirement Board as set forth in AR 20-50 .

- (j) Any other matter, such as performance appraisals as set forth in AR 20-20 , for which a channel other than the Grievance System has been established by statute or

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regulation for adjudication and appeal.

- (3) "Directorate" in this regulation includes all Directorates, MSOs, and the D/CIA Area. References to Deputy Directors and MSO Chiefs include a designated member of the ☐ Career Service Board other than its Head.
  - (4) An "employee" for the purpose of this regulation is a U.S. citizen who is a current staff or contract employee; or a former staff or contract employee who meets the timing requirements for presenting a grievance, as set forth in this regulation; or, to the extent that the matter being grieved falls under the Agency's jurisdiction, an individual on detail to the Agency. This regulation does not apply to: foreign nationals appointed under the authority of the D/CIA to serve as nonstaff employees of the U.S. Government; or others who are not appointed employees to the Federal service (including independent contractors and nonstaff proprietary employees). Administrative issues raised by such foreign nationals and other nonappointed individuals, including applicants for Agency employment, will be handled within the chain of command of the Headquarters components charged with responsibility for managing the activities with which these individuals are associated. The highest level of appeal for such issues will be the head of the Headquarters component under which the foreign national or nonappointed individual serves; for example, the chief of an area division of the Directorate of Operations, the Director of the Foreign Broadcast Information Service, or the Chief, Information Services Infrastructure.
  - (5) "Grievance counselor" refers to the employee(s) within a component designated by the head of the component to perform the grievance-related functions outlined in paragraphs c(1), c(2)(b) and e(3) below.
  - (6) The title of "grievance officer" is reserved for the officer in each directorate who is responsible for the directorate's grievance system and all its related aspects, such as conducting inquiries; counseling; educating employees, supervisors, and managers about the grievance system; keeping official records; and, in coordination with OIG, training other directorate grievance personnel. No other Agency officer will carry the title of grievance officer.
  - (7) The "parties to the grievance" are the grievant or grievants and the Agency employee(s) who are the subjects of the grievance.
  - (8) A "supervisor" is an employee responsible for writing the Performance Appraisal Reports (PAR[s]) of one or more subordinates.
  - (9) A "manager" is an employee responsible for writing the PAR(s) of one or more supervisors.
- c. **PROCESS.** Within 90-calendar days after learning of a matter that is properly the subject of a grievance has taken place, an employee must initiate attempts to reach an informal

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resolution within the appropriate component. If an informal resolution is not achieved within 90-calendar days, the employee may exercise the option to file a formal grievance. For example, if an employee discovers today that a memorandum with incorrect and possibly damaging information was put into his or her personnel file two months ago, the employee has 90-calendar days from today--the date he or she first becomes aware that something harmful has occurred--to initiate attempts to informally resolve the matter within the component. If no agreement can be reached within 90 days from today's date, a formal grievance can be filed. Both the informal attempt to resolve the problem and the filing of the formal grievance must be completed within 90-calendar days from the date the employee learned of the action giving rise to the grievance.

- (1) **INFORMAL RESOLUTION.** Employees are required to first seek resolution of work-related disputes informally within their components. When work-related disputes concern matters under the jurisdiction of components in another directorate, employees may consult responsible officials in those components. [REDACTED]
- [REDACTED]

(2) **FORMAL RESOLUTION**

- (a) **General.** If informal resolution, in accordance with paragraph c(1), is unsuccessful, the employee may, within 90-calendar days of the date the employee first becomes aware of the action giving rise to the grievance, submit a formal grievance in writing, using Form 4437, Official Grievance Package (see paragraph d(7) below), to the component grievance counselor in accordance with the component's grievance procedures. This submission must provide sufficient details to make clear the nature and basis of the grievance, the individuals against whom it is brought, the specific actions taken to resolve the matter informally, and the specific relief requested. Failure of the grievant to file a written grievance within the 90-calendar-day period, even if the informal resolution has not been completed, eliminates the right of the employee to pursue the grievance. [REDACTED]

[REDACTED] An employee may file a grievance initially at any of the three levels in the process: the employee's component grievance counselor, the directorate grievance officer, or the AIG for Investigations. The recipient may refer the grievance for resolution to the lowest possible level.

- (b) **Component.** Within 60-calendar days of receiving a written grievance, unless extended by agreement of the parties to the grievance and the head of the component, the component grievance counselor will review the grievance, gather and record all relevant information, and provide the head of the component with a written report of findings, conclusions, and recommendations for a component decision. The component grievance counselor will inform the parties to the grievance in writing of the component head's decision. Should the component head not reach a decision

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within this 60-calendar-day period or should the component's response be subject to appeal as set forth in paragraph d(4) below, any of the parties may appeal the case in writing through the directorate grievance officer to the relevant Deputy Director or MSO Chief. The appeal must be made within 15 days of receipt of the component response or within the expiration of the 60-calendar-day period.

- (c) **Directorate or MSO.** Within 15-calendar days of the receipt of an appeal by the Deputy Director, or MSO Chief, or accepting a grievance directly, unless extended by agreement of the directorate grievance officer and the appealing party, the directorate grievance officer will review the written record of the grievance as received from the component and decide whether to (1) recommend accepting the component's decision, if one was made, (2) remand the matter to the component for further information or action within a specified time limit, or (3) conduct a separate inquiry within a reasonable time limit specified by the directorate grievance officer. If the directorate grievance officer cannot resolve the matter without the Deputy Director's or MSO Chief's involvement, the directorate grievance officer will provide the Deputy Director or MSO Chief a written report of his or her findings and conclusions with recommendations for a final decision. Within the D/CIA Area, the Deputy Executive Director will make the final directorate-level decision. The directorate grievance officer will inform the parties to the grievance in writing of the Deputy Director's or MSO Chief's decision.

(d)

(e) **Executive Director**

- (1) Should the final decision by the Deputy Director or MSO Chief be subject to appeal as set forth in paragraph d(4) below, or should the Deputy Director or MSO Chief not reach a decision within 20-calendar days of receiving the directorate grievance officer's recommendation, any party may appeal the matter to the EXDIR in writing, through the IG, within 15 days of receipt of the response

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or expiration of the specified time period.

(2) If the AIG for Investigations cannot resolve the matter in accordance with (d) below, the EXDIR will render, within 30-calendar days of receiving the IG's recommendations, a decision whether to (1) accept the IG's recommendation, (2) remand the case to the IG for further information or action within a specified time limit, or (3) impose a different decision.

(3) A decision by the EXDIR concerning resolution of the grievance is a final Agency determination and may not be reviewed or appealed further.

**d. IMPLEMENTATION PROVISIONS**

(1) **Privacy Channels.** To ensure that employees serving overseas or at field sites in the United States have full, unimpeded access to the grievance system, the Office of Information Services Infrastructure will maintain privacy channels for the communication of grievance-related messages to any of the directorate grievance officers and to the IG. Access to this channel will be limited to parties to the grievance, the directorate grievance officers, and designated employees of the Office of Inspector General (OIG).

(2) **Interviews.** The parties to the grievance will be interviewed at the first grievance resolution level. At each subsequent level of the process, except at the level of the EXDIR's review of IG recommendations, the appealing party will be interviewed. Other interviews shall be conducted as the official responsible for the investigation deems appropriate.

(3) **Representative.** A grievant, with the approval of the appropriate grievance official at each level of the process, may designate in writing an Agency staff employee who agrees to assist the grievant in resolving the grievance. The grievance official may disqualify this representative because of a conflict of interest or position, or a conflict with the needs of the Agency. The grievant may appeal such disqualification to the AIG for Investigations, whose decision is final.

(4) **Appeals.** Any of the parties to a grievance may appeal the decision concerning resolution of the grievance by a component head, MSO Chief or Deputy Director to the next higher level.

(5) **Records.** The responsible officer at each level of the grievance process (component grievance counselor, directorate grievance officer, and AIG for Investigations) will ensure that formal records are maintained including all original materials, reports, and

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information relating to the processing of a grievance in accordance with the Agency-wide system of record keeping for grievance files developed by the Agency Information Management Officer. When a grievance is appealed, the next level will take immediate possession of the grievance file, which will include all original written records relating to the grievance.

- (6) **Access to Grievance Report.** The parties to the grievance are entitled to read the written grievance report produced at each level of the grievance process, at a time determined to be appropriate to the matter by the official responsible for the investigation. In those situations in which a grant of confidentiality is requested, the identification of the source will be protected from disclosure to the parties and any representative unless the official responsible for the investigation determines that the needs of the investigation require disclosure. In such cases, the person requesting confidentiality shall be notified in advance of the intended disclosure. However, such grants of confidentiality will not preclude disclosures required or permitted by provisions of applicable law.
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- (7) **Form 4437, Official Grievance Package.** This form is comprised of a cover sheet, grievance routing sheet, and component grievance record. The grievance routing sheet, as part of the Official Grievance Package, accompanies the component grievance record throughout the process and is annotated with the dates the grievance is initially submitted and passed from one level to the next. These dates will constitute the official basis for determining the various time periods provided in this regulation. Form 4437 may be obtained from component grievance counselors, directorate grievance officers, and the OIG.

- (8) **Expiration of Time Limits.** Failure of an individual to seek informal resolution of a work-related dispute, file a formal grievance or appeal it to a higher level within the time limits provided in this regulation eliminates the individual's right under this regulation to pursue that grievance. At any point in the grievance process, the parties to the grievance and the official responsible for the investigation may, by mutual agreement, extend the time limit, or any of the parties to the grievance may appeal to the AIG for Investigations for an extension of time. Any party to a grievance who has lost the right to appeal a grievance may, based on exceptional cause, appeal the expiration of the appeal time limit to the next level deciding authority.

- (9) **Remand.** When a grievance is remanded to a lower level for further information or action, the officer making that decision will determine a reasonable time for delivery of the additional information or completion of the action.

- (10) **Resolution.** If at any stage of the formal grievance process the grievant is satisfied with a resolution, he or she will execute a written statement to that effect, thereby closing the matter. The employee may reopen the matter only by presenting new evidence that was not previously discoverable by the employee in the exercise of due diligence and that



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materially affects the basis for resolution, or by presenting evidence of noncompliance with a previous determination or of reprisal for pursuing resolution of a grievance.

**e. RESPONSIBILITIES**

- (1) Employees must make every reasonable effort to resolve disputes informally. Employees who use the formal grievance system must do so in compliance with the procedures and time limits set forth in this regulation and by the component and directorate dispute-resolution and grievance procedures, and must not press frivolous, capricious, or harassing complaints. Employees have the initial responsibility to present the facts and circumstances that they believe support their grievances and to articulate clearly the relief sought.
- (2) Supervisors and managers are expected to address work-related disputes in a timely, fair, and effective manner and to cooperate fully in the resolution of grievances.
- (3) Upon request, directorate grievance officers and component grievance counselors will provide advice on all grievances within their jurisdiction to their Deputy Directors, MSO Chiefs, component managers, supervisors, and employees. Directorate grievance officers and component grievance counselors will counsel employees and handle grievances with the goal of achieving prompt, equitable resolution of problems as informally as possible. Directorate grievance officers and component grievance counselors are responsible for developing thorough reports and objective recommendations designed to resolve disputes without bias toward employees or managers.

