

## THE STRUCTURE OF CIVIL SERVICE SYSTEMS

### How to Research a Personnel Issue

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**1. Introduction:** Virtually all civilian personnel issues are based on public law, Federal regulations stemming from those laws, executive orders, and various kinds of agency regulations and guidance. This document is designed to move you from law through regulation to the real information you need to handle your day-to-day projects.

**2. Public Law:** A law passed by the Congress of the United States is referred to as a Public Law. A law usually has a descriptive name as well as an identifying number. For example, Public Law (PL) 95-454, is called the “Civil Service Reform Act.” The number means that this law was the 454<sup>th</sup> law passed by the 95<sup>th</sup> Congress. It was signed by President Carter on Friday the 13<sup>th</sup>, October 1978. It is a good law to look at because it amends many different and dissimilar portions of the overall personnel system, and it created several systems and requirements that we use today (e.g., our current performance management system; the entire labor relations system, which was formerly covered only by executive order; a Merit Pay System that has since been eliminated; grade and pay retention; special hiring tools for disabled veterans; and many more).

**3. Codification of Public Law:** The provisions of public laws are usually codified. That means that the laws are placed in specific codes of law (referred to as Titles) that relate to specific areas of responsibility. Most civilian personnel laws are placed in Title 5 of the United States Code (Government Organization and Employees). The OPM is responsible for the majority of legislation in Title 5. Transportation issues are found in Title 49 of the U.S. Code. The Department of Transportation administers most of these codified laws. The Internal Revenue Code is found in Title 26. Altogether, there are 50 Titles in the U.S. code system. When laws are cited, they may be referred to by their Public Law number or by the codified Title reference. For example, the law on grade retention—which was established in PL 95-454—might be referred to as 5 U.S.C. 5362. This means that you need to get a copy of Title 5 of the U.S. Code and look at section 5362.

#### **4. Federal Regulations:**

**a.** Often, laws will designate specifically that a particular agency may develop regulations to implement the provisions of the laws. Most personnel laws are implemented through regulations developed by the Office of Personnel Management (OPM). But not all. For example, laws dealing with foreign-area allowances and differentials are administered by the Department of State.

**b.** Agencies with responsibility for particular laws use a specific procedure for developing implementing regulations. The OPM staff will review a personnel law, the legislative history, and related materials; they will then develop a “proposed rule.” The proposed rule is published in the Federal Register for comment by agencies, unions,

and individuals. After the comment period, the OPM staff studies the comments and develops the “final rule,” which is also published in the Federal Register. This procedure ensures that the public and affected agencies and employee organizations are involved in the regulatory process. Sometimes a law must be implemented immediately. In this case, the Federal Register will publish an “interim rule and request for comments.” The rule or regulation is immediately in effect, but may be changed if comments are adopted by the OPM or other administering agencies.

c. Final rules are also codified. They are placed in what is called Title 5, Code of Federal Regulations (5 CFR). So the basic legal underpinnings of our personnel system are found in the U.S. Code (law) and the CFR (rules and regulations). When you see 5 U.S.C., you are dealing with personnel law. When you see 5 CFR, you are working with Federal personnel regulations. (**NOTE:** Remember that some personnel laws are found in other titles; e.g., military spouse preference is found in Title 10 {Armed Forces} and is administered by the Department of Defense.)

d. You can access the U.S. Code and the CFR on the internet using the following URLs:

(1) U.S.C.: <http://www4.law.cornell.edu/uscode/>

(2) CFR: <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>

## **5. The Structure of Personnel Law and Regulations:**

a. Title 5 has a particular structure which allows you to move quickly to the subject areas you need. (See **Appendix A** for a complete picture of the structure of 5 U.S.C.) Let’s say you are assisting a manager in dealing with an employee whose performance is below expectations. **Appendix A** shows that elements of the law concerning employee performance are found in Part III, Subpart C, of Title 5 (the 4000 series of section numbers). Section 4302 deals with appraisal systems, and Section 4303 covers personnel actions based on unacceptable performance. Generally, any section of law in the 4000 series will deal with performance matters, including training, appraisals, and incentive awards. The 3000 series will always have something to do with employment (hiring, reduction in force, and similar matters). The 5000s always have something to do with money or pay (position classification, which results in appropriate pay ranges; pay setting rules; premium pay rules; and the like). If you have a question concerning the Federal Employee Retirement System (FERS), go to the 8000s (Subpart G – Insurance and Annuities).

b. The structure of 5 CFR is shown and discussed in **Appendix B**. In our example of assisting a manager with an employee performance problem, you would not stop after reading the 5 U.S.C. material. You would move on to performance-related portions of 5 CFR. Notice the relationship between the numbering system in the U.S.C. and that of the CFR:

