

FOIA MARKER

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Subseries:

OA/ID Number: 21081

FolderID:

Folder Title:

Federal Workplace HIV/AIDS Initiative: "AIDS at Work"

Stack:

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Position:

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December 15, 97
1000 -

I didn't know
if you had seen
this. Seems to
raise some
personnel
issues which
we have
discussed

703-553-0506

Enough A 'Lazarus Syndrome' F

Even with all the encouraging news about effective AIDS treatments, I now know people who have stopped the drug regimens that had jump-started their lives. Are these patients getting sick from the drugs, or have they run out of money or health insurance? No. The clients are afraid of getting *too well*.

For many people with AIDS, public disability benefits are their only source

Mark King

of income and also fund the precious drugs that have extended their lives. In those cases where the drugs have brought the patients back to health, the patients can't afford to return to a job that will not provide insurance coverage for their AIDS treatment. Furthermore, when they hear rumors that Social Security might kick people off their rolls because their health has "stabilized," or that Medicaid might stop paying for their drugs for the same reason, some of them are forgoing their pills "just long enough" for their blood tests to take another nose dive. It's a deadly strategy.

More so than any previous AIDS therapies, new drug combinations — the protease inhibitor "cocktails" — can be stopped cold by HIV if the drugs are interrupted for any length of time. The virus quickly mutates and becomes resistant if the same drugs are re-introduced. So, patients who discontinue treatment are making choices for the short term that will have mortal effects in the long term.

Why the sudden fears on the part of patients? The "Lazarus Syndrome" hype. For nearly two years the media has been intensely interested in the newest twist in the AIDS story, people

with renewed health who a short time ago were making funeral arrangements. There are true stories like these, to be sure. Trouble is, private insurance providers have been hearing these tales as well, and with a keen interest in their bottom line.

In September, an express courier employee who had been on private disability for three years got a letter in the mail. His former employer, who has been footing the bill for his disability and health insurance, was ordering him back to work. In the employer's opinion, his improved blood tests were good enough to get back to the job. The employee had seen his health improve but was fatigued, stressed from his ordeal and still spinning from his unexpected bounce back. Such was this man's fear of having to return to a full-time position, where reinstatement of his disability coverage would occur only after six *healthy* months on the job, that he made a desperate choice. He stopped taking every single pill he had been prescribed.

As a man who has lived with this ambitious virus for more than 12 years, I can relate to the anxiety and hesitancy of returning to the workplace. The mixed messages and dashed hopes of past treatments have left us with emotional whiplash. "You're a healthy man and you'll live a long life." "You've got AIDS! You're gonna die!" "Guess what — there's a new drug. You're going to live!" "Wait! We don't know how long they last. You're gonna die!" And back and forth, year after year it goes.

As a professional AIDS educator, this past year I developed a tool known as "Reconstruction," which helps clients understand the practical and emotional fallout of getting another shot at life. The program also underscores the creative

November 28, 1997 - THE WASHINGTON BLADE - 31

About Me ...

Perpetuates a new crisis

'I feel like Tom Sawyer, watching his funeral. How do I start again when everyone, including me, thought I would be dead by now?'

cruelty of AIDS.

Clients come to the program feeling perplexed by public benefits and guilty over their emotional confusion. They know they should be ecstatic over their good fortune — aren't the new treatments what we have always dreamt of? — but because they ran up debt, left their careers behind and made peace with their imminent demise, they aren't sure how to see their futures beyond three-year increments. As one participant said, "I feel like Tom Sawyer, watching his funeral. How do I start again when everyone, including me, thought I would be dead by now?" It is no wonder that bouts with depression are reportedly higher among this group now than before they began the new treatment.

Working with this hopeful, haunted client group has given me the real story behind headlines that trumpet a 26 percent decrease in the AIDS death rate. While this figure is undisputed, it means

another, more significant truth to AIDS service providers: There are now more people living with AIDS than ever before. To serve them effectively, we need an overhaul of a governmental disability system that was designed to take people from illness to death — without any U-turns in the middle of the process. Most importantly, patients need continued access and adherence to the drugs that are keeping them alive.

That means expansion of programs such as Medicaid and the AIDS Drug Assistance Program, a federal program which pays for drugs for those who could otherwise never afford them. Doing so would not only extend the lives of thousands, but serve as an important dose of prevention for the greatest public health crisis of the century.

How does keeping patients stocked with these drugs prevent future catastrophe? Keep in mind the ability of HIV to mutate and resist the drugs if for some reason the patient loses access to the treatment. Having accomplished this, HIV need only be transmitted to someone else to begin breeding an HIV strain that is impervious to the very latest drugs we have to combat it. With more than 40,000 new infections still occurring in the United States every year, the likelihood of another health nightmare has statistics on its side.

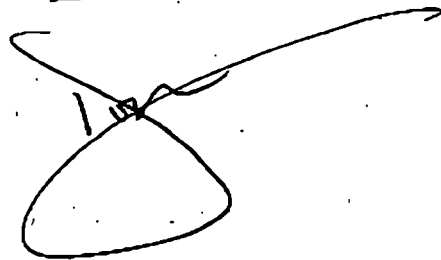
Such a scenario could make the losses of the last 15 years, for all their horror, little more than prologue.

Mark King is an AIDS educator in Atlanta. His monthly column, "Enough About Me," is devoted to his observations as a Gay man, filtered by his experiences living with HIV for the last 15 years. He can be reached by e-mail at kingm@aidatlanta.org.

1000 —

The following pages are guidance
which came about through
congressional drivers as a
result of 1) Transportation,
Security Training act / (2) the
required AIDS training KWAET-93

— Thought you'd want it for
your files. Some parts may
apply if you will be educating
others. [Fed to Fed] [FED → PRIVATE]

A handwritten signature, possibly reading "L. J. [unclear]", written in dark ink.

MAIL-IT REQUESTED: FEBRUARY 18, 1997

**CLIENT: MCNULTY
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**Committee Reports
104th Congress, 1st Session
House Rept. 104-177
104 H. Rpt. 177**

**DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES
APPROPRIATIONS BILL, 1996**

**DATE: July 11, 1995. Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed**

SPONSOR: Mr. Wolf, from the Committee on Appropriations, submitted the following

**REPORT (To accompany H.R. 2002)
together with ADDITIONAL VIEWS**

**... terms "program, project, and activity" shall mean any item for which a
dollar amount is contained in an appropriations Act (including joint resolutions
providing continuing appropriations) or accompanying reports of the House and
Senate Committees on Appropriations, or accompanying conference reports and
joint explanatory statements of the committee of conference. This definition
shall apply to all programs for which new budget (obligational) authority is
provided, as well as to discretionary grants, Federal Transit Administration,
and interstate transfer grants-highways, Federal Highway Administration. In
addition, the percentage reductions made pursuant to a sequestration order to
funds appropriated for facilities and equipment, Federal Aviation
Administration, and for acquisition, construction, and improvements, Coast
Guard, shall be applied equally to each "budget item" that is listed under said
accounts in the budget justifications submitted to the House and Senate
Committees on Appropriations as modified by subsequent appropriations Acts and
accompanying committee reports, conference reports, or joint explanatory
statements of the committee of conference.**

Non-Technical Training

**This year the Committee held a special hearing on non-technical training in
the Department of Transportation as a result of serious concerns raised in a DOT**

Inspector General investigative report regarding alleged abuses in management training and diversity training. What the Committee found in that report, and heard firsthand in the hearing, was nothing short of shocking.

Witnesses described training methods and practices which were offensive to many employees religious beliefs and which prescribed clearly theological readings. Some employees were forced to reveal and discuss highly personal feelings and traumatic experiences from their past, in the hope of changing their values or the values of other training participants. According to the Office of Inspector General (OIG), a distinguishing feature of much of this training was the use of confrontation by instructors, for the stated purpose of changing personal values and behavior. One male witness described the humiliation of being made to walk between a "gauntlet" of females, who assaulted him physically, ostensibly to change his values and attitudes toward women. At least two female witnesses described the need for professional psychological help after going through the training. The Office of Inspector General called this type of training a form of "psychic roulette", which some lost. Although top FAA and OST officials were aware of complaints from employees, they sacrificed some individuals for what they considered the larger good.

Much of this fit the following description of "new age" training methods by management consultant Peter Drucker:

In most cases, managers are simply told to attend. Even if there is ostensible choice, it is made pretty clear, or so managers think, that non-attendance would be seen as a sign of disloyalty or negative attitudes. They are ordered to attend this session aimed at changing their personality because somebody claims that it is likely to be good for them, or maybe good for the company.

Drucker goes on to say that, in his view:

Company-ordered psychological seminars of this kind are, in other words, an invasion of privacy that is not justified by any company need. They are morally indefensible. And they are bitterly resented as such by a good many of the people who are being subjected to them.

Several management abuses occurred within the department which, in the Committee's view, should never have been allowed to happen. Although some administrative guidance was in place, the guidance allowed too much discretion to human resource managers infatuated with "experiential" training, was vaguely worded, and had few if any enforcement sanctions. Taken together, these abuses describe an organization which abandoned well-established principles for human resource management and training in an effort to sustain contracts with certain individuals. These abuses include:

1. Little or no distribution of course evaluations to students.
2. Little or no prior information provided to students on course content or methods.
3. Sole source contracting and split bid purchasing, which skirted competition.
4. Harassment of employees who expressed concern over methods or content used during the training.
5. Little or no background check of the instructors hired.
6. No inquiry to determine why students were pledged to secrecy in some cases.

Given the findings of this hearing, the Committee has included a new general provision (Sec. 338) which is designed to ensure that training abuses such as these never happen again in the Department of Transportation. The provision would prohibit training which is likely to induce high levels of psychological stress, attempts to change participants personal values or lifestyle outside the workplace, or which relates to skills or knowledge which has no bearing on ones official duties in the workplace. It bans training which contains methods associated with religious or quasi-religious belief systems, including so-called "new age" beliefs. The provision requires the use of end-of-course evaluations, and requires that employees be notified in advance of the content and methods to be used during the training.

Finally, the provision prohibits HIV/AIDS awareness training other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees. The Committee was concerned to learn this year of some HIV/AIDS training classes which overstepped the boundary of what the Committee considers proper, by attempting to change participants attitudes concerning certain lifestyles. The Committee wants to support awareness training which informs employees about the medical aspects of AIDS and which promotes a greater sense of compassion toward people with HIV/AIDS and their families. However, the Committee does not support training which attempts to change ones personal values or promote certain lifestyles. If acceptable government-wide policy changes are made later in the appropriations process, the Committee will review the need for separate action in this bill.