Directorate grievance officers also are responsible for providing grievance resolution oversight and guidance throughout their directorates.

- (4) Deputy Directors and MSO Chiefs will establish grievance procedures consonant with the provisions of this regulation. Deputy Directors and MSO Chiefs also are responsible for

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ensuring timely, fair, and effective resolution of grievances brought to them by their grievance officers and ensuring that their grievance officers are in a position to perform their functions properly and have sufficient resources to carry out all grievance activities effectively.

- (5) The AIG for Investigations will oversee the Agency-wide grievance system. This official will ensure that decisions are implemented properly and that grievance resolution training is provided for grievance counselors and officers.

**f. PENALTIES**

- (1) **For Reprisal.** Any employee who inflicts any form of reprisal on another employee for pursuing resolution of work-related issues, or for discussing, planning to file, filing, or pursuing a grievance is subject to administrative action as Agency management may deem appropriate, to include oral warning, letters of reprimand, suspension without pay, and, in the most extreme cases, termination of employment.
- (2) **For Abusing the Grievance System.** Any employee who files frivolous, capricious, or harassing complaints may be subject to administrative action as Agency management may deem appropriate, to include oral warnings, letters of reprimand, suspension without pay, and in the most extreme cases, termination of employment.
- (3) **Failure to Implement Agreed Decisions.** Any employee who fails to implement an agreed resolution of a grievance within a reasonable time may be subject to administrative action as Agency management may deem appropriate.
- (4) Requests for suspension or termination because of reprisal or abuse of the grievance system will be prepared in accordance with AR 13-8 and forwarded to the Chief Human Resources Officer, with all pertinent documents attached.

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(b) (2)  
(b) (3)**Date:** 02/17/2000**Category:** 9 - Equal Opportunity**OPR:** OEEO**Title:** AR 9-1 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

*This regulation was written by the Office of Equal Employment Opportunity,*

**1. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

**SYNOPSIS.** This regulation sets forth Agency policy, responsibilities, and procedures regarding equal employment opportunity.

**a. AUTHORITY**

- (1) The Central Intelligence Agency Act of 1949, as amended; the National Security Act of 1947, as amended; the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1963, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Rehabilitation Act of 1973, as amended; and other applicable law.
- (2) This regulation implements applicable provisions of Equal Employment Opportunity Commission (EEOC) regulations (29 CFR Part 1614), directives, and advisories, and the

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statutes on which they are promulgated.

- (3) Executive Orders 11246, as amended, (Equal Employment Opportunity in Federal Employment) and 11478, as amended, (Equal Employment Opportunity in the Federal Government).

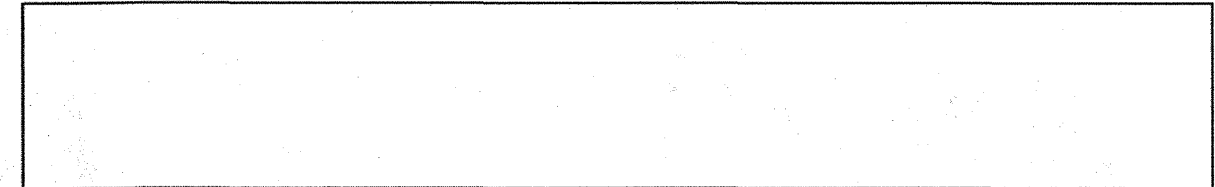
**b. POLICY.** It is Agency policy to adhere to the provisions of federal equal employment opportunity (EEO) laws and regulations; to provide equal opportunity in employment for all persons; to prohibit discrimination on the basis of the federally-protected categories—that is, age (40 and over), color, disability, national origin, race, religion, sex, and reprisal for opposing employment discrimination and/or for participating in the EEO process—and on the basis of other categories, such as sexual orientation, protected by Executive Order or written Agency policy; and to promote the full realization of EEO.

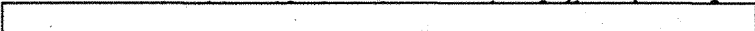
**c. RESPONSIBILITIES**

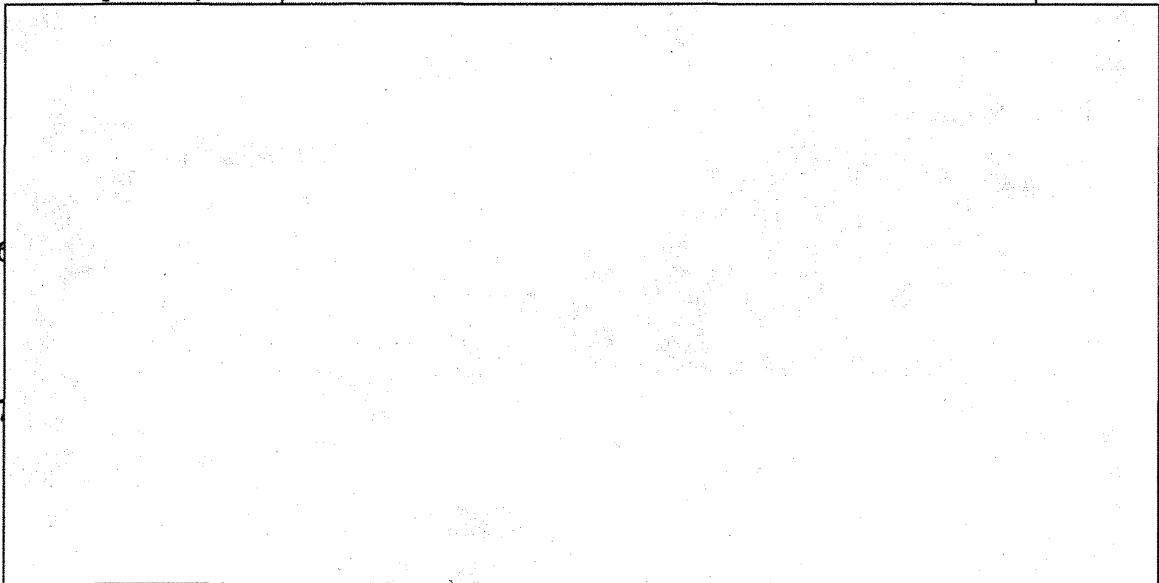
- (1) The Director of the Central Intelligence Agency (D/CIA) exercises personal leadership in establishing, maintaining, and carrying out an Agency EEO program that complies with the policies and regulations of the EEOC, and that identifies and eliminates discriminatory practices and policies.
- (2) The Director of EEO (D/EEO) serves as Special Assistant to the D/CIA for EEO, and in that capacity reports directly to the D/CIA or his delegate. As Director of the Office of Equal Employment Opportunity (D/EEO), the D/EEO reports to the Executive Director (EXDIR). D/EEO is responsible for the following:
  - (a) Providing for the counseling of employees and applicants who believe they have been unlawfully discriminated against because of age, color, disability, national origin, race, religion, sex, or reprisal for opposing employment discrimination and/or for participating in the EEO process; receiving and processing individual and class complaints of discrimination; assuring that complaints are fairly and thoroughly investigated; and, as delegated by the D/CIA, issuing final decisions on the merits of complaints in a timely manner.
  - (b) Notifying all employees of the EEO regulations and of any changes to the regulations.
  - (c) Advising the D/CIA, EXDIR, Executive Committee, as appropriate, with respect to the preparation of EEO plans, procedures, regulations, reports, and other matters pertaining to the policy in 29 CFR Part 1614 and the Agency program.
  - (d) When authorized by the D/CIA, making changes in programs and procedures designed to eliminate discriminatory practices and improving the Agency's program for equal opportunity.
  - (e) Developing programs and supporting employee initiatives that further the Agency's EEO policies; evaluating and reporting on the sufficiency of the Agency and Directorate programs for EEO; and recommending improvement or corrections to those programs when necessary.

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- (3) Deputy Directors and Heads of Independent Offices are responsible for the effective implementation in their areas of the Agency EEO program.
- (4) The Director of Human Resource Management will ensure that all employees are made aware of the provisions of the Agency EEO program as part of the entrance-on-duty processing and/or training.
- (5) Agency employees are responsible for their personal behavior, which should exclude harassment and/or other forms of discrimination on the basis of classifications set forth in this regulation. Employees are responsible for familiarizing themselves with Agency Regulations setting forth the overall EEO Complaint Process and the Harassment Complaint System. 



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(b) (2)  
(b) (3)

**Date:** 09/13/2004

**Category:** 9 - Equal Opportunity      **OPR:** OEEO

**Title:** AR 9-2 HARASSMENT COMPLAINT SYSTEM

**REVISION SUMMARY:** 13 September 2004

AR 9-2 is revised to incorporate guidance from the Equal Employment Opportunity Commission (EEOC), to make complainant rights more explicit. The changes do not affect the substance of those rights of the actual complaint process, which is established by federal regulation.

*Because this regulation has been extensively revised, boldfaced text has not been used.*

*This regulation was revised by the Office of Equal Employment Opportunity,*

**SYNOPSIS.** This regulation sets forth Agency policy, responsibilities, and procedures for handling complaints of harassment.

**2. HARASSMENT COMPLAINT SYSTEM**

**a. AUTHORITY**

- (1) The Central Intelligence Agency Act of 1949, as amended; the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1962, as amended; the Age Discrimination in Employment Act of 1967, as amended; the Rehabilitation Act of 1973, as amended; and other applicable law.
- (2) This regulation implements applicable provisions of Equal Employment Opportunity Commission (EEOC) regulations (29 C.F.R. Part 1614), directives, and advisories, and the statutes on which they are promulgated.
- (3) Executive Order 11478, as amended, (Equal Employment Opportunity in the Federal Government).

**b. POLICY**

APPROVED FOR RELEASE  
DATE: JAN 2008

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- (1) The Agency has adopted a zero-tolerance policy prohibiting all forms of harassment in the workplace. The protections of this regulation apply to all Agency staff, contract employees, applicants, and individuals working on Agency premises.
- (2) All individuals who allege they have been harassed may seek Equal Employment Opportunity (EEO) counseling regardless of the type of harassment alleged or when it occurred, as long as it is work-related. However, to preserve the right to file a formal EEO complaint, allegations of harassment must be reported within 45 days of occurrence and be based on categories covered by Title VII, that is, age (40 or over), color, disability, national origin, race, religion, sex, and reprisal for opposing employment discrimination and/or participating in the EEO process. (See AR 9-3 and Section e(2) of this regulation).
- (3) All individuals covered under this regulation have an obligation to cooperate with any harassment inquiry and to maintain the confidentiality of the process. The responsibility for ensuring a harassment-free workplace lies with all employees.
- (4) This regulation is not intended to add to or diminish any rights afforded by federal EEO laws and regulations.