## Section Codes for 5 U.S.C. and 5 CFR

<u>5 U.S.C.</u>	<u>5 CFR</u> <u>Subpart A</u>
Chapter 43 – Performance Appraisal	Part 430 – Performance Management
Section 4301 – Definitions	Section 430.101 - Authority
Section 4302 – Establishment of performance appraisal systems	Section 430.102 – Performance Management
	<u>Subpart B</u>
Section 4303 – Actions based on unacceptable performance	Sections 430.201 through 430.210
	<u>Subpart C</u>
Section 4304 – Responsibilities of the OPM	Sections 430.301 through 430.310

**6. Other Forms of Guidance:** Now that you have reviewed the law and the Federal regulations, you need to determine whether or not there are other forms of guidance on the subject. These may include Department of Defense (DoD) regulations, instructions and directives; Army regulations (called ARs, often in the 690 series) and pamphlets; and agency letters, memoranda, and messages that are still active and cover the subject. To continue with our performance problem, your next step is to review DoD guidance on the subject of performance:

**a. DoD Civilian Personnel Manual:** This manual is also known as DoD 1400.25-M, and it contains chapters dealing with virtually all personnel areas. Often, the numbering system is tied to that of the public laws, but not always. In our performance case, you would want to see Chapter 400 of the manual (Employee Development and Performance) and Subchapter 430 (Performance Management), which has 2 appendices. (While you are there, take a look at Chapter 410 {Training}; it may be that training is the key to the employee's performance problem.) To access the DoD manual, use the following URL: <http://www.cpms.osd.mil>. This website provides not only the DoD Civilian Personnel Manual (CPM) but a wide variety of other tools you will find very useful. One is the Virtual Interactive Personnel (VIP) page, which allows you to obtain information on most personnel subjects.

**b. Other DoD Issuances:** Unfortunately, a lot of personnel guidance is spread throughout a number of DoD publications in addition to the manual. DoD Regulations, DoD Instructions, and DoD Directives are all possible sources of guidance on any given personnel subject. For example, DoD Instruction (DoDI) 1400.23 covers the

employment of family members in foreign areas, while DoDI 1404.12 deals with military spouse preference world-wide. An excellent website to use is <http://www.hrsc.osd.mil/regs.htm>. This is called “Gateway to Regulations.” It has links to DoD publications as well as the U.S. Code, the CFR, the Joint Travel Regulations, decisions of the Merit Systems Protection Board (MSPB), Comptroller General decisions, Federal Labor Relations Authority (FLRA) decisions, and more.

**c. Army Regulations and Guidance:** Department of the Army supplements Federal law and regulations through ARs, pamphlets, memoranda, and messages. These can be found in “The Library” on the Army’s Civilian Personnel on Line website: <http://cpol.army.mil>. Go to CPOL, click on Policy and Guidance Library. Review AR 690-400 (Employee Performance and Utilization). Chapter 4302 is the Total Army Performance Evaluation System (TAPES), and Chapter 432 deals with Reductions in Grade and Removal Based on Unacceptable Performance. When you have completed this section, browse through the “Civilian Guidance – Messages and Memorandums” section of The Library to see what performance management guidance may be out there in messages and memoranda which are still active.

**d. PERMISS:** This is the Personnel Management Information System. It is a tool available on CPOL. It is the Army’s version of the DoD Virtual Interactive Personnel (VIP) page. It provides information on most personnel subjects; when appropriate, PERMISS provides sample letters; and at the end of each page there are citations to other forms of guidance, including U.S.C. and CFR citations.

-- **e. Winging It:** Thorough research will eliminate most of avoidable errors. But nothing is perfect. Sometimes the guidance you find is not current. Sometimes there is guidance out there—somewhere—which you have not seen and do not even know exists. Time and experience will help with this problem. Another form of help is to discuss your project with other personnelists. Often they have already covered the same ground and know where the land mines are located. No matter, how experienced anyone is, this kind of sharing is always helpful.