12/10/97

FOR: Don Donaldson

FM: Bruce White

INTERAGENCY ADVISORY GROUP

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

NOV 8 1997

MEMORANDUM FOR MEMBERS OF THE INTERAGENCY ADVISORY GROUP AND THE HUMAN RESOURCE DEVELOPMENT COUNCIL

FROM:

KIRKE HARPER *Kirke Harper*
ASSISTANT DIRECTOR
FOR HUMAN RESOURCE DEVELOPMENT

SUBJECT:

Guidance on Appropriation Language Restricting Training

Section 624 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in section 101(f) of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208), contains language restricting training not related to official duties.

Similar language appeared last year in the Department of Transportation and Related Agencies Appropriations Act of 1996 (Public Law 104-50) and the Treasury, Postal Service, and General Government Appropriations Act of 1996 (Public Law 104-52). This year, Congress has made the provisions apply to all appropriated funds for training all Federal employees, civilian and military.

In March 1996, the Office of Personnel Management issued guidance to agencies subject to these 1996 appropriation acts. To help clarify any questions that you may have about section 624, we are updating and reissuing that guidance.

Please assure that each agency official with the authority to authorize and approve funds for training agency employees is made aware of the restrictions in Public Law 104-208. If you or your staff have questions, please contact Judith Lombard at 202-606-2431.

Attachment

Guidance for Implementing Training Restrictions Contained In Public Law 104-208

Background:

Section 624 of the Treasury, Postal Service, and General Government Appropriation Act, 1997, as contained in section 101(f) of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208), contains language restricting training not related to official duties.

Section 624 prohibits expenditures of Federal funds on training that is offensive to Federal employees and unnecessary in the execution of their official duties. It is not intended to prohibit training that is necessary for Federal workers to effectively complete their assigned duties.

The following guidance is based on balancing the intent of section 624 with the basic authorities contained in training law, chapter 41 of title 5, United States Code.

Guidance Regarding Specific Subsections:

Sec. 624. "(a) None of the funds made available in this Act, or any other Act, may be obligated or expended for any employee training when it is made known to the Federal official having authority to obligate or expend such funds that such employee training -

Section 624 does not amend title 5, U.S.C., chapter 41, Training, or change the legal purpose of training — to improve individual and organizational performance related to an agency's mission. However, the phrase "this Act, or any other Act" refers to all Acts of Congress which appropriate funds to agencies, both civilian or military agencies, and to the training of all employees, both those subject to the civil service provisions of title 5 of the United States Code and those who are not subject to title 5.

"(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;"

Consistent with current law, this subsection reminds agency officials that there should be a relationship between the knowledge, skills, and abilities the training is intended to provide and an employee's lawfully assigned duties. Employees may be assigned to training associated with their current duties or anticipated duties related to the mission of the agency. The legal purpose of training continues to be to improve individual and organizational performance and to assist in achieving the agency's mission and performance goals (5 U.S.C. § 4101(4)). 5 CFR §410.203, based on Executive Order 11348, provides basic

Guidance for Implementing Training Restrictions Contained in Public Law 104-208

guidance to agencies for determining training needs of individuals, occupations, programs, and organizations.

"(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;"

We believe the intent of this subsection is to alert officials to carefully review and be sensitive to training content and training methods. Both should be evaluated in context with the purpose of the training. Training should not induce unnecessary psychological stress in participants. Some training programs might, of necessity, have the potential for inducing psychological stress and yet be performance related and in the Government's interest. An example would be training simulating stress present in the employees' work environment.

"(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations;"

For all agency-sponsored training, employees should be notified, in advance, of the purpose of the training, about the content to be expected in the training, and how the content will be taught.

Written end-of-course evaluations should be used to assess participant reaction to the training, vendor and instructor performance, and the effectiveness of any participatory learning techniques.

"(4) contains any methods or content associated with religious or quasi-religious belief systems or 'new age' belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988;"

Agency officials should review Equal Employment Opportunity Commission (EEOC) Notice N-915.022. The Notice is available from EEOC and, in electronic form, in the Training Forum of the OPM Mainstreet (202-606-4800). It provides guidance in handling situations where an employee objects to participating in a training program because its content or the techniques or exercises used conflict with the employee's religious beliefs. In addition, the Notice reminds agency officials of their duty under subsection 701(j) of title VII to accommodate employees' religious needs. We believe it is good practice for agencies to have procedures for handling employees' requests for religious accommodation regarding training.

Guidance for Implementing Training Restrictions Contained in Public Law 104-208

"(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or"

This subsection reminds agency officials that is inappropriate to use Federally-sponsored training to change employees personal values or to influence their lifestyles outside the workplace. This legislation does not effect training in Government ethics and codes of conduct expected of Federal employees. As noted earlier, the primary purpose for training is to improve performance. Non-technical training is appropriate when it addresses:

1. Interpersonal skills that Federal employees need to provide services to, work with, and manage persons both like and unlike themselves;
2. Behavior Federal employees are expected to exhibit, or may encounter, in the workplace; and/or
3. Workplace health and safety issues, security matters, and other subjects that bear directly on individual or organizational performance.

"(6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV positive employees."

In addition to the restriction in section 624, the Ryan White CARE Amendments Act of 1996 (Public Law 104-146, May 20, 1996), prohibits mandatory HIV or AIDS training for Federal employees, except for training necessary to protect the health and safety of the Federal employee and the individuals served by the employee. A Federal employee (including a member of the armed forces) may not be required to attend or participate in an AIDS or HIV training program if the employee refuses to consent.

HIV/AIDS training is permitted to make employees aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV positive employees. Mandatory HIV/AIDS training is permissible when it is necessary to protect the health and safety of the employee and the individuals served by the employee.

Agency officials are advised to avoid HIV/AIDS training that goes beyond these stated purposes.

"(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties."

Guidance for Implementing Training Restrictions Contained in Public Law 104-208

This legislation does not prohibit any type of training that is necessary for Federal workers to effectively complete their legally assigned tasks. In addition, it is not intended to affect any training for displaced workers designed to help them find new employment.

12/10/97

FOR: Don Donaldson

FM: Bruce White

Sec. 624

OVERVIEW

THE DETOUR

**“ bearing directly upon the performance of official
duties”**

Sec. 634

=

**“related to individual or organizational performance
improvement”**

5 CFR 410 et seq.

FIND

“job-related” training

“employee duties”

Page 624

WARNING

PERSONALLY OFFENSIVE

TRAINING

the symptoms

- *emotional or psychological stress*
- *contains religious, quasi-religious, or "new age" beliefs*
- *challenges personal values or lifestyles outside the workplace*
- *unnecessary HIV/AIDS education or training*

Problem

- Language has chilling effect on training methods
- We transfer knowledge to workplace because

Environmental conditions support it

Contextural learning methods are used

Positive reinforcement of learning is used

THE FIX

ADVANCED NOTIFICATION OF

- METHODS

- CONTENT

-EVALUATION PROCESS

However,

*the Office of Personnel Management
says*

*we have to tell all managers and
supervisors*

about Sec. 624.

12/10/97

FOR: Don Donaldson

FM: Bruce White

Attachment 2

Equal Employment Opportunity Commission Notice N-915.022

September 2, 1988

EEOC Notice N-915.022
September 2, 1988

- 1. SUBJECT:** Policy guidance on "new age" training programs which conflict with employees' religious beliefs.
- 2. PURPOSE:** This policy guidance is intended to provide guidance in the handling of cases where an employee objects to participating in a training program because it utilizes techniques or exercises which conflict with the employee's religious beliefs.
- 3. EFFECTIVE DATE:** Upon receipt.
- 4. EXPIRATION DATE:** As an exception to EEOC Order 203.001, Appendix B, Attachment 4, § 3(5), this Notice will remain in effect until rescinded or superseded.
- 5. ORIGINATOR:** Office of Legal Counsel.
- 6. INSTRUCTIONS:** This notice supplements the instructions in § 628 of Volume II of the Compliance Manual, Religious Accommodation, and should be inserted after p. 628-20.

I. Introduction

Employers are increasingly making use of training programs designed to improve employee motivation, cooperation, or productivity through the use of various so-called "new age" techniques. 1/ For example, a large utility company requires its employees to attend seminars based on the teachings of a mystic, George Gurdjieff, which the company claims has helped improve communications among employees. 2/ Another corporation provides its employees with workshops in stress management using so-called "faith healers" who read the "auras" of employees and contact with the body's "fields of energy" to improve the health of its employees. 3/ Specialists in employee training say that "most of the nation's major corporations and numerous government agencies have hired some consultants and purveyors of similar 'personal growth' training programs in recent years." 4/ The programs utilize a wide variety of techniques: meditation, guided visualization, self-hypnosis, therapeutic touch, biofeedback, yoga, walking on fire, and inducing altered states of consciousness. 5/ These programs focus on changing individual employee's attitudes and self-concepts by promoting increased self-esteem, assertiveness, independence, and creativity in order to improve overall productivity. 6/ Some employees have objected to participating in these programs because they view them as promoting values different from their own and as conflicting with their religious beliefs. 7/ Another employee argued that a training program that "focused everything on the self" as the center and source of energy conflicted with his belief that human fate is dependent on the "will of God." 8/

Although the courts and the Commission have not addressed the particular conflicts raised by the "new age" training programs, this issue can be resolved under the traditional Title VII theory of religious accommodation. While there may be some disagreement over whether the training programs themselves are religious, an employee need only demonstrate that participation in the programs in some manner conflicts with his/her personal religious beliefs.

II. The Nature of Religious Belief Under Title VII

The Commission defines religious practices to include moral or ethical beliefs as to what is right or wrong which are sincerely held with the strength of traditional religious views. 10/ This is adopted from the Supreme Court's determination in *Seeger* that religion need only be "(a) sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by ... God [in other religions]." 11/ Even those religious beliefs that others may find "incomprehensible or incorrect" are protected under Title VII. 12/ Therefore, an employer may not judge the veracity or reasonableness of the religious beliefs of an employee. 13/ A religious belief or practice need not be based upon a traditional religion 14/ and does not have to be a belief held as tenet by others of the same religion 15/ Moreover, the Commission has held that protected religious belief also includes the freedom not to believe. 16/ The only limitations on a belief protected under Title VII are that it must be religious as opposed to social, political, or economic in nature 17/ and it must be sincerely held. 18/

That the employer or the sponsor of a "new age" program believes there is no religious basis for, or content to, the training or techniques used is irrelevant to determining the need for accommodation. If an employee believes that some aspect of the training program conflicts with his/her own beliefs, an employer may only inquire as to what the employee's beliefs are and consider the sincerity with which the employee holds those beliefs. The employer may not base its decision to accommodate the employee's religious beliefs on its (the employer's) own evaluation of whether the training or the techniques used actually conflict with the employee's religious beliefs. An employer may not reject an employee's request for accommodation on the basis that the employee's beliefs about the "new age" training seem unreasonable.