**c. DEFINITIONS**

- (1) **HARASSMENT, SEXUAL.** Verbal or physical conduct of a sexual nature that is unwelcome and the submission to or rejection of that conduct would negatively affect an individual's work performance, or create a hostile or offensive work environment.

Examples of sexual harassment include, but are not limited to, unwelcome demands, propositions, advances, teasing, dirty jokes, remarks, or questions of a sexual nature; offensive gestures and touching; sexually demeaning words used to describe an individual; and the display in the workplace of sexually offensive objects or pictures.

- (2) **HARASSMENT, NONSEXUAL.** Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group, or creates a hostile or offensive work environment, and is based on one of the federally protected categories (for example, sex, race, national origin, religion, age, color, disability, or reprisal for opposing employment discrimination and/or for participating in the EEO process, sexual orientation, or status as a parent).

Examples of nonsexual harassment include, but are not limited to, epithets, slurs, negative stereotyping, threats, intimidation, and other hostile acts. These acts constitute nonsexual harassment whether they are expressed directly toward an individual or group or are contained in materials that are circulated in the workplace, placed on walls or elsewhere on Agency premises.

- (3) **HARASSMENT, OTHER.** Verbal or physical conduct that unreasonably interferes with an individual's work performance (for example, repetitive and non-trivial), but is not based on factors protected by federal law.

Examples of other harassment may include, but are not limited to, coarse language, threatening or boorish behavior, and severe and blatant insensitivities to coworkers.

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- (4) **HARASSMENT ALLEGATION.** A harassment allegation is any complaint, report, statement, or personal observation of behavior that is or might constitute prohibited harassment.
- (5) **FORMAL HARASSMENT INVESTIGATION.** A formal harassment investigation is a documented, systematic inquiry into an allegation of harassment conducted by OEEO or management. All allegations of harassment will be addressed by the Agency's EEO office, but not all allegations will result in a formal investigation.
- (6) **SUPERVISOR.** For purposes of this regulation a supervisor is an Agency employee who oversees and/or evaluates the work of one or more subordinate employees. The supervisory requirements of this regulation also apply to any employee whose training or workplace responsibilities would give him or her the ability to affect the working environment (for example, an OGC attorney, OEEO officer, human resource officer, or grievance officer).
- (7) **TARGET.** A target is a person who believes he or she has been the object of harassment prohibited by this regulation or who has been subjected to what he or she believes to be a hostile or offensive work environment because of prohibited harassment, whether or not the offensive conduct is specifically directed toward that individual.

**d. RESPONSIBILITIES****(1) Target**

- (a) A target may attempt to resolve an issue informally by making it clear to an alleged harasser that the behavior is offensive and that it must stop. If the alleged harassment continues, the target may initiate a harassment allegation at any time by reporting the behavior to the appropriate supervisor or an EEO counselor.
- (b) When a target knows or has reason to know of an action that would constitute harassment, the target is strongly urged to bring the allegation to the attention of a supervisor or an EEO counselor.

**(2) Supervisors**

- (a) Supervisors who are aware of harassment allegations are responsible for stopping the harassment and promptly notifying OEEO of the allegations.
- (b) Supervisors are to work with OEEO to facilitate the cooperation of subordinate personnel, limit the knowledge of the allegations to essential personnel, take whatever disciplinary and remedial actions are warranted by the facts, and to protect all parties from reprisal.
- (c) Supervisors will conduct an inquiry into allegations of harassment that fall under paragraph c(3) of this regulation and produce a written summary of that inquiry to be provided to OEEO and/or management.
- (d) To avoid potential harassment allegations, supervisors who are dating or having an intimate relationship with a subordinate employee are responsible for removing themselves from that employee's chain of command.



~~ADMINISTRATIVE - INTERNAL USE ONLY~~**(4) OEEO**

- (a) OEEO is responsible for overseeing all complaints of harassment.
- (b) OEEO will conduct a formal inquiry into allegations of sexual and nonsexual harassment as defined in paragraphs c(1) and c(2) of this regulation and produce a written summary of that inquiry for the use of appropriate supervisors or managers.
- (c) OEEO will advise employees and supervisors on how to prevent harassment and how to respond to allegations of harassment. OEEO will also review management's decisions and investigations conducted according to the procedures outlined in paragraph e of this regulation.

**e. PROCEDURES**

A target is entitled to a period of counseling on any allegation of harassment; however, only allegations that meet the definition of harassment outlined in paragraphs c(1) - (3) of this regulation will be investigated according to the processes described below.

**(1) Inquiry**

- (a) Either OEEO or the supervisor (if the alleged harassment falls under paragraph c(3) of this regulation) will commence an inquiry into a harassment allegation by interviewing and taking signed statements from the target, the alleged harasser, and appropriate witnesses. When a target or a witness has requested confidentiality, the officer conducting the inquiry will honor this request to the extent possible.
- (b) The officer conducting the inquiry will notify the COTR and the contracting officer prior to contacting an industrial contractor who has been accused of harassment.
- (c) The officer conducting the inquiry will describe the allegations to the alleged harasser at their first meeting and give him or her an opportunity to respond. The alleged harasser is entitled to a fair statement of the allegations even though such a statement might disclose the target's identity.
- (d) When it is an OEEO officer conducting the inquiry, he or she will provide a written summary of the inquiry to the appropriate management official(s) within 75 days of the allegation. OEEO may extend the 75-day deadline when a supervisor conducts the inquiry or when the basis for the allegation is sexual orientation or status as a parent.

**(2) Complaint Resolution**

- (a) Within 15 calendar days after receipt of the summary of the inquiry, management, in consultation with OEEO, will make the final decision about what corrective action, if any, is required. OEEO and management will reach one of the following conclusions about the harassment allegation(s):
  - (1) **True.** The alleged harassing action occurred.
  - (2) **False.** The alleged harassing action did not occur.
  - (3) **Inconclusive.** The available facts do not permit a definite conclusion as to

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whether the alleged harassing action occurred.

- (b) If an individual who is found to have engaged in harassment is not solely under Agency control, then the appropriate Agency management official will coordinate any disciplinary measures with the individual's employer.
- (c) Either D/EEO or an appropriate management official will inform the target and the alleged harasser of the conclusion.

**(3) Recordkeeping**

- (a) The results of an harassment inquiry will be recorded in investigative files maintained by D/EEO. After resolution, no record of the complaint will be retained by supervisors, management, or components except those documents that would normally be included in non-EEO systems of records such as a personnel, security, or disciplinary file. A harassment complaint file will include the following:
  - (1) The names of all alleged harassers and accusers.
  - (2) All statements from the alleged harasser, target, and witnesses about the alleged harassment and supporting documentation.
  - (3) All relevant administrative correspondence and forms.
  - (4) All management deliberative records.
  - (5) All records of corrective and disciplinary actions.
- (b) The D/EEO will release information derived from a harassment inquiry only on a strict need-to-know basis and pursuant to a written request that defines a compelling reason to do so. Persons who may be allowed access to this information include:
  - (1) The target.
  - (2) Management officials who are deciding and/or enforcing appropriate disciplinary and remedial actions.
  - (3) The Inspector General or designee.
  - (4) The General Counsel or designee.
  - (5) The Director of Security, or designee.
  - (6) Other appropriate Agency officials as determined by the D/EEO.

**(4) Appeal and Other Recourse****(a) Target**

- (1) If OEEO conducted the inquiry and the allegation was based on one of the categories protected by Title VII, then the target may file a formal complaint of discrimination in accordance with federal EEO law. In all other cases (for example, allegation was based on sexual orientation or status as a parent) OEEO's decision is final.

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- (2) If management conducted the inquiry, target may appeal to OEEO to review management's decision for thoroughness, completeness, and objectivity; however, OEEO will not initiate a new inquiry into the matter. OEEO's decision regarding management's action will be final.

(b) Alleged Harasser

- (1) If disciplinary measures are imposed as a corrective action, the requirements of AR 13-3, Discipline and Accountability will apply, including all appeal and recordkeeping requirements.
- (2) If the alleged harasser believes that the harassment inquiry was discriminatory, based upon factors covered by Title VII, then he or she may file a complaint with OEEO in accordance with federal law.

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**Date:** 04/12/2005

**Category:** 10 - Security

**OPR:** SC

**Title:** AR 10-16 (U) APPEAL OF PERSONNEL SECURITY DECISIONS

**REVISION SUMMARY:** 12 April 2005

This regulation supersedes AR 10-16, dated 16 May 2002.

AR 10-16 is revised to update organizational titles. This revision reflects the Agency's organizational restructuring that resulted from the DCI's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support.

*Boldfaced text in this regulation indicates revisions.*

*This revision was written by the Security Center,*

**16. APPEAL OF PERSONNEL SECURITY DECISIONS**

**SYNOPSIS.** This regulation prescribes the policy and responsibilities for providing reviews and appeals to covered personnel who the CIA has determined are ineligible for access to classified information, in accordance with the adjudicative guidelines promulgated pursuant to Executive Order 12968, and for cases involving access to Sensitive Compartmented Information, incorporated into DCID No. 6/4. Cases that involve the Agency's withdrawal of a conditional offer of employment or termination of employment for reasons other than ineligibility for access to classified information are *not* subject to appeal under this regulation, unless otherwise prescribed.

- a. **AUTHORITY.** The National Security Act of 1947, as amended; the CIA Act of 1949, as amended; Executive Orders 12333, 12958, and 12968; DCID No. 6/4, and other applicable law. The appeal provisions of this regulation shall apply notwithstanding any contrary provisions in the appeals annex to DCID No. 6/4.

**b. DEFINITIONS**

- (1) **COVERED PERSONNEL.** The terms "covered personnel" and "covered individual" refer to Agency applicants, (to include applicants for the summer employee program),

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employees, and contractors, as defined in this regulation.

Pursuant to the National Security Act of 1947, as amended, and sections 1.1(e) and 5.2(e) of Executive Order 12968, the Director of Central Intelligence has determined that the following individuals will not be granted any appeal: (a) Assets, as defined in AR 20-73 [REDACTED];

[REDACTED] and (c) individuals other than applicants, employees, and contractors (as defined in b(2)-b(4) of this regulation) who are screened for approval for access to national security information and for whom the Chief, Security Center has determined an appeal cannot be granted consistent with the national security.

- (2) **APPLICANTS.** For the purposes of this regulation, the terms "applicant" and "applicants" include individuals who have received conditional offers of employment to become Agency employees.
- (3) **EMPLOYEES.** With the exception of [REDACTED] foreign national employees, for the purposes of this regulation, the terms "employee" and "employees" refer to staff personnel and non-staff personnel as defined in AR 20-2 [REDACTED], Categories of Personnel.
- (4) **CONTRACTORS.** For the purposes of this regulation, the terms "contractor" and "contractors" include independent contractors (including consultants) and employees of contractors (also known as industrial contractors). The term "contractor" also includes, for purposes of this regulation, individuals from non-National Foreign Intelligence Board (NFIB) organizations for whom the Agency has denied or revoked a request for clearance and/or access(es).