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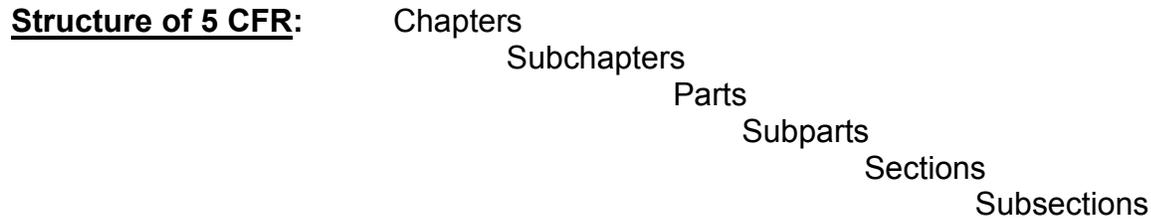
**APPENDIX A – Structure of 5 U.S.C.**

**APPENDIX B – Structure of 5 CFR**

**APPENDIX C – Useful Websites**



## Title 5, Code of Federal Regulations



Mostly, we use Chapter I. The other chapters deal with other agencies such as MSPB, Office of the Special Counsel, OMB, etc.

**Example:**

**Chapter I** – Office of Personnel Management

**Subchapter B** – Civil Service Regulations

**Part 451** – Awards

**Subpart A** – Agency Awards

**Section 451.101** – Authority and Coverage

**Subsections** – (a) through (d)

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**NOTE:** Notice the relationship between the numbering system in 5 U.S.C. and 5 CFR. For example, in 5 U.S.C., Chapter **45** is the Incentive Awards chapter. Chapter 45 has Sections 4501 through 4509. On the regulatory side, 5 CFR has Part **451** on Awards. Part 451 has two Subparts: A and B. The sections under Subpart A have a sequence running from 451.**101** through 451.**107**. The sections under Subpart B have a sequence running from 451.**201** through 451.**203**. If there were a Subpart **C** (and there is *not*), the sections would begin with 451.**301**.

Why is Incentive Awards in the 4000 series, which has to do with Employee Performance? It is because awards are intended to be an **incentive** to continued high-level performance for those who receive an award and an incentive to others to perform up to a level worthy of an award. Thus, the term “Incentive Awards.” The Federal awards program is performance related. (Other 5 U.S.C. Chapters in the 4000 series relating to performance include Chapter 41, Training, and Chapter 43, Performance Appraisal.)

## APPENDIX C

### Useful Websites

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<http://www4.law.cornell.edu/uscode/>

Federal law found in the various titles of the United States Code.

<http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>

Federal Regulations found in the Code of Federal Regulations.

<http://www.hrsc.osd.mil/regs.htm>

Gateway to Regulations: Provides links to DoD regulations, instructions, and directives; United States Code; Code of Federal Regulations; decisions of major agencies such as MSPB, FLRA, Comptroller General, and the like.

<http://www.opm.gov>

Office of Personnel Management website.

<http://www.cpms.osd.mil>

Department of Defense civilian personnel website.

<http://cpol.army.mil>

Department of the Army homepage for civilian personnel management and administration.

<http://www.tsp.gov>

Thrift Savings Plan website.

<http://www.state.gov/www/perdiems/dssr/regs000.html>

Department of State Standardized Regulations (DSSR): Foreign-Area allowances and differentials.

<http://www.state.gov/www/perdiems/920/index.html>

Section 920 of the DSSR which provides current information on such topics as post classification, living quarters amounts, and the like. Essentially information which is continually changing.

<http://www.mspb.gov>

Merit Systems Protection Board website. Provides MSPB decisions, studies, and other useful information.

<http://www.dol.gov>

Department of Labor website.

[http://www.dol.gov/dol/esa/public/owcp\\_org.htm](http://www.dol.gov/dol/esa/public/owcp_org.htm)

Office of Workers Compensation Program.

<http://www.ssa.gov>

Social Security Administration website.

<http://www.lawguru.com>

Legal research website.

<http://www.usapa.army.mil/gils/epubs6.html>

Army regulations.

<http://www.401k.com>

NAF 401k website

<http://www.mwrjobs.army.mil>

MWR (APF and NAF) jobs website. Electronic resumes and nomination procedures for MWR management and higher-level technical positions.

<http://web7.whs.osd.mil/pdf/p14011m.pdf>

DoD Personnel Policy Manual for NAF Instrumentalities.

[http://books.usapa.belvoir.army.mil/cgi-bin/bookmgr/books/r215\\_3/ccontents](http://books.usapa.belvoir.army.mil/cgi-bin/bookmgr/books/r215_3/ccontents)

AR 215-3, the Army NAF civilian personnel regulation.

<http://www.armymwr.com>

U.S. Army Community and Family Support Center website.

<http://www.nafbenefits.com>

NAF benefits website (retirement, insurances, 401k, etc.).

<http://cpol.army.mil/library/NAF/handbook/>

NAF Employee Handbook.

<http://www.army.mil/cfsc/documents/draft.htm>

Draft MWR documents (e.g., AR 215-1 draft).

<http://www.hrproducts.com>

Federal human resources laws, regulations, cases, best practices, etc.