III. Employer's duty to accommodate

Under § 701(j) of Title VII an employer must provide reasonable accommodation for an employee's or prospective employee's religious needs unless to do so would create an undue hardship on the conduct of the employer's business. 19/

EEOC Notice M-815-022-Page 3

The need for accommodation most frequently arises where an individual's religious belief, observances, or practices conflict with a specific task or requirement of the employee's job. For example, an employee may object to participating in a training exercise involving self-hypnosis because his religion teaches that a person should always be in control of his/her thoughts in order to make correct moral choices. The employer's duty to accommodate will usually entail making a special exception from or adjustment to the particular training requirement so that the employee is able to comply with the dictates of his/her religious beliefs.

Where an employee notifies an employer that his/her religious beliefs conflict with a particular training technique or method used in a "new age" training program, an employer may accommodate the employee's belief by substituting an alternative technique or method not offensive to the employee's belief or by excusing the employee from that particular part on the training program. The employer may have to excuse the employee from the entire program where the employee contends that the program is based on a concept contrary to his/her beliefs, unless the employer can show undue hardship. 20/ Because an employer may not impose any religious requirements on the terms or conditions of employment, an employer who in any way penalizes an employee who has been excused from participating in a training program because of religious conflicts discriminates on the basis on religion. Moreover, an employer may be required to provide alternative training as part of reasonably accommodating the employee's religious beliefs unless it can show undue hardship. Exempting an employee from a training program without providing alternative training may disadvantage the employee with respect to his/her employment opportunities.

Example: R requires its employees, as part of a training program, to participate in a form of meditation that involves emptying one's mind of all thoughts by repeating a meaningless word. CP objects to participating in this exercise because it conflicts with his religious belief that a person should always keep his mind open to "divine inspiration." R must accommodate CP's religious belief by excusing him from this exercise even though R, the sponsor of the training program, and other employees believe that this form of meditation does not conflict with any religious beliefs.

The employer may also be liable where the training program is explicitly based upon religious beliefs. 21/ Under Title VII an employer is obligated to maintain a working environment free of coercion or intimidation based on religion. 22/ In this situation, an employer discriminates not only against employees and potential employees whose individual religious beliefs conflict with the training program but

also against employees and potential employees who choose not to have religious beliefs.

Example: R requires its employees, as part of a training program, to participate in a form of meditation that involves emptying one's mind of all thoughts by repeating a meaningless word. The employees are taught that this meditation will bring them into contact with the "ultimate reality of the universe" which empowers them to reach the "supreme authentication" of their "True Self" and to become one with "All That That Is." R must accommodate the religious beliefs of its employees by excusing from this exercise, not only those employees who object because this conflicts with their religious beliefs, but also employees who object because they have chosen not to have religious beliefs. In addition, R's policy of requiring employees to attend a religiously oriented program discriminates on its face against all employees and potential employees on the basis of religion.

The issue of "new age" training programs is Non-CDP. Charges involving this issue should be sent to Headquarters until further notice. Contact Coordination and Guidance Services at FTS 634-6423 for instructions.

Approved: Clarence Thomas
Chairman
Date 9/2/88

1/ Gurus Hired to Motivate Workers Are Raising Fears of 'Mind Control.' (hereinafter Gurus) N.Y. Times, April 17, 1987, § A at 18; New Age Harmonies, Time Mag., Dec. 7, 1987 at 62.

2/ Gurus, supra, n.1.

3/ New Age Harmonies, supra, n.1 at 62-63.

4/ Gurus, supra, n.1.

5/ New Age Harmonies, supra, n.1 at 64, 69.

6/ Gurus, supra, n.1.

7/ Id.

8/ Id.

9/ Id.

10/ Guidelines on Discrimination Because of Religion, 29, C.F.R. § 1605.1, "Religious" nature of a practice or belief.

11/ Commission Decision No. 76-104, CCH EEOC Decisions (1983) 6500 (The Commission determined that if religion were construed more narrowly for Title VII purposes than it is in the context of § 6(j) of the Military Training and Service Act, then Title VII's proscription of religious discrimination would conflict with the First Amendment's Establishment Clause), citing United States v. Seeger, 380 U.S. 163, 176 (1965) (the Court defines religion under § 6(j) of the Universal Military Training and Service Act, 50 U.S.C.A. App. § 456(j) (1968); see Compliance Manual § 628.4(b), "Religious" Nature of a Practice or Belief, p. 628-4.

12/ See Commission Decision No. 76-104, CCH EEOC Decisions (1983) 6500, citing Welsh v. United States, 90 S. Ct. 1792, 1796 (1970).

13/ See Callan v. Woods, 663 F.2d 679, 685 (9th Cir. 1981) (held "in applying the free exercise clause of the First Amendment, courts may not inquire into the truth, validity, or reasonableness of a claimant's religious beliefs,"); United States v. Rasheed, 663 F.2d 843, 847 (9th Cir. 1981) (validity of religious beliefs cannot be questioned); (note that since the Commission has adopted the standards enunciated by the Supreme Court in Seeger and Welsh, guidance can also be obtained from lower courts applying the same rule).

14/ Commission Decision No. 81-33, CCH EEOC Decisions (1983) 6828 (CP who sincerely holds a belief with the strength of traditional religious views does not have to prove that others hold or share his belief); 29 CFR § 1605.1.

15/ Thomas v. Review Board of Indiana Employment Security Division, 450 U.S. 707, 715-16, 25 EPD 31,622 (1981) (religious beliefs need not be universally held within religion in order to qualify as religious or in order to be entitled to protection); 29 CFR § 1605.1.

16/ Commission Decision No. 72-1114, CCH EEOC Decisions (1973) 6347 (however, the Title VII protection which is given to those who have chosen not to believe is only applicable to those who choose not to believe in a particular religious practice, belief, or in religion itself); see Young v. Southwestern Savings and Loan Association, 509 F.2d 140, 9 EPD 9995 (5th Cir. 1975) (supervisor told employee that she had a duty to attend staff

meetings at which prayer and devotionals were conducted; held, employer obligated to accommodate employee's religious beliefs which include the freedom not to believe).

17/ See Seeger, 380 U.S. at 173; see also United States v. MacIntosh, 283 U.S. 605, 633-634 (1931); for an example, see Compliance Manual § 628.4(2), p. 628-6.

18/ United States v. Rasheed, 663 F.2d 843, 847 (9th Cir. 1981) (although the validity of religious beliefs cannot be questioned, the sincerity of the person claiming to hold such beliefs can be questioned, citing Seeger, 380 U.S. at 185); see Compliance Manual § 628(b)(2), p. 628-5, for instructions for determining whether a religious practice or belief requires protection.

19/ 42 U.S.C § 2000(e)(1) (1976); 5 CFR § 1605.2(b)(1).

20/ The mere assumption that many more people with the same religious belief as the individual may also need accommodation is not sufficient evidence of undue hardship. See Commission Decision No. 81-83 and 72-0606, at CCH EEOC Decisions 6828 (1983) and 6310 (1973) and Compliance Manual § 628.7(a), pp. 628-23 & 24.

21/ See C.D. No. 72-0528, CCH EEOC Decisions (1973) 6316 (R has continuing policy of conducting, on its premises and during regular work hours, a weekly meeting which includes prayer recitals, hymn singing and sermons from local clergymen; all employees, regardless of individual religious persuasion or moral code, are urged to attend; R's policy on its face discriminates against all employees and potential employees who do not desire to attend such meetings because of their individual religious beliefs or lack of any religious beliefs); State of Minnesota v. Sports and Health Club, 392 N.W.2d 320, 41 EPD 36.617 (1986) (employer permitted only born again Christians to hold management positions, required managers to attend weekly Bible studies, and suggested that other personnel also attend, held employer wrongfully imposed religious beliefs on employees); Young v. Southwestern Savings and Loan Association, supra n. 16.

22/ Commission Decision No. 72-1114, CCH EEOC Decisions (1973) 6347 (R's failure to provide a working environment free of religious intimidation is violative of Section 703(a) of Title VII: CP's supervisor discussed his religious convictions with CP and other employees on the job).

12/10/97

FOR: Don Donaldson

FM: Bruce White

Attachment 1

Section 624 of the Treasury, Postal Service, and General Government Appropriation Act, 1997, as contained in section 101(f) of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208)

Sec. 624.

a. None of the funds made available in this Act, or any other Act, may be obligated or expended for any employee training when it is made known to the Federal official having authority to obligate or expend such funds that such employee training -

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require employee notification of the content and methods to be used in the training and written end of course evaluations;

(4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988;

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or

(6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV positive employees.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

FAX

TS-
C me
about this
M.P.
DCM

To: Daniel Montoya, Office of National AIDS Policy
FAX: 202-632-1096

From: Donald Donaldson, Department of Energy
Telephone: 202-586-1753 / FAX 202-586-4622

Re: Previous letter to you

Date: July 9, 1994

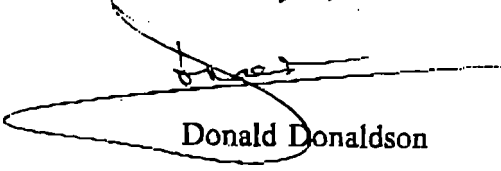
Daniel,

I was wondering if you had a chance to read my letter
and also if you had decided what the "next steps" should be.

If your office has decided not to take an action on this letter,
I would like to know since I have obtained my first
reduction in force notice this week. Our "specific" notices
will be issued in September.

Let me know, even if you just leave a voice mail.

Thank you,


Donald Donaldson

FAX COVER SHEET

June 24, 1997

**To: Daniel Montoya
Executive Office of the President
Office of National AIDS Policy
Washington, DC**

FAX: 202-632-1096

**From: Donald Donaldson
Department of Energy
Office of Environmental Management
1000 Independence Avenue, MS 5B-137
Washington, DC 20585**

Telephone: (202) 586-1753

FAX: (202) 586-4622

Number of pages including cover — 15

Daniel,

As promised, I am sending you a letter outlining issues concerning disability application, requirements and personnel policies. Attached are (1) my letter, (2) a summary of the OPM HIV/AIDS guidelines, (3) a summary of the Reduction in Force regulations and (3) a print out of disability resources listed on the world wide web. The issues are somewhat confusing, and I hope I have clearly expressed them. If not, then at your convenience, give me a call at 202-586-1753. Again, thank you for taking the time to listen.

June 24, 1997

Daniel Montoya
Executive Office of the President
Office of National AIDS Policy
Washington, DC

Dear Mr. Montoya:

Thank you for taking my telephone call on Monday concerning disability requirements of federal employees with HIV. As you requested, I am writing to express my concerns and will try to be as concise as possible. You asked me to provide specific names to you, and I have not had time to research all the contacts, but I have included a few, and will provide others soon.