**c. SECURITY AND SUITABILITY DETERMINATIONS**

- (1) **GENERAL.** Cases that involve the Agency's denial or revocation of security clearances and/or access approvals of covered personnel are subject to appeal under the terms of this regulation. Cases that involve the Agency's withdrawing a conditional offer of employment or terminating employment for reasons other than ineligibility for access to classified information (for example, performance or surplus reasons) are *not* subject to appeal under Executive Order 12968, DCID 6/4, or this regulation. However, an employee involved in a "mixed case" (see paragraph h(2)(b) below) may appeal both security and employment suitability issues in accordance with this regulation.
- (2) **APPLICANTS AND EMPLOYEES.** The Chief, Security Center (SC) or designee will determine whether an applicant's or employee's conduct raises concerns regarding suitability for employment, security eligibility, or both. However, in cases presenting only employment suitability issues, C/SC may only make recommendations regarding the individual's suitability for employment to the Chief, Human Resources (C/HR), the cognizant Head of Career Service, or their respective designees (see AR 13-8 [REDACTED]).
- (3) **CONTRACTORS.** The Security Center (SC) is only concerned with a contractor's eligibility for a security clearance, access approval, or security approval as defined in AR 10-1 [REDACTED]. The decision regarding an industrial contractor's suitability for employment is solely and exclusively the responsibility of the contractor's employer, not the Agency.
- (4) **CONSULTATION.** In cases involving the possible denial or revocation of a security

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clearance or access approval where it is unclear whether the conduct involved raises solely security concerns or includes concerns involving an employee's suitability for employment, the SC will consult with the Office of General Counsel (OGC).

**(5) ADVERSE SECURITY DECISIONS**

- (a) With the exception of temporary suspensions or administrative terminations of access as defined in AR 10-1, whenever the SC determines that covered personnel are not eligible for access to classified information, the procedures set forth below shall apply unless the Director of Central Intelligence (DCI) or Deputy Director of Central Intelligence (DDCI) determines that the appeal procedures cannot be made available in a particular case without damaging the national security interest of the United States (U.S.)
- (b) Denials of waivers of adjudicative or investigative requirements as defined in AR 10-1, may not be appealed.

**d. INITIAL SECURITY DECISIONS**

- (1) **APPLICANTS AND CONTRACTORS.** An SC officer delegated authority by the C/SC will make a decision to deny or revoke an applicant's or a contractor's security clearance and/or access approval(s).
- (2) **EMPLOYEES.** The C/SC, usually after receiving the recommendation from the Personnel Evaluation Board (PEB), will make a decision to revoke an employee's security clearance and/or access approval(s). The C/SC will seek a recommendation from the PEB in cases involving staff personnel only. Detailed information concerning the PEB is set forth elsewhere in Agency regulations.

**e. STATEMENT OF REASONS; PROCEDURES ASSOCIATED WITH REQUESTING REVIEW OF AN INITIAL SECURITY DECISION****(1) APPLICANTS AND CONTRACTORS**

- (a) Consistent with national security and as otherwise provided by applicable law and this regulation, the SC shall provide an applicant or contractor with a comprehensive written statement of reasons (SOR) setting forth the basis for the initial security decision that the applicant or contractor does not meet the standard(s) for access to classified information.
- (b) The SOR shall inform the applicant or contractor that he or she may:
  - (1) Within 45 days of receipt of the SOR, request a review of the initial security decision;
  - (2) At his or her own expense, use the services of counsel or another individual to act as a representative on the applicant's or contractor's behalf;
  - (3) Request from the SC those documents, records, and investigative file, upon which the initial security decision was based. (The applicant or contractor must make the request for documents at the time of his or her request for a review of the initial security decision. Within 30 days of

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receiving the request, **the SC** shall provide the requested documentation in a manner consistent with national security and to the extent the documentation would be provided if requested under the Freedom of Information Act or the Privacy Act.); and

(4) Request to appear, at his or her own expense, personally before an Agency representative identified to accept information regarding the applicant's or contractor's request for a review. (The applicant or contractor must make the personal appearance prior to the review.)

(a) The appearance shall be solely to present relevant documents, materials, and information for consideration by the designated review authority.

(b) The Agency representative shall include a written summary of the appearance in the applicant's or contractor's security file for consideration by the designated review authority.

## (2) EMPLOYEES

(a) Consistent with national security and as otherwise provided by applicable law and this regulation, **the SC** shall provide an employee with a comprehensive written SOR setting forth the basis for the initial security decision that the employee does not meet the standard(s) for access to classified information.

(b) Within 10 days of receipt of the SOR, employees may reply in writing and request a review of the initial security decision. If an employee's response would reveal classified information, it must be prepared and stored at a secure site acceptable to **the SC**. Employees may also, within that 10 day period, request those documents, records, and reports, including the entire investigative file, upon which the initial security decision was based. Within 30 days of receiving the request, **the SC** shall provide the documentation in a manner consistent with national security and as permitted by the Freedom of Information Act and the Privacy Act. (For cases where the SOR or the associated documentation of the decision may be classified due to cover or other considerations, access to the SOR or documentation will be provided at a secure facility designated by **the SC** as though making a discretionary disclosure under the Privacy Act.)

(c) **The SC** shall advise employees in the SOR that they may, at their own expense, use the services of counsel or another individual to act as a representative on their behalf. If an employee retains private counsel or a personal representative, the employee must obtain an Agency security clearance, access approval, or security approval for their personal counsel or personal representative prior to discussing any classified information with said counsel or representative.

(d) Employees may request to appear personally with counsel or their personal representative before an Agency representative identified to accept information regarding the employee's request for a review. (The employee must make the personal appearance within 10 days of receipt of the SOR and prior to the review of the initial security decision.)

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- (1) The appearance shall be solely to present relevant documents, materials, and information for consideration by the designated review authority.
- (2) The Agency representative shall include a written summary of the appearance in the employee's security file for consideration by the designated review authority.
- (3) The requirement that an individual stationed outside of the Headquarters area pay travel expenses associated with a personal appearance will be waived for Agency employees and detailees. These individuals will be provided with transportation to headquarters and appropriate lodging and subsistence expenses needed to make a personal appearance. All other costs incurred by these individuals as part of the review of the initial security decision are not reimbursable.

**f. REVIEW OF INITIAL SECURITY DECISIONS**

- (1) **REVIEW OF INITIAL SECURITY DECISIONS.** The C/SC shall designate an SC officer, other than the officer that made the initial revocation or disapproval decision, to review initial security decisions regarding applicants and contractors, when such a review has been requested by the applicant or contractor. For employees, the C/SC will review the initial security decision after the personal appearance has occurred or, where an employee does not request a personal appearance, after receipt of the employee's request for review of the initial security decision.
- (2) **NOTICE OF RESULTS OF REVIEW.** The SC shall provide covered personnel, who have requested and received a review of an initial security decision by one of the above designated review authorities, written notice of and the reasons for the results of the review. In addition, the SC shall provide covered personnel with the identity of the deciding authority, consistent with cover and other applicable security considerations.

**g. APPEALS**

- (1) **NOTICE OF APPEAL.** In the written notice of and reasons for the results of the review, the SC shall advise covered personnel that they may appeal the initial security decision (and the review) to an appeals panel. Applicants and contractors must file their appeal within 30 days of the receipt of the notice and results of the review of the initial security decision. Employees must file their appeal within 10 days of the receipt of the notice and results of the review of the initial security decision.
- (2) **APPEALS PANELS**
  - (a) **Applicants.** The appeals panel will consist of a senior SC officer (who will serve as the chairperson) designated by the C/SC; the C/HR; and the deputy head of the office that seeks to employ the applicant.
  - (b) **Contractors.** The appeals panel will consist of the C/SC (who will serve as the chairperson), the Chief, Counterintelligence Center (Chief, CIC), and the head of the office that requested the use of the contractor. For non-NFIB cases, the appeals panel will consist of the C/SC (who will serve as the chairperson), the Chief, CIC, and the C/HR.
  - (c) **Employees.** For employees from outside the E Career Service, the appeals panel

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will consist of the Agency Executive Director (EXDIR) (who will serve as the chairperson), the Associate Deputy Director for Operations for Counterintelligence (ADDO/CI), and the Head of the employee's Career Service. For employees within the E Career Service, the panel will consist of the EXDIR (who will serve as the chairperson), the ADDO/CI, and the head of the employee's office. An SC representative will attend the panel sessions as a nonvoting member and will advise the panel regarding security considerations concerning the employee.

- (d) **Alternates.** Voting members of Agency appeals panels may designate other senior Agency officials (Senior Intelligence Service or equivalent grade) to act as their alternates at an appeals panel meeting in the event the voting member will be unavailable to attend the panel meeting.

- (3) **CONVENING OF APPEALS PANELS.** At the call of the appropriate appeals panel's chairperson, the panel will convene to review the appeal of a covered individual.

- (4) **PARTICIPATION BY OTHERS IN APPEALS PANELS.** Any of the above-mentioned appeals panels may request that representatives of OGC, the Office of Medical Services, the Office of Equal Employment Opportunity, or any other appropriate Agency office, attend appeals panels as nonvoting members to provide expertise and advice. Covered personnel and their representatives will not attend meetings of the appeals panels.

(5) **DECISIONS OF APPEALS PANELS**

- (a) The decision of an appeals panel shall be in writing, and the Agency shall notify the covered personnel in writing.
- (b) Except as provided in paragraph g(5)(c) below, the decision of an appeals panel shall be final and conclusive.
- (c) Nothing in this regulation shall prohibit the DCI, in his sole discretion, from overturning an appeals panel's decision or from taking any other action regarding an individual's security clearance, access, or security approval as he deems appropriate. Covered personnel, however, may not appeal security decisions to the DCI.

**h. RELATIONSHIP BETWEEN SECURITY DECISIONS AND EMPLOYMENT**

- (1) **APPLICANTS.** When the appeals panel upholds the security decision in a case involving an applicant, the applicant will not be hired. The SC will record the security decision in the applicant's security file, and HR will record the security decision in the applicant's personnel file.

(2) **EMPLOYEES**

- (a) **Security Cases.** When the appeals panel upholds the security decision in a case involving an employee, the EXDIR will terminate the individual's Agency employment pursuant to the terms of AR 13-8. The SC will record the decision in the individual's security file, and HR will record the termination in the employee's personnel file.

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- (b) **Mixed Cases.** When an employee's case involves issues regarding both security and suitability for employment, the procedural processing of the case will proceed as set forth in this regulation (including paragraph h(2)(a) immediately above). The employee will be notified of and may simultaneously address the issues relating to both security and suitability for employment, and these issues will be addressed by the appeals panel. The appeal by an employee of a mixed case will be handled under this regulation rather than the appeal provisions of any other regulation.
- (3) **CONTRACTORS.** When the appeals panel upholds the security decision in a case involving an industrial contractor, the Agency will advise the individual and may also advise his or her employer. Employment decisions following the denial or revocation of an industrial contractor's security clearance and/or access approval(s) are solely and exclusively at the discretion of the employer. When an appeals panel upholds the security decision in a case involving an independent contractor, the Agency will not retain the services of the contractor. In both cases, the SC will record the decision in the individual's security file.
- (4) **DETAILEES.** When the appeals panel upholds the security decision in a case involving a detailee, the detailee will be reassigned to his or her parent organization, and the SC will record the decision in the individual's security file.
- (5) **INDIVIDUALS AT NON-NFIB ORGANIZATIONS.** When the appeals panel upholds the security decision in a case involving an individual who is at a non-NFIB organization and who is not physically assigned or physically detailed to the Agency, the Agency will advise the individual and his or her parent organization, and the SC will record the decision in the individual's security file.

**i. DELEGATION OF AUTHORITY AND LIMITATIONS**

- (1) C/SC is the senior agency official designated under section 6.1 of Executive Order 12968 to direct and administer the Agency's personnel security program.
- (2) C/SC is delegated all authority granted by Executive Order 12968 to the DCI, as head of the Agency, except for the following provisions that must be exercised by the DCI or DDCI, acting on the DCI's behalf:
  - (a) **Section 2.4(b).** Making determinations regarding the sensitivity level of special access programs when considering access reciprocity;
  - (b) **Section 5.2(b).** Personally acting as the final appeal authority;
  - (c) **Section 5.2(d).** Denying covered personnel a particular appeal procedure under this regulation; and
  - (d) **Section 5.2(e).** Denying covered personnel an appeal under this regulation.
- (3) This regulation applies only to individuals whose affiliation with the Agency requires that they undergo security processing to receive access to classified information. Time deadlines set forth in this regulation, other than those mandated by Executive Order 12968, may be extended or waived by D/OS or designee.

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- (4) Nothing in this regulation shall be deemed to limit or affect the authority of Agency personnel to make determinations with respect to an individual's suitability or availability for employment, assignment, or affiliation with the Agency.
- (5) This regulation does not create for or confer on any person or entity any right to administrative or judicial review of these procedures, their implementation, or decisions or actions rendered thereunder. It also does not create or confer any right, benefit, or privilege, whether substantive or procedural, for access to classified information. Finally, this regulation does not create or confer any substantive or procedural right, benefit, or privilege enforceable by any party against the U.S., the Agency, or any other agency or instrumentality of the executive branch, its officers or employees, or any other person.
- (6) Nothing in this regulation shall be deemed to preclude the DCI or the DDCI under the authority of the National Security Act of 1947, as amended, from taking any actions regarding a covered individual's security clearance or access, or employment with the Agency. The DCI or the DDCI may take any actions regarding an individual's security clearance, access, security approval, or employment with the Agency, without regard to any of the provisions of this or any other Agency regulation or DCI directive.

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**Date:** 04/12/2005

**Category:** 13 - Conduct; Accountability and Discipline

**OPR:** SC

**Title:** AR 13-4 (U) SPECIAL ACTIVITIES STAFF, SECURITY CENTER

**REVISION SUMMARY: 12 April 2005**

This regulation supersedes AR 13-4, dated 7 August 2002.

AR 13-4 is revised to update organizational titles. This revision reflects the Agency's organizational restructuring that resulted from the D/CIA's decision, effective 4 January 2005, to abolish the Mission Support Offices and establish the Directorate of Support.

*Boldfaced text in this regulation indicates revision.*

*This regulation was written by the Security Center . Questions may be addressed to SAS*

**4. (U) SPECIAL ACTIVITIES STAFF, SECURITY CENTER**

**(U) SYNOPSIS.** This regulation describes the roles and responsibilities of the Special Activities Staff, Security Center (SAS/SC), in managing and working to resolve cases of employees with suitability or security problems; formulating and implementing policies that seek to provide appropriate guidance and assistance to employees with such problems and their managers; and functioning as the Agency focal point for tracking and maintaining centralized records of such cases. This regulation also describes the related roles of Agency managers and supervisors, component human resource officers, area security officers, specific offices, and various personnel panels and boards that play a part in rendering or processing adverse personnel actions.

**a. (U//AIUO) POLICY**

- (1) ADVICE AND GUIDANCE.** It is Agency policy to seek to be helpful to and supportive of employees who are or may be subjects of adverse personnel actions, and to allow the use of available Agency resources to assist such employees in pursuing guidance, counseling, and/or other help appropriate to their situations. The Agency believes that

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concern for all employees is not only good personnel policy, it is also an important factor in maintaining the security of Agency activities.

- (2) **ADVERSE PERSONNEL ACTIONS.** Adverse personnel actions refer to any disciplinary actions, excluding oral admonitions and letters of warning, taken against an employee for suitability issues such as poor performance or misconduct or for security reasons. Descriptions of these disciplinary actions, as well as procedures for imposing them, can be found in AR 13-3. All adverse personnel actions are processed through SAS.
- (3) **REPOSITORY OF ADVERSE PERSONNEL INFORMATION.** It is Agency policy that SAS be kept advised of developing and/or potential cases of employees with suitability or security problems and be notified of all disciplinary actions, except for oral admonitions and letters of warning as noted above. Early identification of cases involving questions of security and/or suitability is of considerable utility in achieving satisfactory resolutions, both in terms of employees' welfare and Agency security and counterintelligence concerns. SAS serves as the official repository for records of all adverse personnel actions, which must be reported to SAS. This reporting requirement is designed to ensure records continuity and uniformity of disciplinary actions, and to provide the Personnel Evaluation Board (PEB) and the Overseas Candidate Review Board (OCRB), as applicable, with access to all relevant information.

c. (U//AIUO) **ORGANIZATION.** Chief, SAS reports directly to Chief, Personnel Security Group (PSG), SC, and serves as the SC representative in handling cases of employees with performance, suitability, or security problems and adverse personnel actions on an Agency-wide basis.

d. (U//AIUO) **RESPONSIBILITIES**

(1) Chief, SAS shall:

- (a) Provide advice, counseling, and guidance, as appropriate, to employees facing adverse action and/or whose performance, conduct, or eligibility for continued access to classified information has been called into question. The object of such counseling is to provide constructive support to such employees and to seek to make available to them a range of Agency personnel support resources.
- (b) Provide advice, guidance, and training to Agency managers and supervisors, component human resource (HR) officers, and area security officers in identifying and handling cases of employees with performance, conduct, or security problems, and imposing discipline in accordance with the procedures described in AR 13-3.
- (c) Provide advice and technical guidance to the Chief, Security Center (C/SC) on the

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formulation, implementation, and interpretation of policies concerning employees facing adverse action and/or whose performance, conduct, or eligibility for continued access to classified information has been called into question.

- (d) Serve as the executive secretary of the PEB and provide staff support to monitor the implementation of or carry out the PEB's recommendations, as detailed in AR 13-5.
- (e) Provide staff support to monitor the implementation of or carry out termination decisions made in accordance with AR 13-8, including termination decisions made without convening the PEB, such as termination of reserve employees, summary termination by the D/CIA, or termination of employees for abandonment of position, legal incompetence, or declaration as excess to the needs of the service.
- (f) Serve, upon request, as the chairperson of the PEB for problem cases involving trial period employees.
- (g) Serve, upon request, as the chairperson of the OCRB that reviews overseas assignment cases involving security, suitability, and/or performance issues.
- (h) Receive referrals of individual Office of Inspector General cases and convene the PEB, in appropriate cases, to ensure that associated actions taken are consistent throughout the Agency.

- 
- (j) Monitor and document compliance with the disciplinary actions made in accordance with AR 13-3 that management imposes.
  - (k) Serve as the repository for records of all accountability and disciplinary actions – other than oral admonitions and letters of warning – and maintain a permanent record, including the original documentation, of all such actions.
  - (l) Not used.
  - (m) Maintain follow-up contact with post-employment cases, as appropriate.

(2) Agency managers and supervisors, component HR officers, and area security officers shall:

- (a) Advise SAS of developing and/or potential adverse actions, and of any employees whose performance, conduct, and/or eligibility for continued access to classified information has been called into question.
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- [REDACTED]
- (c) Report and provide to SAS all relevant information regarding suitability or security issues which may warrant adverse action, including reporting completed adverse actions in writing to SAS within 10 business days of the decision.
- [REDACTED]

(4) Office of Medical Services (OMS) shall:

- (a) Report to SAS sensitive personnel information discovered or developed by OMS and deemed by OMS to be relevant to an employee's performance, conduct, and/or eligibility for continued access to classified information.
- (b) Advise SAS if any medical information bearing on a particular case being handled by SAS is available in OMS.

(5) The Area Security Office Program Manager shall:

- (a) Report to SAS information concerning formal disciplinary actions taken as a result of security incidents.
- [REDACTED]

- (6) The Office of General Counsel and the Office of Inspector General shall likewise report to SAS on cases of any employee referred to the Department of Justice or to local police authorities for possible prosecution of unlawful activities.
- [REDACTED]

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**Date:** 12/11/2006**Category:** 13 - Conduct; Accountability and Discipline**OPR:** SC**Title:** AR 13-5 (U) PERSONNEL EVALUATION BOARD**REVISION SUMMARY:** 11 December 2006

This regulation supersedes AR 13-5, dated, 13 October 2005.

AR 13-5 is revised to reflect the D/CIA's decision, effective 5 July 2006, to replace the post of Executive Director with a new position, that of Associate Deputy Director of the Central Intelligence Agency (ADD/CIA). This revision also reflects the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service and remove "Deputy Director" designation from the other Directorates and replace it with "Director." In addition, this revision reflects a title change of the Chief Operations, Security Center to "Deputy Chief, Security Center."

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Security Center. Questions regarding this regulation may be addressed to SC/SAS.*

**5. (U) PERSONNEL EVALUATION BOARD**

**(U) SYNOPSIS.** This regulation establishes the Personnel Evaluation Board (PEB) as the primary mechanism for reviewing employee suitability and security cases that may result in the imposition of serious discipline, termination of employment, or revocation of security clearances. The PEB shall have purview over both trial-period employees and employees who have been certified out of trial period. The PEB shall review cases in which information surfaced during Security Center (SC), Inspector General (IG), or other investigations, or otherwise brought to the attention of Agency management presents cause for concern regarding an employee's performance, conduct, or suitability; advise the Chief, Human Resources on the suitability of employees for continued employment with the Agency; advise the Chief, Security Center (C/SC) on cases raising security concerns; provide

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**recommendations to management for disciplinary actions; and assist management upon request in determining the acceptability of employees for overseas and other sensitive assignments or certification out of trial period. The PEB also serves on request as an advisory council in the areas of employee discipline, suitability, performance, standards of conduct, and the handling and administration of problem or difficult employees.**

**a. (U) POLICY**

The national security missions, functions, and activities of the Agency are of such importance and sensitivity that any concerns pertaining to an employee's performance, conduct and/or suitability for continued Agency employment must be considered carefully and resolved fully whenever they arise. It is Agency policy to seek to resolve such issues in a manner that is both helpful and supportive to employees, while at the same time protective of the Agency's equities, which are paramount. The PEB serves as a central point of review of pertinent information to assist Agency management to achieve these ends. The PEB also ensures that security, human resource, medical, legal, counterintelligence, and management considerations are taken into account.