**Background: Original OPM HIV/AIDS Guidelines and
the AIDS AT WORK education initiative**

When HIV/AIDS first appeared as a serious workplace issue, many agencies were confused about what to do. And, as a result, Tim Dirks, then with the Office of Personnel Management (OPM) and now the Director of Personnel at the Department of Energy (DOE), wrote the guidelines for HIV/AIDS. These guidelines were later reemphasized in the President's education initiative *AIDS AT WORK*. The education initiative was very successful; however, Bob Doman and the Congressional hearings on the initiative proved to be an embarrassment to the White House. This embarrassment was evident when the Office of National AIDS Policy, and the Red Cross declined to testify at the hearings. The *Washington Times* articles highlighting the "wrongdoings" of AIDS educators, the hearings and proposed legislation that followed the hearings effectively ended AIDS education in the agencies. To date, many organizations and agencies believe that AIDS education was halted by Congress and do not offer any HIV/AIDS training, specifically training regarding policy. Patsy Fleming in her new role informed the agencies the initiative was completed. The truth is, the initiative was not completed.

New Hope Raises Old Issues

When I read the strategic plan issued by the Office of National AIDS Policy, I was surprised the contributors did not focus on disability issues. As a person with HIV/AIDS, I am continuously educating myself on disability requirements and the interpretation of those requirements. As a result, I became increasingly aware of the disability issues and the growing confusion among personnelists.

The good news is that multiple combination therapies are keeping employees alive. These employees are decreasing their viral loads and building their immunity systems. There is much hope. On the other hand, these drugs have their own side effects and require a consistent regiment and increased doctor/patient contact. Protease Inhibitors increase the chances of Diabetes, adding another specialist to the list of doctor visits. Hepatitis C is becoming more common, some internists refer Hepatitis C to another specialist. Skin problems are more evident with HIV/AIDS, and a dermatologist is necessary. Employees need more time away from their work to spend with their doctors. They are also become increasingly dependent on their health care coverage and if they are on combination therapies, must be monitored regularly. These facts complicate the lives of those who are forced from their jobs and into searches for new ones.

Reductions in Force (RIF) Regulations vs HIV/AIDS Guidelines

Many agencies are facing downsizing through "reductions in force (RIF). The rules for RIFs are held sacred by the agency personnel managers and are strictly interpreted. Though some personnelists would argue the point, significant RIFs usually simply mean "last hired, first fired." As a personal example, (depending on final House/Senate appropriations) I, and potentially 100-185 employees in my organization of approximately 550, will be losing our jobs in early October. There are also rumors of significant future RIFs at DOE, Agriculture and Defense.

The guidelines for employees with HIV/AIDS are also clear, except they are placed at a lower priority than the RIF regulations. I am faxing you a synopsis of the HIV/AIDS guidelines from *The Federal Employees Almanac*. Hopefully, you have the OPM guidelines. In short, agencies are asked to provide "reasonable accommodation," and that dismissing an employee with HIV/AIDS or a "life-threatening" illness is a last resort. The guidelines list many options other than termination.

Health Impacts

RIFs have a dramatic impact on those of us with HIV/AIDS, as well as other "life-threatening" illnesses. Employees with HIV/AIDS and those undergoing treatment for life-threatening diseases are placed under a great deal of stress by the threat of a RIF and being informed that "they should find other work as soon as possible." Some employees have not had to reveal their diagnosis and a RIF forces them into open discussions with personnelists, labor representatives, and others — this compounds the stress. My organization has been warning employees about a potential RIF for about two years. While my managers knew I had HIV/AIDS, they never understood the real reasons I could not leave for another job. I tried a detail to EPA, but became ill. I became frightened, and returned to DOE knowing that if I had to apply for disability, DOE knew my past history and would expedite my application.

Furthermore, I have not been incapacitated by serious opportunistic infections, but the stress of "proving myself" and explaining all my doctors appointments to a new manager and answering questions about my absences to other employees caused me to be physically ill. From this experience, I knew my health issues would become evident early on in any new job, and these issues would result in the same consequences that the original HIV/AIDS guidelines and the education initiative had tried to prevent.

Yet, there are many other examples. I have educated many employees about viatical settlements. Through these contacts, I have met people with other "life-threatening" illnesses. They are experiencing the same feelings, and have the same questions. (On a related note, employees who are being RIFed should know requirements for the sale of their life insurance, and fully understand the process for continuation of their policies. To my knowledge, viatical settlements are never discussed in RIF classes for agency employees and in some cases the proceeds could provide funds for continued health insurance coverage.)

RIFs are Blind; Terminations Without Disability Approval is Death

My agency has informed me that "RIFs" are blind. Simply put, race, sex, and disability are not considered when formulating reduction in force retention registers. When weighed against the HIV/AIDS OPM guidelines, is this correct?

If so, then what happens to employees who are RIFed, yet are on multiple drug therapies? Anthony Fauci said last night on *News Channel 8 Health Line* "that patients on multiple drug therapies must be monitored consistently to watch for increases in viral load, so that the therapy can be changed." If employees are terminated, yet do not meet disability requirements, are they doomed to a lapse in treatment? Do we know the consequences of stopping successful multiple combination therapies? Do we blindly turn our backs on former employees who cannot find other work, nor timely find the assistance they need to continue their medication?

What is the availability of continued support after termination? Some state welfare agencies are rationing these combination therapy treatments. Availability of the treatments through state and local agencies should not be judged solely using Washington, DC, Virginia and Maryland as examples. If the employee is dismissed because of a RIF, does the federal government have an obligation to continue these treatments? Is there a way to provide continuation of the treatments?

OPM / SSA Disability Application and Requirements -- Very Complicated

HIV/AIDS disability requirements and disability requirements in general are complicated and not clear to affected employees. I have been very diligent in my search for answers. At my own agency, I was informed that I had to apply for disability and receive approval before a RIF. That is incorrect. I have one year from the time I am dismissed to apply for disability, and even after that, if a mental impairment is diagnosed. Later, I found a DOE personnelist with disability application experience who explained disability application, but did not know the disability

requirements. Through my past work with your office, I knew an OPM employee who referred me to "a real person" who could not be specific but explained to me the general conditions necessary to meet the OPM requirements. Considering I had Diabetes, Hepatitic C and AIDS (with a t-cell count of 5), she said that I would "probably" meet the requirements. But I could not get the statement in writing.

Also, most employees who call OPM to discuss disability will reach a recording, referring them back to their own agency for answers. OPM is short staffed because of the "early buyouts" offers; there are just not enough experts to answer all the incoming calls regarding disability issues. Many times the agencies do not have the experts with the answers to all questions, and personnelists may not have experience with all issues.

SSA vs OPM Disability Requirements

From my discussions with the Office of Personnel Management, I believe they are quite fair in their interpretation of disability requirements; however, I know that the Social Security Administration (SSA) is not. I was dismayed to learn that SSA had changed the guidelines for HIV/AIDS disability and had made it increasingly difficult for persons with advanced cases of AIDS to receive benefits. *(I would like to relate a personal caveat here. Too many questions being raised could have a negative impact on the requirements. In a worst case scenario, OPM could be forced into using the same guidelines as SSA and this would only increase the problems for employees with HIV/AIDS and other "life threatening" issues.)*

The HIV/AIDS education initiative informed the employees of one set of standards, and SSA quietly changed these without any update to the agencies. Let me give you a recent example. When I tried to help a friend obtain SSA disability in Baltimore, I took him to HERO, an organization similar to Whitman Walker here. I was informed by one of their experienced case workers (I can provide her name later) that SSA in Baltimore was denying disability requests 97 per cent of the time. My friend had a complete diagnostic statement from his physician. He could not stand upright for more than 2 hours, and for days was confined to his bed. He was informed that "t-cells and fatigue" are not criteria for disability. A complete interview with the agency must be made. SSA interviewed him, and despite his physician's statement and extreme condition, he was denied. HERO says this is "SSA as usual."

What are the HIV disability denial rates for SSA nationally. Is the Maryland percentage rate correct? Are people with HIV/AIDS actually dying while waiting for their applications to be approved?

Conclusion: An Administrative Paradox

In summary, a paradox has evolved. This administration has been very supportive of employees with HIV and has developed many policies (flexiplace, family friendly workplace). Conversely, there are no options for assisting RIFed employees with medical coverage (with the exception of severance pay and COBRA rules.) The fact is many employees will not be able to find work, or

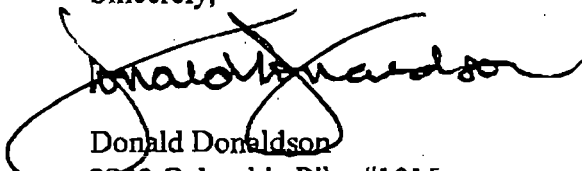
be capable of performing work, and will not be able to continue their health coverage. Thus, they will increasingly rely upon welfare assistance or SSA benefits.

The Office of National AIDS Policy should not have to make these decisions. However, the administration, OPM and HHS do have some responsibilities in reviewing these issues. Clear decisions must be made by the administration to change policy, issue clear guidelines about both SSA and OPM disability applications and requirements, and provide education concerning disability requirements. Also, the administration should define a clear path for those employees who are terminated, and may not have timely assistance to continue their multiple therapies.

I am requesting that your office review and debate these issues. Honestly, I am not trying to make this a personal issue. I thoroughly believe that I meet the disability requirements and if my agency decides to RIF me, I will be provided disability through OPM, but there are no guarantees. Yet for the sake of others, and myself, I would still like to argue the provisions of the HIV/AIDS guidelines which emphasize that a reasonable accomodation should be offered and separation from the agency is a "last resort."

I appreciate your taking time to read this letter. I would be glad to assist in anyway to help you in researching information or providing support.

Sincerely,



Donald Donaldson

2200 Columbia Pike #1015

Arlington, VA 22204

Home: (703) 553-0506

Work: (202) 586-1753

FAX: (202) 586-4622

Training needs may be met through an agency's own facilities, other government facilities such as interagency or shared training, or non-government facilities, whichever is found to be most effective. Agencies are required to open their training programs to employees of other agencies when the sharing of training would result in better training, improved service, or savings to the government.

Acquired Immune Deficiency Syndrome (AIDS) in the Workplace

In May 1995, the Office of Personnel Management issued policy guidelines to assist federal agencies in establishing effective programs and policies in dealing with AIDS and HIV (human immunodeficiency virus). In part, these guidelines were based on other guidelines issued by the Public Health Service's Centers for Disease Control.

Employees with HIV/AIDS must be allowed to continue working as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others in the workplace. If the HIV infection results in medical conditions that impair an employee's ability to perform safely and effectively, the agency should treat the employee the same way it would any other employee suffering from a serious illness.

Employees may not refuse to work with fellow employees or clients who are HIV-infected or diagnosed with AIDS and they may not engage in behavior that creates an uncomfortable or hostile environment for them. Co-workers who engage in this type of conduct may be subject to disciplinary action under the provisions of the Rehabilitation Act of 1973, as amended in 1992 to conform with the Americans with Disabilities Act of 1990. Supervisors are responsible for making sure that HIV/AIDS workplace policies are understood and complied with.