- b. (U) ORGANIZATION.** The Chief, Security Center/Personnel Security Group (C/SC/PSG), or designee, shall chair the PEB. The voting members of the PEB include the following individuals or their designees: Chief, Human Resources (C/HR); Director of Medical Services (D/OMS); Chief, Security Center (C/SC); Chief of the Counterintelligence Center (C/CIC); and the Head of the Employee's Career Service or career subgroup. In addition, the IG, the General Counsel (GC), the Director of Equal Employment Opportunity (D/EEO), or their designees, as well as a representative from the employee's home directorate shall serve as nonvoting advisors to the PEB to ensure the accuracy, fairness, and effectiveness of the process. The PEB may invite representatives from other Agency components (for example, the employee's office of assignment) to assist the PEB in its deliberations. The Security Center, Special Activities Staff (SC/SAS) shall serve as Executive Secretary to the PEB and provide it with staff support. The board shall meet on the call of C/SAS.

**c. (U) RESPONSIBILITIES AND PROCEDURES**

- (1) Any manager or supervisor who discovers or develops information that raises significant security concerns about any Agency employee, doubts about the suitability of any Agency employee for continued employment by the Agency, or identifies performance or conduct deficiencies of such severity that they may warrant imposition of serious discipline, as described in AR 13-3, should refer the matter to SAS. Cases may also be referred to SAS by any Head of Career Service or Operating Official who desires senior review of possible courses of action in such cases or the interpretation/development of Agency policy in this area.
- (2) A request to convene the PEB may be made by the SC, OMS, OIG, CIC, or by the head of the employee's home office or the office to which the employee has been assigned. The referring component shall, as appropriate, coordinate the referral with the Employee's Career Service.
- (3) In making a request for the PEB, the referring component shall, in writing, provide a

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detailed statement describing the basis for convening the board. The referring component shall also advise SAS whether the component believes there is a need to remove the employee from the workplace pending Agency action and, if so, shall provide the basis for that belief. In those cases where a request is made that the employee be removed from the workplace pending adjudication of the case, a decision will be made by C/SC or designee as to whether the employee should be placed on administrative leave, to include enforced annual leave, or be placed in a suspension without pay status. C/SC or designee may also choose to suspend an employee's security clearance and/or access approval(s) in connection with the removal of the employee from the workplace.

- (4) Once a case is referred to SAS, the Agency component of assignment of the employee who is the subject of the PEB shall, on a timely basis, submit to the PEB via SAS all pertinent information and documentation available to the component. Upon request by SAS, HR (including OMS), SC, CIC, OEEO, IG, and any other components having information pertinent to a case are also responsible for bringing the information to the attention of the PEB via SAS.
- (5) The employee who is the subject of the PEB request shall be notified in writing at least ten calendar days prior to the convening of the PEB. The notification shall advise the employee that the PEB is being convened to make recommendations concerning possible administrative actions. If the employee is not available after reasonable efforts to locate the employee have been made or if there are security or counterintelligence reasons not to inform the employee about the convening of the PEB, the employee need not be notified.
- (6) The employee shall be informed in writing of all the issues that are expected to be discussed concerning the employee at the PEB. SAS may omit a particular issue from the statement if C/SC or designee determines there are security or counterintelligence reasons not to inform the employee of the particular issue. C/SC or designee shall coordinate with C/CIC as appropriate regarding counterintelligence issues. The PEB may consider other issues that arise during discussions even though they were not brought to the attention of the employee prior to the convening of the panel.
- (7) A representative from SAS shall meet with the employee prior to the convening of the PEB except if a decision has been made not to notify the employee of the PEB, if there are other security reasons not to meet with the employee, or if the employee is assigned overseas or outside of the Headquarters area, or is otherwise unavailable. Where personal meetings are not possible, SAS shall seek to communicate with the employee via secure telephone or cable.
- (8) At the pre-PEB meeting, SAS shall advise the employee that he/she has up to ten calendar days from the date of receipt of the written notification to comment in writing on the issues being brought before the board. SAS shall notify the employee that the panel will be convened without information from the employee if the employee does not provide a written statement within the prescribed period. Classified comments must be prepared in a secure facility acceptable to C/SC or designee. Employees who have been removed from access to Agency facilities must prepare classified comments, if they have any, at a secure facility designated by C/SC or designee.

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- (9) All written comments received by SAS shall be provided or made available to the PEB members in advance of the meeting to permit their review and consideration. Neither the employee who is the subject of the PEB meeting nor the employee's personal representative may attend the PEB meeting.
- (10) The PEB shall analyze and evaluate the information and make recommendations to C/SC or designee in cases raising security concerns or to Chief, Human Resources in cases raising solely suitability or performance concerns. The PEB has the authority to recommend the full range of disciplinary actions as described in AR 13-3, as well as other corrective measures such as reassigning the employee to another position. The PEB may also recommend revocation of security clearances. It is the PEB's responsibility in each case to assess any adverse actions it proposes in terms of both the possible risk to national security and the employee's past contributions and potential future value to the Agency. As appropriate, the PEB shall recommend risk management plans to minimize the risk to classified information and Agency personnel and programs that may be the result of any adverse action.
- (11) PEB members shall strive to reach consensus in making their recommendations to management. In those instances where a consensus of PEB members is not reached, the differing positions shall be recorded to assist the appropriate senior official, as identified in paragraph 10 above, in making a determination with respect to imposition of discipline, employment termination, security revocation, and/or other action regarding the employee.
- (12) After each panel meeting, SAS shall prepare a statement of facts and pertinent issues with the panel's conclusions, reasons, and recommendations. If, for non-security reasons, the panel recommends disciplinary action, up to and including termination of employment, SAS shall forward the document to Chief, Human Resources for decision. In deciding a case, Chief, Human Resources shall coordinate with the Head of the Employee's Career Service. With the concurrence of the Head of the Employee's Career Service, Chief, Human Resources may choose to take action other than that recommended by the PEB. In those rare instances where there are compelling time pressures, a verbal approval may be obtained from Chief, Human Resources and the Head of the Career Service to proceed with agreed upon action(s).
- (13) PEB recommendations for disciplinary action based on security concerns or on mixed suitability and security concerns shall be forwarded by SAS to C/SC or designee for decision. In making the disciplinary decision, C/SC or designee shall coordinate with the Head of the Employee's Career Service. If the PEB recommends revocation of security clearances, the recommendation shall be forwarded to the **Deputy Chief, Security Center (DC/SC)** for decision<sup>1</sup>. Whenever DC/SC decides to revoke an employee's access to classified information, it is not necessary to obtain the approval or concurrence of C/HR, the Head of the Employee's Career Service, or any other Agency official for the revocation to become effective. DC/SC may revoke or suspend an employee's access to classified information regardless of the recommendations from the PEB.

<sup>1</sup> DC/SC is the revoking authority. C/SC serves as an appeal authority pursuant to the provisions of AR

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- (14) In PEB cases requiring coordination, the Head of the Employee's Career Service shall implement the decisions made by Chief, Human Resources or C/SC or designee with which he/she concurs. The Heads of the Employee's Career Service shall notify SAS in a timely manner via memorandum when recommended actions have been implemented or provide explanations for not implementing recommendations. For decisions with which the Head of the Employee's Career Service does not concur, the Head of Career Service shall within five business days advise Chief, Human Resources or C/SC or designee, as appropriate, of his/her nonconcurrence and propose an alternative. If all parties agree on the alternative proposal, that proposal shall be implemented. If Chief, Human Resources or C/SC or designee continues to support the original decision, he or she may request that the PEB be reconvened or may forward the original decision and the career-service alternative proposal to the **Associate Deputy Director of the Central Intelligence Agency (ADD/CIA)** for a final decision.
- (15) Once a final decision has been made, a representative of SAS shall meet or otherwise confer with the employee and provide the employee with a written statement of the decision, including a statement that sets forth the reasons for the decision, in accordance with the notice requirements of AR 13-3. The employee shall also be advised of his/her appeal rights and provided the opportunity to acknowledge the statement. For cases involving revocation of the employee's access to classified information, the statement and other associated material shall conform to the requirements of AR 10-16.
- (16) It is the responsibility of SAS to follow up on the decisions made by responsible officials regarding PEB cases to ensure that these decisions are carried out. In some cases, SAS is responsible for implementing the decisions, while in other cases SAS will monitor implementation carried out by others.
- (17) Deliberations of the PEB are considered to be privileged and confidential, and all notes, memoranda, and/or minutes of these deliberations will be maintained solely by SAS. No dissemination of PEB deliberative material will be made outside of the PEB or SAS except on a strict need-to-know basis.
- d. (U) **APPEAL PROCEDURES.** The rights of employees to appeal PEB decisions are set forth in this regulation and depend on the severity of the discipline being imposed. Descriptions of "lesser disciplinary action" and "serious disciplinary action" are set forth in AR 13-3.
- (1) There is no appeal for lesser disciplinary actions, for example, those actions that result in an oral admonition, letter of warning, letter of reprimand (with or without caveats), or suspension of five days or less.
- (2) Serious disciplinary action—such as suspension for more than five days, reduction in grade, or termination of employment where termination is for reasons other than revocation of security clearances—generally may be appealed to the **ADD/CIA**. SAS shall advise the employee that he/she has ten calendar days from the date of receipt of the notification of the disciplinary decision to submit written comments to SAS. In cases where the employee requests access to Agency regulations or other relevant materials, the

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employee shall have ten calendar days from receipt of the requested materials or notice that the materials will not be provided to submit written comments to SAS. SAS shall make the employee's written comments available to the ADD/CIA and notify the employee in writing of the ADD/CIA's decision.

- (3) Where employment is being terminated because of revocation of access to classified information, the procedures for an employee to appeal the revocation decision shall be those set forth in AR 10-16.
- (4) The ADD/CIA's decision shall be final with respect to all disciplinary actions except termination of employment. In cases involving termination of employment for reasons other than revocation of access to classified information, employees may appeal to the Director of the Central Intelligence Agency (D/CIA) if the ADD/CIA denies the initial appeal. The employee shall have ten calendar days from receipt of the ADD/CIA's decision to submit written comments through SAS to the D/CIA. The employee must prepare any classified written comments to the ADD/CIA or to the D/CIA at a secure facility designated by C/SC or designee. Upon receipt of an appeal, the D/CIA will decide, in his discretion, whether to terminate the individual's Agency employment pursuant to the D/CIA's statutory authority to do so. SAS shall notify the employee in writing of the D/CIA's decision.
- (5) Notwithstanding the provisions of any other Agency regulation or policy statement, including the Agency's expedited Privacy Act procedures for employees, employees who have been removed from access to Agency facilities (for example, employees who have been placed on administrative leave or who have had their access to classified information suspended or revoked) will be provided access to Agency regulations for preparation of their statements to the PEB, or appeals to the ADD/CIA or D/CIA, only to the extent that C/SAS determines the regulations are relevant to the employee's case and to the extent that access would not be inconsistent with national security. No employee has a right to review any CIA file or record in connection with preparation of a statement to the PEB, or an appeal to the ADD/CIA or D/CIA. Any request for access to Agency files in connection with a PEB case will be provided to C/SAS for decision. The decision of C/SAS shall be final and not subject to appeal. Employees and their representatives may review classified information only in a secure facility designated by C/SC or designee. The review shall be conducted during normal business hours at a time and under circumstances determined by C/SC or designee.
- (6) Employees may choose to employ private counsel at their own expense and in compliance with the requirements set forth in AR [REDACTED] Private counsel must receive a security clearance, access approval, or security approval as determined appropriate by C/SAS and sign appropriate non-disclosure agreements prior to being provided access to classified information. Private counsel shall not be entitled to receive any more information than C/SAS determines may be provided to the employee and may be prohibited from obtaining access to information that has been provided to the employee when C/SAS determines such access would be inconsistent with the national security.

e. (U) OVERSEAS CANDIDATE REVIEW BOARD (OCRB)

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- (1) The OCRB is the PEB subpanel that is chaired by C/SAS and has the same membership as the PEB. The OCRB's function is to review proposed overseas assignments involving questions as to the suitability of the employee under consideration for such assignments or their dependents and to make recommendations to the home components of such employees.
  - (2) Cases may be referred to the OCRB by the components involved in the employee's assignment, by the employee's career service, or by SC, OIG, CIC, OMS or HR.
  - (3) A component that chooses not to accept the recommendations of the OCRB must advise SAS in writing of its reasons for nonacceptance.
- f. **(U) NO ADDITIONAL RIGHTS CONFERRED.** This regulation does not create for any Agency employee any property or other interest or privilege in Agency employment. Nor does this regulation entitle an employee to any due process rights or in any way limit or detract from the authority of the Director of the Central Intelligence Agency to discipline an employee or terminate an individual's Agency employment, with or without the procedures set forth in this regulation, AR 13-8, or elsewhere.

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**Date:** 12/11/2006

**Category:** 13 - Conduct; Accountability and Discipline

**OPR:** SC

**Title:** AR 13-8 TERMINATION OF EMPLOYMENT

### REVISION SUMMARY: 11 December 2006

This regulation supersedes AR 13-8 dated, 7 April 2005.

AR 13-8 is revised to reflect the D/CIA's decision, effective 5 July 2006, to replace the post of Executive Director with a new position, that of Associate Deputy Director of the Central Intelligence Agency (ADD/CIA). This revision also reflects the D/CIA's decision, effective 13 October 2005, to establish the National Clandestine Service, and remove "Deputy Director" designation from the other Directorates and replace it with "Director." Also revised is a title change from the Chief Operations, Security Center to "Deputy Chief, Security Center." An additional change is the November 2005 conversion from FBIS to the DNI Open Source Center.

*Boldfaced text in this regulation indicates revisions.*

*This regulation was written by the Associate Deputy Director of the Central Intelligence Agency's (ADD/CIA) office in coordination with OGC, HR, and SC. Questions regarding this regulation may be addressed to SC/SAS.*

## 8. TERMINATION OF EMPLOYMENT

**SYNOPSIS.** This regulation sets forth circumstances under which Agency employment may be terminated and provides for the manner in which such employment terminations may be effected.

- a. **AUTHORITY AND POLICY.** All employment terminations, other than by mandatory or involuntary retirement under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. Sec. 2001 *et seq.*), shall be pursuant to the Director of the Central Intelligence Agency's (D/CIA's) statutory authority, including section 104(g) of the National Security Act of 1947, as amended (50 U.S.C. Sec. 403-4(g)), which states that:

"Notwithstanding the provisions of any other law, the Director of the Central Intelligence

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Agency may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect the right of the officer or employee terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management."

By the terms of this statute, to terminate the employment of an Agency officer or employee, the Director of the Central Intelligence Agency (D/CIA) need only deem employment termination necessary or advisable in the interests of the United States. It is not required that an employment termination under this statute be in the interests of the national security, but only that the D/CIA, in his discretion, must deem such termination to be in the interests of the United States. Notwithstanding any provisions of this regulation or any other regulation, document, or law, the D/CIA need not provide to anyone the reasons for such termination if he decides not to do so. Any decision not to provide the reasons for employment termination is entirely discretionary, and a national security basis for such a decision is not required. However, under the terms of this statute, the decision of the D/CIA to terminate the employment of an Agency employee, regardless of the reasons for such termination, does not foreclose the employee from other employment with the Federal Government. Employment may be terminated by the D/CIA or by an official of the Agency to whom the D/CIA delegates appropriate authority. No redelegations of this authority shall be made by officials to whom this authority has been delegated except to Agency personnel lawfully designated to act in the capacity of such officials in their absence. Any reference in this regulation to the D/CIA shall be deemed to include Agency officials to whom appropriate authority has been delegated.

**b. TERMINATION AUTHORITIES.** The termination authority of the D/CIA is delegated to:

- (1) The Deputy Director of the Central Intelligence Agency (DD/CIA) upon the recommendation of an advisory board.
- (2) The Chief, Human Resources with respect to any employee who is:
  - (a) Recommended by the Personnel Evaluation Board (PEB) for termination for suitability reasons such as misconduct or substandard performance. (see AR 13-5);
  - (b) Found to have abandoned his or her position;
  - (c) Judged to be legally incompetent; or,
  - (d) Serving under a Reserve Employee appointment [see AR 20-2b(2)].
- (3) The Director of National Intelligence, Open Source Center (DNI/OSC) with respect to DNI/OSC alien employees.
- (4) Directors or Heads of Independent Offices with respect to contract employees.
- (5) The ADD/CIA is delegated the authority to decide the first-level appeals of employees recommended for termination and to terminate the employment of such employees upon recommendation of an advisory board. The ADD/CIA also has authority to terminate the

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employment of an employee who has been declared to be excess to the needs of the service.

- (6) The ADD/CIA, as Chairman of the Panel established under AR 10-16 to review security decisions to revoke employees' access to classified information, is delegated authority to terminate employment of any employee whose security revocation has been upheld by the Panel.
  - (7) The Deputy Chief, Security Center (DC/SC) is delegated authority to terminate the employment of any employee who chooses not to appeal or request a review of a security revocation decision.
- c. **TENURE.** Agency employees do not have tenure and their employment may be terminated pursuant to the terms of the National Security Act of 1947, as amended, without regard to the procedural requirements of this regulation or any other provisions of law. Except as provided by this regulation and AR 13-5, the termination of an Agency employee is not subject to appeal under the provisions of any regulation, document, or law. Notice is hereby given that nothing in this regulation or in any other regulation, document, or law shall be construed as creating for any employee any property or other interests or privileges in his or her employment.
- d. **CIRCUMSTANCES FOR TERMINATION OF EMPLOYMENT**
- (1) **TERMINATION FOR FAILURE TO COMPLETE TRIAL PERIOD SATISFACTORILY.** Any employee determined to be unsuitable for Agency employment during the trial period may be terminated from the Agency. (See AR 20-24)
  - (2) **TERMINATION PRIOR TO EXPIRATION OF CONTRACT.** For contract employees, the term clause of the contract relating to termination of employment prior to the expiration of the contract will govern termination. However, nothing in the contract shall be construed to prevent the C/SC or designee from suspending or revoking a contract employee's access to classified information at any time.
  - (3) **TERMINATION FOR FAILURE TO MEET THE WORK AND EFFICIENCY REQUIREMENTS OF THE AGENCY.** Any employee who fails to meet Career Service work and efficiency requirements or to perform assigned duties adequately may be terminated from the Career Service and the Agency.
  - (4) **TERMINATION FOR FAILURE TO MEET SECURITY STANDARDS.** Any employee who fails to meet the Agency's security standards may be terminated from the Agency. Any determination that an employee fails to meet security standards may be appealed only pursuant to the provisions of AR 10-16.
  - (5) **TERMINATION FOR FAILURE TO MEET MEDICAL STANDARDS.** Any employee who fails to meet the Agency's medical standards may be terminated from the Agency.
  - (6) **TERMINATION FOR FAILURE TO MEET AGENCY STANDARDS OF CONDUCT.** The Agency standards of employee conduct are set forth in AR 13-1,

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Standards of Conduct; AR ☐ Conflict of Interest, Lack of Impartiality, and so forth. An employee may have his or her employment terminated for failure to meet these standards.

- (7) **TERMINATION FOR ABANDONMENT OF POSITION.** Any employee who fails to report for scheduled duty for more than ten consecutive workdays without being on approved leave may be terminated from employment for abandonment of position.
  - (8) **TERMINATION UPON DETERMINATION OF LEGAL INCOMPETENCE.** An employee who is declared by a court of competent jurisdiction to be mentally incompetent may be terminated from employment.
  - (9) **TERMINATION OF EXCESS PERSONNEL.** An employee who is found to be excess to the needs of the Agency may be terminated from employment. An employee may be determined to be excess to the needs of the Agency if his or her Career Service has declared the employee excess and a job search within the Agency is unsuccessful or is not requested by the employee. The grounds for declaring an employee excess to Career Service needs are:
    - (a) The Career Service is over strength overall or in a particular grade or functional element.
    - (b) There is no longer a requirement in the Career Service for the particular skills or qualifications possessed by the employee.
    - (c) There is a reduction or elimination of the functions of the Career Service, thereby requiring a reduction in staff.
  - (10) **TERMINATION PRIOR TO NOT-TO-EXCEED DATE OF RESERVE APPOINTMENT.** A Reserve Employee may be terminated from employment prior to the not-to-exceed date of his or her appointment if the employee's services are no longer needed, the employee's performance has been inadequate, the employee is not suitable for continued Agency employment, the employee's security clearance has been revoked, or termination of employment otherwise is deemed to be necessary or advisable in the interests of the United States.
  - (11) **TERMINATION IN OTHER CIRCUMSTANCES.** In addition to the circumstances specified in paragraphs (1) through (10) above, an employee may have his or her employment be terminated whenever the D/CIA, in his discretion, deems such termination necessary or advisable in the interests of the United States.
- e. **PROCEDURES FOR TERMINATION OF EMPLOYMENT.** Except as noted in paragraphs(e)(1) – (e)(6) and paragraph (f) below, terminations pursuant to this regulation shall be carried out in accordance with the procedures set forth in AR 13-3 and AR 13-5. Notwithstanding any other provision of this regulation, all termination recommendations shall be routed through the Office of General Counsel (OGC).
- (1) **PROCEDURES FOR TERMINATION PRIOR TO EXPIRATION OF CONTRACT.** For contract employees, the term clause of the contract relating to termination of employment prior to the expiration of the contract will govern termination.

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**Directors** or Heads of Independent Offices who exercise operational control over contract employees may terminate a contract. However, nothing in the contract shall be construed to prevent the C/SC or designee from suspending or revoking a contract employee's access to classified information at any time. The PEB ordinarily will not be convened for separation of contract employees.