Nevertheless, the concerns of these employees should be taken seriously and should be addressed with appropriate information and counseling. In addition, employees, such as health-care personnel, who may come into direct contact with the body fluids of persons having HIV/AIDS are to be provided with appropriate information and equipment to minimize the risks of such contacts.

Employees who object to attending HIV/

AIDS training based on a personal religious belief or practice may request to be exempted. Title VII of the 1964 Civil Rights Act and Equal Employment Opportunity Commission regulations (29 CFR 1605.2) state that employers have an obligation to accommodate the religious practices of an employee unless the employer can demonstrate that accommodation would result in undue hardship on the conduct of its business.

Employees with HIV/AIDS may request sick leave, annual leave or leave without pay to pursue medical care or to recuperate from the ill effects of their medical condition. The agency should make its determination on whether to grant leave the same way it would for other employees with medical conditions. In addition, employees with HIV/AIDS are entitled to a total of 12 administrative weeks of unpaid leave under the Family and Medical Leave Act of 1993. Under the Federal Employees Leave Sharing Amendments Act of 1993, they may also participate in leave bank programs run by their agency after their own leave has been exhausted.

Employees with HIV/AIDS can continue their coverage under the Federal Employees Health Benefits (FEHB) Program and/or the Federal Employees' Group Life Insurance (FGLI) Program in the same manner as other employees. Although the law requires that employees in leave-without-pay status for 12 continuous months will have their FEHB and FGLI coverage terminated, the employee does have the privilege of converting to private policies without having to undergo a medical examination.

Under the FGLI Living Benefits Act of 1994, federal employees who are diagnosed as terminally ill with a life expectancy of nine months or less may elect to receive all or a portion of their FGLI basic life insurance as a "living benefit." For more information see the Life Insurance section, page 96.

Employees with HIV/AIDS may be eligible for disability retirement if their medical condition warrants and if they have the requisite years of federal service to qualify. OPM makes every effort to expedite applications where the employee's illness is in an advanced stage and is life threatening.

HIV/AIDS-related policies or programs which would affect the working conditions of bargaining unit employees are proper subjects for collective bargaining.

For further information regarding OPM's

HIV/AIDS policy guidelines, contact the Employee Health Services Policy Center, Office of Personnel Management, 1900 E Street, N.W., Room 7412, Washington, D.C., 20415 or phone (202) 606-1269, FAX (202) 606-0967.

Veterans' Preference

General

Under certain circumstances, preferential treatment is granted to those who have served in our armed forces and been honorably discharged. That preference gives veterans (including certain spouses, widows, widowers, and mothers of veterans) a leg up in hiring for government jobs and protects them in reductions-in-force (RIFs). Eligibility for veterans' preference is determined by the time period in which the service was performed and the length of that service. Additional credit is granted to those veterans with service-connected disabilities.

The principle of veterans' preference was written into law over a century ago when, in 1865, Congress gave preference to veterans with service-incurred disabilities. Since then the national policy has been broadened and strengthened by law, executive order and regulation. In 1944, the various statutes, White House directives and civil service regulations were unified into a single law, known as the Veterans' Preference Act.

Hiring

In public civil service examinations, the veteran honorably discharged from service between December 7, 1941 and July 1, 1955, the veteran who has been honorably discharged after more than 180 consecutive days of active duty (other than for training) any part of which occurred after January 31, 1955, and before October 15, 1976, and all honorably discharged veterans who have served in a declared war or received campaign or expeditionary medals get five points added to their earned ratings. In addition, a two year minimum active service condition applies to those qualified veterans who enter military service after September 7, 1980. (Reserve and National Guard members need not have served two years provided they served the full period called or ordered to active duty.) This condition does not apply to disabled veterans.

Persons who retired from the military with the rank of major and higher and its equivalent are not entitled to veterans' preference, except in cases of service-connected disability.

The following persons in addition to their earned rating, the spouse if the veteran is a service-connected disability annuitant, the unmarried widow of a campaign veteran or one who died on or after December 7, 1941, and in some cases the mother of a permanently disabled veteran.

Preference points are added to the passing rating is made.

In jobs where experience is required, a veteran gets full credit for experience counted either as additional service job or as experience depending upon which to the veteran.

Candidates for jobs are ranked in order of their ratings they have earned plus points; except that disabled veterans' ratings may rise to 10 percent or more rise to 10 percent. However, this last does not apply to professional or scientific jobs in government. Among themselves, the veterans' preference is the most compensable degree who is listed in the ratings plus ten points.

Under the rule of three, an agency is permitted to hire any one of the persons on a register; except reasons to the Office of Personnel Management for passing over a veteran.

An agency cannot pass over a veteran for a lower ranking non-competitive position unless a sufficient reason agreed to by the Office of Personnel Management.

Noncompetitive Appointments

Veterans whose active period of 180 days (unless service-connected disability) was not dishonorable. Veterans Readjustment Benefits to grade GS-11 or equivalent.

- Served during the Vietnam War from 1964 to May 7, 1975 or
- First entered service

counseling can be a positive factor in eligibility determinations. However, mental health counseling, where relevant to the adjudication of access to classified information, may justify further inquiry to determine whether other access eligibility standards are satisfied.

Appeals Rights for Denials or Revocations of Clearances: Applicants and employees who are determined to not meet the standards for access to classified information shall be:

- provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable law permit;
- provided within 30 days, upon request and to the extent the documents would be provided if requested under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a), as applicable, any documents, records, and reports upon which a denial or revocation is based;
- informed of their right to be represented by counsel or other representative at their own expense; to request any documents, records, and reports as described above upon which a denial or revocation is based; and to request the entire investigative file, as permitted by the national security and other applicable law, which, if requested, shall be promptly provided to the employee prior to the time set for a written reply;
- provided a reasonable opportunity to reply in writing to, and to request a review of, the determination;
- provided written notice of and reasons for the results of the review, the identity of the deciding authority, and written notice of the right to appeal;
- provided an opportunity to appeal in writing to a high level panel, appointed by the agency head, which shall be comprised of at least three members, two of whom shall be selected from outside the security field. Decisions of the panel shall be in writing, and final except for a personal involvement by the agency head; and
- provided an opportunity to appear personally and to present relevant documents, materials, and information at some point in the process before an adjudicative or other authority, other than the investigating entity, as determined by the agency head. A written summary or recording of such appearance shall be made part of the applicant's or employee's security record, unless such appearance occurs

in the presence of the appeals panel described above.

Determinations of Need for Access: A determination that an employee does not have, or no longer has, a need for access is a discretionary determination and shall be conclusive.

Reinvestigation Requirements: Employees eligible for access to classified information shall be the subject of periodic reinvestigations and may also be reinvestigated if, at any time, there is reason to believe that they may no longer meet the standards for access established in the order.

Employee Education and Assistance: The head of each agency shall establish a program for employees with access to classified information to educate them about individual responsibilities and to inform them about guidance and assistance available concerning issues that may affect their eligibility for access to classified information, including sources of assistance for employees who have questions or concerns about financial matters, mental health, or substance abuse.

Employee Responsibilities: Employees granted access to classified information shall: protect classified information in their custody from unauthorized disclosure; report all contacts with persons, including foreign nationals, who seek in any way to obtain unauthorized access to classified information; report all violations of security regulations to the appropriate security officials; and comply with all other security requirements.

Employees are encouraged and expected to report any information that raises doubts as to whether another employee's continued eligibility for access to classified information is clearly consistent with the national security.

Sanctions: Employees shall be subject to appropriate sanctions if they knowingly and willfully grant eligibility for, or allow access to, classified. Sanctions may include reprimand, suspension without pay, removal, and other actions in accordance with applicable law and agency regulations.

Furloughs

This section deals with (non-pay) furloughs of employees of 30 days or less. Most furloughs would fall in this category. Furloughs for more than 30 days are handled under regular reduction-in-force rules. Furloughs of 30 days or less are covered by adverse action procedures. Regarding 30-day or less furloughs,

agencies have the right to take such action. However, there are rules they must follow.

Employees must be given at least 30 days advance written notice of furloughs of 30 days or less except in the case of "unforeseeable circumstances." Employees are entitled to appeal the action to the Merit Systems Protection Board, or grieve under an applicable negotiated grievance procedure.

The total number of days which any employees may be furloughed under the adverse action procedures may not exceed 30 calendar days (if consecutive) or 22 work days (if days a non-pay status).

Retirement coverage continues without cost to the employees on consecutive furloughs of 30 days or less. On discontinuous furloughs the coverage continues but contributions by the employee are adjusted in proportion to the basic salary received during each pay period.

Life insurance coverage for both consecutive and discontinuous furloughs continues. There is no cost to the employee during consecutive furloughs, but employees on discontinuous furloughs are assessed premiums if the salary during the pay period is sufficient to cover deductions.

Health insurance coverage continues during consecutive furloughs with the employee and agency paying their respective FEHB shares for each pay period in which coverage continues. The employee may either continue paying the premium while on non-pay status or resume making payments after returning to duty and pay status.

Those on discontinuous furloughs would make contributions if the salary in the pay period is sufficient to cover the cost of full deductions.

Regarding use-it-or-lose-it annual leave; such leave can be protected from forfeiture if a request for such leave has been made in writing well in advance of the furlough and for use at some period or periods before the end of the leave year.

Employees may be eligible for unemployment compensation during furloughs, depending on the laws of a particular state.

For More Information

For more information on your rights in a furlough, obtain a copy of *Your Furlough Guide*. For purchasing information, see the publication catalog in the center of this book or call 1-800-989-3363.

Reductions in Force

General

An agency is required to use RIF procedures when an employee is faced with separation or downgrading for a reason such as reorganization, lack of work, shortage of funds, insufficient personnel ceiling, or the exercise of certain reemployment or restoration rights. If an agency is going to RIF employees, an agency must follow specific procedures to determine which employees will be affected by the RIF. Employees compete for retention on the basis of four factors, type of appointment (tenure), veterans' preference, total length of civilian and creditable military service, and performance ratings.

The agency decides whether a RIF is necessary, when it will take place, and what jobs are abolished. However, the abolishment of a position does not always require the use of RIF procedures. The agency may reassign an employee without regard to RIF procedures to a vacant position at the same grade or pay, regardless of where the position is located.

Competitive Area

First, the agency defines the competitive areas which are the geographical and organizational limits within which employees compete for retention. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency within a local commuting area. If a competitive area will be in effect less than 90 days prior to the effective date of a reduction-in-force, it has to be approved by the Office of Personnel Management (OPM) in advance of the RIF.