**(2) PROCEDURES FOR TERMINATION FOR ABANDONMENT OF POSITION.**

If an employee fails to report for duty or to return from leave, an effort will be made to determine the employee's intentions. If the employee's intentions cannot be determined within 10 business days or if it appears that the employee intentionally abandoned his or her position, Chief, Human Resources may terminate the employee from the Agency for abandonment of position. The termination will be effective at close of business on the last day of active duty or of approved leave, whichever is later. The PEB ordinarily will not be convened for separation of employees who have abandoned their positions. Unless security considerations dictate otherwise, the Special Activities Staff, Security Center (SAS/SC) will mail notice of termination to the employee's last known address. If security conditions preclude notice by mail, other reasonable efforts to notify the employee will be undertaken. If subsequent evidence indicates that the abandonment was not the employee's fault, the employee will be reinstated by Chief, Human Resources and paid appropriately as if the termination had not occurred.

**(3) PROCEDURES FOR TERMINATION FOR LEGAL INCOMPETENCE.** Upon a judgment by a court of competent jurisdiction that an employee is legally incompetent, Chief, Human Resources may terminate the employee from the Agency unless the employee is determined to be eligible for disability retirement. When a decision is made to terminate employment due to legal incompetence, SAS will notify the employee's legal guardian in writing about the action to be taken. The PEB ordinarily will not be convened for separation of employees who have been declared legally incompetent.

**(4) PROCEDURE FOR TERMINATION OF EXCESS PERSONNEL**

- (a) In considering whether an employee is excess to the needs of a Career Service, the Head of the Employee's Career Service will take into consideration the current and anticipated requirements of the Career Service for employees with certain qualifications, skills, experience, training, and so forth. In any case involving an employee with a disability who is unable to perform essential job functions with or without reasonable accommodation, the decision to declare the employee excess to the needs of the service must be in accordance with the provisions of AR
- (b) If the head of a component determines that an employee is excess to the needs of the component, both the Head of the Career Service and the employee will be advised in writing. If the employee wishes, the Career Service will make an effort to arrange placement in another component within that Career Service. If such efforts fail, the Career Service will declare the employee excess to the needs of the Career Service and will notify the employee, Chief, Human Resources, and C/SC, via SAS.
- (c) A representative from SAS will then meet with the employee and determine if the employee wishes placement elsewhere in the Agency at the same or different grade.

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If the employee wishes placement elsewhere in the Agency, SAS will broker an Agency-wide placement effort. If the employee does not wish placement elsewhere in the Agency or if placement efforts are unsuccessful after a sufficient interval of time, SAS shall so notify Chief, Human Resources in writing. Chief, Human Resources shall then forward a recommendation to separate the employee to the ADD/CIA for decision. The PEB ordinarily will not be convened for separation of employees who have been determined to be excess to the needs of the service.

- (5) **PROCEDURES FOR TERMINATION OF EMPLOYMENT OF DNI/OSC ALIEN EMPLOYEES.** The D/DNI/OSC has developed procedures for the termination of DNI/OSC alien employees. These are the only procedures for termination of DNI/OSC alien employees and any change in these procedures must be reviewed by OGC prior to adoption of the changes. These standard procedures shall not affect the discretionary authority delegated to the D/DNI/OSC by paragraph b above to terminate the employment of DNI/OSC alien employees without procedures.
- (6) **PROCEDURES FOR TERMINATION OF RESERVE EMPLOYMENT PRIOR TO NOT-TO-EXCEED DATE OF THE RESERVE APPOINTMENT.** The employment of a Reserve Employee may be terminated by Chief, Human Resources at any time prior to the not-to-exceed date of the employee's appointment if Chief, Human Resources determines that the employee's services are no longer needed, the employee's performance has been inadequate, the employee is unsuitable for continued Agency employment, the employee's security clearance has been revoked, or Chief, Human Resources determines termination is otherwise deemed necessary or advisable in the interests of the United States. Before making such a determination, Chief, Human Resources shall follow the procedures set forth in AR 13-3 and AR 13-5 except that the decision of Chief, Human Resources is final and not appealable by the employee.
- f. **TERMINATION WITHOUT PROCEDURES.** Pursuant to statutory authority, any employee may be terminated from the Agency at any time without regard to any procedural steps set forth in this regulation or elsewhere when the D/CIA, in his discretion, deems it necessary or advisable in the interests of the United States. The decision by the D/CIA to exercise this authority is entirely discretionary. The D/CIA need not provide to anyone the reasons for exercising this authority, and a national security basis for the exercise of this authority is not required. The existence or the exercise of this discretionary authority by the D/CIA is:
- (1) Not constricted, limited, affected, or otherwise controlled by any of the procedures set forth in this regulation or any other regulation, document, or law.
  - (2) In abrogation of the existence of any interests or privileges of any employee in his or her employment which might otherwise be created or established by this regulation or any other regulation, document, or law.
- g. **APPEAL OF TERMINATION DECISION**
- (1) Contract employees, reserve employees, and DNI/OSC alien employees have no right of appeal.

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- (2) When employment is being terminated because of revocation of access to classified information, the procedures for all employees to appeal the revocation decision shall be those set forth in AR 10-16.
  - (3) In all other cases, the termination decision may be appealed to the **ADD/CIA**. SAS shall advise the employee that he/she has ten calendar days from the date of receipt of the notification of the termination decision to submit written comments to SAS. In cases where the employee requests access to Agency regulations or other relevant materials, the employee shall have ten calendar days from receipt of the requested materials or notice that the materials will not be provided to submit written comments to SAS. SAS shall make the employee's written comments available to the **ADD/CIA** and notify the employee in writing of the **ADD/CIA**'s decision. In cases where the **ADD/CIA** is the terminating authority, for example in cases where an employee is declared excess to the needs of the service, the employee may appeal directly to the **D/CIA**.
  - (4) Employees may appeal to the **D/CIA** in cases where the **ADD/CIA** denies the initial appeal or where the **ADD/CIA** serves as the terminating authority. The employee shall have ten calendar days from receipt of the **ADD/CIA**'s decision to submit written comments through SAS to the **D/CIA**. The employee must prepare any classified written comments to the **ADD/CIA** or to the **D/CIA** at a secure facility designated by C/SC or designee. Upon receipt of an appeal, the **D/CIA** will decide, in his discretion, whether to terminate the individual's Agency employment pursuant to the **D/CIA**'s statutory authority to do so. SAS shall notify the employee in writing of the **D/CIA**'s decision.
- h. NO ADDITIONAL RIGHTS CONFERRED.** Nothing in this or any other Agency regulation or policy statement should be construed to create or confer on any person or entity any right to administrative or judicial review of Agency employment termination procedures, their implementation, or decisions or actions rendered thereunder. Neither this nor any other Agency regulation or policy statement creates or confers any right, benefit, or privilege, whether substantive or procedural, for continued Agency employment. Finally, neither this nor any other Agency regulation or policy statement creates or confers any substantive or procedural right, benefit, or privilege enforceable by any party against the Agency, any Agency instrumentality, or any Agency officer or employee, or any other person acting for or on behalf of the Agency.
- i. OPPORTUNITY TO RESIGN: RESIGNATION IN LIEU OF TERMINATION**
- (1) An employee may proffer a resignation at any time before the meeting of an advisory board, as described in AR 13-3, or if no advisory board meets, at any time before the decision of an appropriate official to separate the employee. In such circumstances, the separation will be recorded as a voluntary resignation unless the **D/CIA**, **DD/CIA**, **ADD/CIA**, C/SC, Chief, Human Resources or, for **DNI/OSC** alien employees, **D/DNI/OSC** declines to accept the resignation. If a decision is made not to accept a resignation, the **D/CIA**, **DD/CIA**, **ADD/CIA**, C/SC, Chief, Human Resources or **D/DNI/OSC**, as appropriate for the category of employee, may terminate the individual's employment and the employment termination will be recorded as an involuntary separation.

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- (2) An employee who resigns after a decision has been made by DC/SC to revoke the employee's access to classified information or a decision has been made by Chief, Human Resources, with concurrence by the Head of the employee's Career Service, to separate the employee for non-security reasons will be considered to have resigned in lieu of termination and the separation will be recorded as resignation in lieu of termination. An employee who resigns in such circumstances shall be ineligible for separation compensation under AR 20-32. However, a resignation tendered and accepted as outlined above shall be deemed to constitute an *involuntary* separation solely for purposes of determining whether the individual is eligible for a discontinued service retirement annuity under the Civil Service Retirement System or the Federal Employees Retirement System.
- (3) Once a final decision is made to involuntarily separate the employee, it will be recorded as an involuntary separation.
- (4) The status of the employee's separation, that is, voluntary separation, resignation in lieu of termination, or involuntary separation will be described to state unemployment compensation authorities and/or private sector employers who properly inquire.
- (5) An employee who submits a resignation before final ADD/CIA, DD/CIA, or D/CIA review of an appeal will be notified prior to formal acceptance of the resignation that acceptance of the resignation will terminate further processing of the appeal.
- (6) If, after a termination recommendation has been made, an employee submits a resignation effective at a future date, C/SC or designee will consult with appropriate officials and determine whether the interests of the U.S. require continuation of procedures to effect an earlier termination.
- (7) C/SC, in his or her discretion and in accordance with applicable law, may waive any of the provisions of paragraphs (1) through (6) above if C/SC determines such a waiver or waivers would be beneficial to the interests of the Agency.

**j. DISCLOSURE OR DISSEMINATION OF REASONS FOR TERMINATION OR RESIGNATION OF EMPLOYMENT**

- (1) Generally, the reasons for the termination or resignation of Agency employment shall not be disseminated outside the Agency to any private organization or Federal or other governmental body without the consent of the employee. Absent such consent, and subject to the exceptions noted below, responses to requests for information as to why an individual's employment was terminated shall be limited to a statement that the employment was terminated pursuant to statutory authority. Nothing in this section (section j) shall limit the dissemination of:
  - (a) Intelligence or counterintelligence information;
  - (b) Information relevant to lawful personnel, physical, or communications security investigation or proceeding or a hiring, licensing, or similar decision by another Federal agency;
  - (c) Information pursuant to a prior written acknowledgment of the employee that the

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information may be disclosed to other Federal, state, or local government agencies for investigative, administrative, or legal action;

- (d) Information concerning possible violation of Federal criminal law, as required by section 1.7(a) of Executive Order 12333 and/or 28 U.S.C. Sec. 535; and/or
  - (e) Information necessary to protect an individual's life or physical safety or the public health or safety.
- (2) The D/CIA, DD/CIA, **ADD/CIA**, C/SC, or DC/SC in each official's discretion, may waive the provisions of this section (section j) and authorize a disclosure that otherwise would not be permitted under this regulation, *provided that* the disclosure is permissible under the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Agency's Privacy Act regulations, and Executive Order 12333 and the implementing procedures for that order.
- (3) This regulation does not require the D/CIA to disclose the reasons for termination of employment if, in the exercise of his discretion under law, he decides not to do so.

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