Next, the agency groups interchangeable positions into competitive levels based upon similarity of grade, series, qualifications, duties, and working conditions. For example, GS-2 typists are listed with GS-2 typists performing similar duties, and GS-9 accountants are listed with other GS-9 accountants performing similar duties. Additionally, supervisors and management officials are placed in competitive levels comprising only these positions.

Retention Registers, Competitive Service

A formula combining the four factors mandated by law (tenure, veterans' preference, length of service, and performance) is used to rank employees. Each competitive level becomes a retention register listing employees in order of their standing.

Tenure: Employees are ranked on a retention register in three groups according to their types of appointment. Group I, career employees who are not serving a probationary period. Group II, career employees who are serving a probationary period and career-conditional employees. Group III, term employees, status quo employees, and employees serving under temporary appointments pending establishment of registers (temporary employees in the competitive service are not competing employees for RIF purposes and are not listed on the retention register).

Veterans Preference: Each of the tenure groups is divided into three subgroups reflecting entitlement to veterans preference. A retired member of the armed forces is considered to be a veteran for RIF purposes *only* if the armed forces retired pay is directly based upon a combat-incurred disability or injury or if the retirement is based upon less than 20 years of active service, or if the employee has been working for the government since November 30, 1964, without a break of service of more than 30 days and retired below the rank of major (or equivalent). Subgroup AD includes eligible veterans with a compensable service-connected disability of 30 percent or more. Subgroup A includes eligible veterans not included in Subgroup AD. Subgroup B includes non-veterans and veterans not eligible for preference.

Length of Service: Employees are ranked by their service dates within each subgroup. Their service dates reflect their total federal service, civilian and creditable military service, and additional service credit for certain performance ratings. Note: The Defense Authorization Act of 1996 now allows credit of nonappropriated fund (NAF) service from January 1, 1966 to the present, if the employee moved, without a break in service, of more than three calendar days, from a NAF position to an appropriated fund (AF) position within the Department of Defense.

Performance: Employees receive additional service credit for performance. The extra credit is based upon the average of their last three annual performance ratings of record received prior to the date the agency issues specific RIF notices.

The extra credits are: 20 years for an "outstanding" rating; 16 years for an "exceeds fully successful" rating; 12 years for a "fully successful" rating.

For example, an employee who received an

outstanding rating and two exceeds fully successful ratings over the last three years, resulting in $20 + 16 + 16 = 52$, dividing by $3 + 17.3$. 17.3 is rounded up to 18 years of service credit which is added to the employee's length of service.

Retention Registers, Excepted Service (Schedule A and B)

Excepted service employees are those who have been designated as Schedule A or B workers. An agency must get OPM approval before designating an employee as Schedule A or B. Schedule A positions are those of a confidential or policy-determining character for which it is not practical to examine, such as appointments by agencies, positions at GS-15, and the entire executive civil service. Schedule B positions are those of a confidential or policy-determining character for which is not practical to hold a competitive examination, such as positions filled by students in cooperative education programs.

Employees are listed on the register according to the same criteria used in the competitive service. The exception is that an employee who completes more than one year of current continuous excepted service under temporary appointments is in tenure group III.

Senior Executive Service RIF Procedures

Before an agency conducts a reduction-in-force that will affect SES members, it must have a plan that explains how its RIF procedures work and how the agency will determine who is affected. Removal of career executives in a RIF must be preceded by a specific written notice and must follow competitive procedures which give primary emphasis to performance. Veterans preference does not apply. An executive may appeal to MSPB whether the RIF complies with competitive procedures. Note: Non-career and limited-term appointees may be removed at the pleasure of the agency head.

SES career members who are affected by a RIF and have completed probation are entitled to placement in any vacant SES position in their agency for which they are qualified. If no such vacancy exists, OPM has 45 days in which to try to place the individual in an SES position in another agency.

If SES placement is not possible, the individual has fallback rights to a GS-15 position, and still retains his or her former SES salary. SES members who meet the age and service requirements may elect discontinued service

retirement in lieu of a GS-15 position. (See Discontinued Service Retirement, page 144.)

Release

Employees are released from a competitive level in the inverse order of their retention standing, beginning with the employee with the lowest standing on the retention register. In other words, all employees in Group III are released before employees in Group II, and all employees in Group II are released before employees in Group I. Within the subgroups, all employees in Subgroup B are released before those in Subgroup A, and all workers in Subgroup A are released before those in Subgroup AD. However, an agency may not release a competing employee from a competitive level while retaining in that level an employee with a specific limited appointment, specifically limited temporary or term promotion, or an employee who has received a written decision which removes or demotes the employee from the competitive level.

RIF Notices

An agency must give each employee at least 60 days specific written notice before he or she is reached for a RIF action. By law, when 50 or more Defense Department employees are facing separation by RIF, at least 120 days specific written notice must be provided. In unforeseeable circumstances, an agency may, with OPM approval, give an employee 30 rather than 60 days specific written notice of a RIF action.

In the RIF notice, the agency must include the employee's competitive area, competitive level, subgroup, service date, and annual performance ratings of record received during the last three years; the place where the employee may inspect the regulations and records; the reasons for proceeding out of order in retaining a lower-standing employee in the same competitive level; the information on reemployment rights; and the employee's right to grieve or appeal the agency's decision.

Rights to Other Positions

Competitive service employees in Groups I and II who have received specific RIF notices and have current performance ratings of at least "minimally successful" are entitled to an offer of assignment, if they have "bumping" or "retreating" rights to an available position in the same competitive area. The position must last at least three months; be one for which the released employee is qualified; have a pay rate

no higher than the employee's present position; have the same type of work schedule; and be within three grades of the employee's present position. Employees in Group III (term employees and status quo employees) have no rights to another job.

Bumping: "Bumping" means displacing an employee in a lower tenure group, or in a lower subgroup within the released employee's own tenure group. Although the released employee must be qualified for the job, it may be a job he or she never held. In addition, it can be no more than three grades (or appropriate grade intervals) below the position from which the employee was released.

Retreating: "Retreating" means displacing an employee with less service within the released employee's own tenure group and subgroup. The position must also be the same position or essentially identical to a position held by the released employee in a federal agency on a permanent basis. An employee with a current annual performance rating of "minimally successful" only has retreat rights to positions held by employees with the same or lower ratings. Also, the position can be no more than three grades (or appropriate grade intervals) below the position from which the employee was released. The exception is for those in subgroup AD (veterans with a compensable service-connected disability of 30 percent or more). Their limit is five grades (or appropriate grade intervals).

Grade Intervals: The grade limits of an employee's assignment rights are determined by the grade progression of the position from which the employee is released. The difference between successive grades in a one-grade occupation is a grade difference, and the difference between successive grades in a multi-grade occupation is a grade-interval difference. For example, an employee released from a GS-11 position that progresses GS-5-7-9-11 has bump and retreat rights to positions at GS-5. An employee released from a GS-9 position that progresses GS-6-7-8-9 has bump and retreat rights to positions at GS-6.

Use of Vacant Positions

An agency is not required to offer vacant positions in a RIF, but may choose to fill all, some, or none of them. When an agency chooses to fill a vacancy with an employee reached for a RIF action, it must follow subgroup retention standing. A RIF offer of assignment to a vacant position can only be in the same competitive

area, and must be within three grades (or grade-intervals) of the employee's present position. At its discretion, the agency may offer employees reassignments or voluntary changes to lower-graded positions in other competitive areas in lieu of RIF.

RIF Appeals and Grievances

An employee who has been separated, downgraded or furloughed for more than 30 days by RIF has the right to appeal in writing to the Merit Systems Protection Board (MSPB), if the employee believes the agency did not properly follow the RIF regulations. The appeal must be filed during the 30-day period beginning the day after the effective date of the RIF action. MSPB's review of agency action is limited to the written record unless MSPB determines that there are facts in dispute. If MSPB rules in favor of the employee, the agency must restore the employee to the job that the employee was separated from or should have been assigned. The agency is usually required to give back pay to the affected employee.

An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude RIF actions must use the negotiated grievance procedure. The employee may not appeal to the MSPB unless the employee alleges the action was based upon discrimination. The time limits for filing a grievance are set forth in the collective bargaining agreement.

Transfer of Function

A transfer of function takes place when a function ceases in one competitive area and moves to other competitive areas which do not perform the function at the time of transfer. The gaining competitive area may be in the same or different agency. An employee who is identified with the transferring function has the right to transfer only if faced with separation or downgrading in the competitive area that is losing the function. The losing competitive area may use adverse action procedures to separate any employee who chooses not to transfer with his or her function. If the transfer of function results in a surplus of employees in the gaining competitive area, all employees who elected to transfer with the function compete under RIF regulations for positions in the gaining organization.

Agency Job Placement Programs

Each agency has a Reemployment Priority List (RPL) program that gives Group I and Group II employees with a performance rating

above "unacceptable" who have received a specific RIF separation notice priority consideration over outside applicants for positions filled by their agency. The position must be within the same commuting area from which the employees were separated and at the same or lower grade than their former positions. Separated employees are eligible for the program as long as they did not refuse a RIF offer of assignment to a position at the same grade before their separation.

Group I employees can remain on the RPL for two years, while the time limit for Group II employees is one year. Excepted employees are also eligible for reemployment consideration. The procedures for them vary from agency to agency.

An employee must fill out an application and apply through the local personnel office within 30 days after being separated by RIF.

Benefits Accruing to Employees Affected by RIFs

Grade Retention: An employee who is placed in a lower graded position in his or her agency as a result of RIF procedures is eligible to retain the same grade for two years. The employee must have completed at least 52 consecutive weeks at a higher grade than that of the position to which he or she was demoted. The employee's retained grade is considered for most purposes (including pay and pay administration, retirement, life insurance, eligibility for training, promotions, and within-grade increases) as the grade of the position the employee holds after downgrading because of RIF. However, in any subsequent RIF the employee competes for retention based on the lower grade. For example, an employee who holds a GS-12 position and is downgraded because of RIF to a GS-9 position is still considered a GS-12 for most purposes, but for a subsequent RIF, would compete as a GS-9.

Pay Retention: An employee eligible for grade retention retains his or her pay for the same two-year period. At the end of the two-year period, the employee's grade is lowered. Should his or her pay at that time exceed the maximum rate of his or her new grade, he or she will retain his or her current rate of pay at that time. The exception being that the retained rate may not exceed 150 percent of the top rate of the grade to which it was reduced. The employee will receive only 50 percent of the annual comparability pay increases. If or when his or her pay is lower than or equal to the maxi-

mum rate of the new grade, it will be placed at the maximum rate and he or she will then receive full comparability pay increases.

Re-Promotion Priority: Agencies can give priority consideration to the re-promotion of employees who have been downgraded involuntarily to positions up to their former grade level.

Severance Pay: Severance pay is available to most individuals who have served at least 12 months continuously separated by RIF, provided that the employee has not declined to accept a position within two grades of his current level in the same commuting area is not eligible for an immediate annuity for either federal or armed forces service, and is not receiving any type of injury compensation benefits.

The benefit is computed at the rate of one week's pay for each year of service prior to separation. After ten years of service, an employee receives two weeks of pay for each additional year. For each year the employee is over age 40, an additional 10 percent of severance pay is received. The maximum is one year's salary which is paid out at regular pay intervals.

Unemployment Compensation: The unemployment insurance program for federal employees is administered by the Department of Labor through state governments. Separated employees should file a claim for benefits at their state employment service office or their unemployment insurance claims office where they also can register for work. Employees must bring their Social Security card, official notice of separation or non-pay status (Standard Form 50), and notice about unemployment insurance (Standard Form 8).

Unused Leave: All civilian employees covered by annual leave laws, upon separation from the federal service, are entitled to receive a lump sum payment for accumulated and accrued annual leave. There is no payment for unused sick leave. However, an employee who is separated from the federal government is entitled to have his or her sick leave re-credited if the individual is reemployed in the federal service. Unused sick leave is added to the total service of an employee who is eligible for annuity benefits under the Civil Service Retirement System (CSRS), but not for those under the Federal Employees Retirement System (FERS).

Health Insurance Benefits in RIFs

Separated Employees: After separation, employees not eligible for an immediate annuity continue to be covered by their Federal

Employees Health Benefits insurance for 31 days at no charge. They can enroll for an additional 18 months so long as they pay both the employee and employer share of the premiums, plus 2 percent for administrative costs. Department of Defense employees can continue their Federal Employee Health Benefits insurance for 18 months on the same terms as if they were still employed following RIF separation.

Retirees: Those employees who are eligible for an immediate annuity may continue their enrollment in the FEHB, if the retiree has been continuously enrolled or covered as a family member for the five years of service immediately preceding the commencing date of annuity payments, or for all service since the first opportunity to enroll. After retirement, the government continues to pay the same contribution that is paid for active employees.

Life Insurance Benefits in RIFs

Separated Employees: Separated employees are covered free by FEGLI for 31 days. An employee who is separated and is not eligible for an immediate annuity may convert all or part of his life insurance to an individual policy without having to take a medical examination. The individual policy may be purchased from any eligible insurance company selected by the employee as a private transaction between the employee and the company. The employee pays the entire premium of the conversion policy. The conversion must be made within 31 days after the effective date of the RIF or within 30 days after receiving the notice from the employing office about the right to convert, whichever is later.

Retirees: Employees who retire on an immediate annuity are eligible to continue their basic life insurance as well as all three types of optional insurance. At retirement, employees can elect a percentage of basic coverage they wish to retain after age 65. Retirees must have been insured for the basic coverage during the entire period the coverage was available or for the last five years of service immediately preceding the starting date of annuity payments.

Retirement Benefits in RIFs

Discontinued Service Retirement: An employee facing a reduction-in-force who meets normal age and service requirements for retirement may choose to retire at any point in the process (See Retirement section, page 144, for eligibility rules). Both the CSRS and FERS systems also provide for immediate retirement

with reduced age and service requirements for involuntarily separated (other than for cause on charges of misconduct or delinquency) employees who have not declined a reasonable job offer.

Once an employee receives official notice that he or she will be involuntarily separated, the individual may then retire, and is not required to wait until the action has been taken. However, if the notice is rescinded prior to the employee's retirement, the right to retire also terminates.

For discontinued service retirement, the employee must be at least age 50 with 20 years of creditable service, or be any age with 25 years of service. Under CSRS, the annuity is reduced by 2 percent for each year the individual is under age 55. There is no age reduction under FERS, but the employee is not eligible for the Annuity Supplement (payable under FERS until age 62 in lieu of Social Security benefits) until attainment of the Minimum Retirement Age (55 to 57, depending upon year of birth).

Early Voluntary Retirement: If OPM, responding to the request of an agency head, determines that an agency is undergoing a major RIF or reorganization that will result in a significant number of employees losing their jobs or having their pay reduced, it may authorize early retirement for employees in designated geographic areas or occupations during a limited period. The eligibility and computation factors are the same as those discussed in the above section regarding Discontinued Service Retirement.

Deferred Annuity: Under both FERS and CSRS, separating employees not meeting the requirements for an immediate annuity but who have at least five years of creditable civilian service are entitled to a deferred annuity. Under both systems, the annuity can commence at age 62. The annuity is computed under the law in effect on the date of the employee's separation.

Under FERS only, if the employee has at least ten years of creditable service, he or she may elect a reduced deferred annuity commencing at any time from Minimum Retirement Age until age 62. The reduction is 5 percent for each year the employee is under 62 when the annuity commences.

Career Transition Assistance

On September 12, 1995, President Clinton directed federal agencies to provide increased assistance to their employees who are affected

by RIF. As a result, executive branch agencies were required to set up Career Transition Assistance Programs (CTAPs) that offer career transition services to all agency employees affected by downsizing, give special selection priority to those who have been identified for separation by RIF, and provide rehiring priority to displaced agency employees through a Reemployment Priority List.

In addition, OPM is changing the way in which displaced federal workers receive priority consideration for employment in other agencies and is suspending the current Interagency Placement Program (IPP) and replacing it with an Interagency Career Transition Assistance Program (ICTAP). Instead of being referred through the passive, centralized IPP, which has proven to be ineffective, displaced employees will now be given the tools and resources to target specific positions in which they are interested, apply directly to agencies for the jobs, and exercise special selection priority for vacancies in other agencies.

The requirement to establish internal agency transition programs will not affect the Department of Defense's Priority Placement Program, which will continue to provide placement assistance to Defense workers impacted by downsizing. However, displaced DoD workers, like employees of other agencies, will be eligible to participate in the ICTAP.

For specific information on the above programs, employees should contact their own personnel office.

Department of Defense RIF Benefits

Relocation Services Program: Relocation services, also known as permanent change of station (PCS) benefits, are provided to defray the costs of transporting employees, their families, and households to new locations. Costs that the government will pick up include: the packing and shipment of up to 18,000 pounds of household goods; certain costs associated with buying and selling a home; a house hunting trip to the new location; expenses and per diem while traveling to the new location; and temporary quarters subsistence expenses. In addition, the Department of Defense has a contract to provide home sale assistance to certain employees. Rules and regulations governing PCS benefits can be found in Chapter 4 of the DoD Joint Travel Regulations, Volume 2.

Homeowners' Assistance Program: In situations where the real estate market is severely affected by full or partial base closures, certain

employees may receive assistance under this program. This program provides financial assistance to eligible military and civilian employee homeowners serving at or near military installations which are being closed, partially closed, realigned or reducing their scope of operations (see page 240). The Department of Army's Corps of Engineers administers the program. There are a number of requirements that must be met before the assistance can be paid. See Section 1013 of the Demonstration Cities and Metropolitan Development Act (P.L. 89-754). A copy of the law should be available from the offices of members of Congress free of charge.

In general, the program works in one of three ways. The government can reimburse you for part of your loss from selling your home, or buy your home by paying off the mortgage, or help you if you default on your mortgage.

For the benefit to be authorized, there has to be an announcement of a base closing or realignment action that affects your community. Second, a determination must be made that real estate values have dropped as a result of the base closing or realignment. Many other local factors may affect the price of the real estate, but these two conditions determine whether a community is eligible for the Homeowners Assistance Program.

An applicant must be a military member (Coast Guard included) or federal civilian or non-appropriated fund employee assigned or employed at or near the installation announced for closure or realignment and be the owner-occupant on the announcement date. Also eligible are: personnel transferred or terminated within six months prior to the announcement who were owner-occupants at the time of transfer; military personnel on an overseas, unaccompanied tour who departed within 15 months prior to the announcement and who are homeowners in the area; and civilian employee homeowners on an overseas tour with reemployment rights in the area affected by the closure. In addition, applicants must be relocating beyond commuting distance from the area.

The basic application is made on DD Form 1607, application for Homeowners Assistance Program. Part III of the form must be completed by a personnel officer. In addition, applicants must submit ENG Form 4161-R and a variety of documents to show evidence of ownership of the property, occupancy dates, assignment orders, efforts to sell the home

(whether it was sold), and mortgage details.

A complete application package can be obtained from either the housing office or the personnel office on a base.

DoD's Priority Placement Program (PPP): PPP assists DoD employees in locating positions within the agency. DoD sends personnel specialists to bases identified for closure to assist employees in their registration in PPP.

PPP uses a computerized system which continually matches the skills of displaced employees with vacant DoD positions. If an employee meets the skills and grade level of a vacant position, that opening must be offered to the employee.

The employee will only receive one valid offer. If that offer is declined, the employee is removed from the program. Moving expenses are paid by DoD to the extent authorized by appropriate travel regulations.

The employee must fill out registration forms which are available through DoD civilian personnel offices. The offices submit the forms to the support center.

Hiring Limitations: During downsizing, activities may choose to limit the number of employees they add to the employment rolls, or to limit movement within the activity. Limitations could include a total freeze on promotions or accessions, or a limited restriction whereby activities replace some of the employees who leave (for example, two employees hired for every five who leave). Limitations may cover the entire department, a component, a subordinate activity or an installation.

Voluntary Early Retirement Authority (VERA): The Office of Personnel Management delegates this authority to agencies to help them reduce staff by allowing employees to retire under reduced age and service requirements (age 50 with 20 years of service, any age with 25 years of service). The retirement annuity is reduced by 2 percent per year for each year the employee is under age 55. This is also referred to as early retirement or early out.

Buyouts: Buyouts are lump sum payments of up to \$25,000 paid by DoD to encourage employees to resign or retire. Buyouts are targeted at employees in specific grades, series, or locations to help avoid reductions in force and minimize involuntary separations. DoD's authority runs through September 30, 1999 (see Buyouts section, page 243).

Generally, activities must offer buyouts to their employees at least 30 days before they is-



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- ☐ [Cornucopia of Disability Information](#)
- ☐ [Creative Learning Stroke Support](#) A "series of multi-sensory oriented programs developed to help both teach and recover language lost to stroke, closed head injury, CVA and traumatic brain injuries."
- ☐ [Crotched Mountain Foundation](#) Foundation for "rehabilitative and educational services on behalf of children, adults and elderly persons."
- ☐ [Did You Know?](#) Facts on dyslexia.

- ☐ [Disability Connection](#) Apple computer tools for people with disabilities.
- ☐ [Disability Connection-Mac Access Passport](#)
- ☐ [The Disability SIG](#)
- ☐ [Disability/Polio Page](#) Disability resources.
- ☐ [Disabled Sports USA](#)
- ☐ [Disabled Students of Stanford](#)
- ☐ [Dyslexia Center](#)
- ☐ [Elwyn's Home Page](#)
- ☐ [Evan Kemp Associates Disability Resources](#)
- ☐ [Family Village - A Global Community of Disability-Related Resources.](#)
- ☐ [Hearing and Hearing Disorders](#)
- ☐ [Helen Keller International](#) International public health information regarding primary eye care and the prevention of nutritional blindness.
- ☐ [Institute on Independent Living](#)
- ☐ [International Wheelchair Aviation](#) Pilots with disabilities.
- ☐ [The Interwork Institute](#)
- ☐ [Listserv and Web Site for CFS](#) Links to Chronic Fatigue Syndrome.
- ☐ [LS&S Group](#)
- ☐ [Mitsubishi Electric America Foundation](#)
- ☐ [National Ability Center](#) Skiing, swimming, horseback riding, and other sports and outdoor activities for the disabled. Located in Park City, Utah.
- ☐ [National Handicapped Sports and Recreation Association](#) Founded in 1967 to serve Vietnam veterans but also serves other disabled people in 56 chapters in 35 cities.
- ☐ [National Institute of Life Planning for Persons With Disabilities](#)
- ☐ [National Spinal Cord Injury Association](#)
- ☐ [Noise and Hearing Loss](#) National Institutes of Health Consensus Development Conference Statement to advance understanding of noise-induced hearing loss.
- ☐ [North Coast Medical Inc.](#)
- ☐ [Organisation for the Integration of the Physically Impaired](#) European information for people with disabilities on how to develop autonomy.
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- ☐ [RJ Cooper's Special Needs Home Page](#) Products for people with special needs, including special software and hardware adaptations for those with very special needs.
- ☐ [Sensory Integration International](#)
- ☐ [Sunrise](#) Facility located in Guelph, Ontario, Canada, that provides therapeutic riding (horseback) for the disabled.
- ☐ [Typing Injury Frequently Asked Questions \(FAQ\)](#)
- ☐ [Uppity DisAbility Internet Resources](#)
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THE WHITE HOUSE

WASHINGTON

April 7, 1994

MEMORANDUM TO ALL AGENCY AND DEPARTMENT HEADS

FROM: Kristine Gebbie, National AIDS Policy Coordinator

RE: Recommended Guidelines for Federal Workplace HIV/AIDS Initiative:
"AIDS at Work"

The Federal government employs approximately three million people; thousands more are employed by associated contractors. As the shadow of HIV/AIDS spreads across this nation, Federal employees, supervisors, relatives and friends are being affected, and more tragically, infected. The need for compassion and education is critical.

We can ill-afford the economic and emotional damage that HIV/AIDS has upon our employees. Last fall, members of the National Commission on AIDS expressed grave concern in their report, *HIV/AIDS: A Challenge for the Workplace*:

"...at too many work sites managers and employees are in states of denial, complacency, or ignorance -- all of which can have adverse consequences for individuals and organizations." (June E. Osborn, M.D. and David E. Rogers, M.D.)

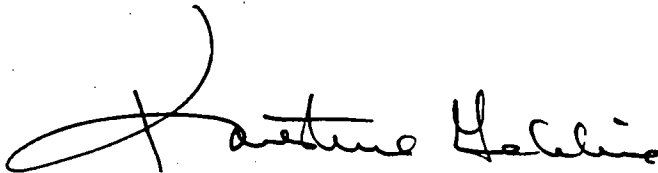
In late September, as a response to the findings of the National Commission on AIDS, President Clinton mandated Federal HIV/AIDS education for all employees, and an agency/department review of related policies and procedures. This initiative was designed to meet two primary objectives: provide employees with quality HIV/AIDS educational programs, thereby reducing future infections, and ensure that employees with HIV/AIDS, or any life-threatening illnesses, are treated fairly.

The President delegated the coordination and implementation responsibilities of the initiative to the Office of National AIDS Policy. As a result, the attached guidelines were written (1) to clarify educational components and objectives and, (2) to define reporting requirements.

To be successful, this initiative will need collaboration at all levels. As an example, some agencies and departments have already designed their HIV/AIDS programs and are coordinating implementation with other agencies to eliminate duplication and expedite distribution of materials at headquarters and in the regions. Sound support from top management will ensure that quality education programs are delivered to every employee. In turn, employees will become knowledgeable resources for their co-workers, their families, friends and communities.

To assist your organization in this initiative, the Centers for Disease Control and Prevention (CDC) National AIDS Clearinghouse is providing additional resource information that can supplement your related HIV/AIDS educational activities. Additionally, the CDC will soon be sending each Department, Agency or Bureau a *Business Responds to AIDS Manager's Kit* in a separate mailing.

At the beginning of this memorandum, I said the nation could not afford this disease. A reporter recently asked one of my staff members, "How much will this cost?" The staff member replied, "How much is a life worth? How do you financially account for the economic and emotional damages of HIV/AIDS on the workplace, its employees, their co-workers, family and friends? How do you total the national and community impact in dollars and cents? To answer you quite simply, we have never been able to afford this disease, much less the extravagance of ignoring it." I agree.



Kristine Gebbie
National AIDS Policy Coordinator

Attachments:

- (1) *Recommended Guidelines for Federal Workplace AIDS Initiative, "AIDS AT WORK,"* Office of National AIDS Policy
- (2) *AIDS-in-the-Workplace Resource Guide,* CDC National AIDS Clearinghouse
- (3) CDC National AIDS Clearinghouse HIV/AIDS Materials
- (4) *Guide to Selected AIDS-Related Electronic Bulletin Boards and Internet Resources,* CDC National AIDS Clearinghouse
- (5) *Mailing Receipt and Address Confirmation Form,* CDC National AIDS Clearinghouse

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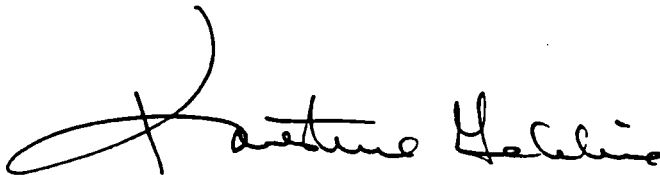
In late September, as a response to the findings of the National Commission on AIDS, President Clinton mandated Federal HIV/AIDS education for all employees, and an agency/department review of related policies and procedures. This initiative was designed to meet two primary objectives: provide employees with quality HIV/AIDS educational programs, thereby reducing future infections, and ensure that employees with HIV/AIDS, or any life-threatening illnesses, are treated fairly.

The President delegated the coordination and implementation responsibilities of the initiative to the Office of National AIDS Policy. As a result, the attached guidelines were written (1) to clarify educational components and objectives and, (2) to define reporting requirements.

To be successful, this initiative will need collaboration at all levels. As an example, some agencies and departments have already designed their HIV/AIDS programs and are coordinating implementation with other agencies to eliminate duplication and expedite distribution of materials at headquarters and in the regions. Sound support from top management will ensure that quality education programs are delivered to every employee. In turn, employees will become knowledgeable resources for their co-workers, their families, friends and communities.

To assist your organization in this initiative, the Centers for Disease Control and Prevention (CDC) National AIDS Clearinghouse is providing additional resource information that can supplement your related HIV/AIDS educational activities. Additionally, the CDC will soon be sending each Department, Agency or Bureau a *Business Responds to AIDS Manager's Kit* in a separate mailing.

At the beginning of this memorandum, I said the nation could not afford this disease. A reporter recently asked one of my staff members, "How much will this cost?" The staff member replied, "How much is a life worth? How do you financially account for the economic and emotional damages of HIV/AIDS on the workplace, its employees, their co-workers, family and friends? How do you total the national and community impact in dollars and cents? To answer you quite simply, we have never been able to afford this disease, much less the extravagance of ignoring it." I agree.



Kristine Gebbie
National AIDS Policy Coordinator

Attachments:

- (1) *Recommended Guidelines for Federal Workplace AIDS Initiative, "AIDS AT WORK,"* Office of National AIDS Policy
- (2) *AIDS-in-the-Workplace Resource Guide,* CDC National AIDS Clearinghouse
- (3) CDC National AIDS Clearinghouse HIV/AIDS Materials
- (4) *Guide to Selected AIDS-Related Electronic Bulletin Boards and Internet Resources,* CDC National AIDS Clearinghouse
- (5) *Mailing Receipt and Address Confirmation Form,* CDC National AIDS Clearinghouse

THE WHITE HOUSE

WASHINGTON

September 30, 1993

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: AIDS at Work

Halting the spread of HIV/AIDS and caring for those already touched by the disease is our common responsibility. Sadly, if you do not know someone with HIV/AIDS, you soon will. Every 17 minutes an American dies of AIDS; one of every five Americans knows someone who has died of AIDS; over one million Americans are already infected with HIV.

HIV/AIDS affects everyone in this Nation. Preventing the spread of HIV/AIDS and its associated human and economic costs is crucial to the success of health care reform. Likewise, enlightened, nondiscriminatory workplace policies are essential to both our efforts at reinventing government and at lowering health costs. This Administration and this Nation must do all within our power to prevent discrimination against those infected with HIV. I am committed to facing the difficult issues raised by HIV/AIDS.

This is an Administration of action and leadership by example. Today's Cabinet meeting discussion of HIV/AIDS is the beginning. All of you are asked to develop and fully implement comprehensive HIV/AIDS workplace policies and employee education and prevention programs by World AIDS Day, 1994, beginning with your Senior Staff.

To begin this process:

- * Each Cabinet Secretary shall designate a member of his/her Senior Staff to implement ongoing HIV/AIDS education and prevention programs and to develop nondiscriminatory workplace policies for employees with HIV/AIDS.
- * These designees, with the Office of the National AIDS Policy Coordinator (ONAPC), shall form a working group to implement this directive.

- * The Office of Personnel Management (OPM) shall review its current HIV/AIDS workplace guidelines and assist in the development of workplace policies in the departments and agencies, as directed by ONAPC. OPM should pay particular attention to ensuring that the administrative burden on the departments and agencies is minimized.
- * The National AIDS Policy Coordinator shall report to me quarterly on the progress of each department and agency, beginning January 1, 1994.
- * The White House Staff and the Staff of the Executive Office of the President (EOP) will participate in HIV/AIDS education and prevention training prior to World AIDS Day, December 1, 1993.

HIV/AIDS is the health crisis of this century; it cannot be allowed to extend into the next. Only through education and prevention can we stop its spread. Only through aggressive and coordinated efforts at medical research can we find a cure. Join me on World AIDS Day, 1993, to remember the hundreds of thousands of American dead and the millions of Americans infected or suffering because of this disease; help me to vividly demonstrate this Administration's commitment to end the HIV/AIDS epidemic.

William D. Clinton

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William Clinton

SEP 20 1995

Memo for Heads of Executive Departments and Agencies
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If you need further information or assistance in this area, please feel free to contact my office at (202) 632-1090 or 632-1096 (FAX).

Thank you, again, for your cooperation and assistance in this important endeavor.

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