



HR Highlights

Published by the Office of
Human Resources Management
(05)

May 2001

In this Issue:

Message from Ventris Gibson	1
Secretary Principi's Message	2
ER/LR Issues	3
Labor Management Partnerships	4
Shared Service Cen- ter	5
VA Shines in Timely Submissions	6
OHRM Monthly Conference Call	6



Dear Colleagues:

Welcome to May **Highlights!**

This past month has been a busy one with the continuing transition to the new Administration. The Senate Committee on Veterans' Affairs has scheduled a hearing for Wednesday, May 16, 2001, on the following nominations:

- (1) Dr. Leo S. Mackay, Jr., of Texas, Deputy Secretary;
- (2) Robin L. Higgins of Florida, Under Secretary for Memorial Affairs;
- (3) Maureen P. Cragin of Maine, Assistant Secretary for Public and Governmental Affairs;

(4) Dr. Jacob Lozada of Puerto Rico, Assistant Secretary for Human Resources and Administration; and

(5) Gordon H. Mansfield of Virginia, Assistant Secretary for Congressional Affairs. We will keep you posted on the upcoming results of the nominations.

This month's **Highlights** include a very important message from Secretary Principi on information security which requires senior executives to add language to performance plans reflecting the new information security requirement. We've also included a new addition to **Highlights**, i.e., relevant employee and labor relations updates.

We want each month's editions of **Highlights** to be useful to you so feel free to provide feedback.

Together, we continue to proudly serve Veterans.

/s/
Ventris C. Gibson
Deputy Assistant Secretary
for Human Resources Management

Secretary Principi's Message on Information Security



**THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON
April 09, 2001**

MEMORANDUM FOR UNDER SECRETARIES, ASSISTANT SECRETARIES, OTHER KEY OFFICIALS, AND DEPUTY ASSISTANT SECRETARIES

An inherent part of every manager's responsibility is ensuring the security of the information that supports his or her programs. Technological advances in the field of communications have created a wide range of new information security issues. To meet these challenges, program managers at every level of the organization need to understand the risks present in their organizations and be capable of employing effective techniques to mitigate these risks. Given the complexity of today's information environment, they often will need security professionals to educate and advise them in this area.

It is imperative that the leaders in the Department effectively carry out their responsibilities in the information security area as they plan, develop, and implement programs that depend on sensitive information regarding veterans and their families, employees, and the public. In this regard, I am requiring that a performance requirement be added to all Senior Executives' performance plans for the current rating period (October 1, 2000 through September 30, 2001). Senior Executives should be informed of the new requirement immediately and told that they will be evaluated against the new requirement at the end of the current rating period.

The following provides sample language that may be used as a performance requirement for Senior Executives' performance plans:

Information Security - Program managers must exercise due diligence or care in their efforts to plan, develop, coordinate, and implement an effective information security program. Organizations can modify this language to best fit the executive and the organization provided that the intent of this requirement remains intact and accountability is ensured.

For further information on this new requirement, please contact Angel Wolfrey, Executive Resources Service (052B), at 273-4940.

/s/
Anthony J. Principi

Employee and Labor Relations Updates

(The following are recaps of recent articles in the MSPB Alert, published by FPMI Communications, Inc, April 2001, Vol. 11, No. 4)

The EEOC determined that the purpose of a **reasonable accommodation** is to assist the person with a disability to perform the essential functions of the position. 29 CFR 1630.9 requires that the preference of the individual with a disability should be given primary consideration, but the employer has the ultimate discretion to choose between effective accommodations. An employer does not have to excuse misconduct even if it results from an impairment that rises to the level of a disability, if it does not excuse similar misconduct from its other employees. (*McCullough v. Henderson*)

An argument that appellant's position "should have been" upgraded does not suffice as a claim of **constructive demotion** (*Bittner v. NCUA* and *Pritchett v. USPS*) and subsequent cases holding to the contrary were also overruled. Abolishing without ever filling the appellant's allegedly reclassified job does not defeat the claim during the time period the job was classified at the higher level. A classification action becomes effective when a person with properly delegated authority signs the cover sheet of the position description, certifying that the position has been properly classified. In this case, the MSPB held that the appellant's nonfrivolous allegation under these rules entitled him to remand for a hearing. (*Manlogon v. EPA*) The Board overruled the "subsequent to" requirement in *Hogan v. Navy* and used this case to clarify the previously somewhat clouded definition of constructive demotions. (*Hogan v. Navy*)

In *McAfee v. SSA*, the Board remanded the case for further proceedings and found that the VEOA appeal alleging a violation of veterans' preference rights was untimely filed. Note that the VEOA does not modify the definition of "preference eligible" in 5 USC 2108(3). However, the Board further determined that the appellant's claim that the agency discriminated against him because he is a disabled veteran was covered under the USERRA. A USERRA claim should be broadly and liberally construed in determining whether it is nonfrivolous.

5 USC 8339 requires **notice of a retiree's right to elect a former spouse survivor annuity**. If the notice is not provided, OPM cannot deny the annuity as long as there is some evidence that the annuitant wishes his former spouse to receive it. In this case, the court found that in contrast to the situation in *Holder v. OPM*, a confusing notice could have affected the election decision. While the government is not generally subject to estoppel or a waiver of restrictions on eligibility for benefits, where there is a notice requirement, "the information must be correct and not misleading. OPM is also required to provide accurate information in any other earlier document on that subject so that the statutory notice is not "diluted or contradicted." (*Wood v. OPM*)

Other LMR News You Can Use

- ◆ Federal Labor Relations Authority (FLRA) General Counsel Joseph Swerdzweski joined FPMI Communications in the role of Vice President, after 22 years of service at the FLRA. His new role will include developing new programs and products, providing consulting services, and participating in the management of the company.
- ◆ Kay Coles James was nominated for the Office of Personnel Management Directorship.
- ◆ Henry Romero, Associate Director for Workforce Compensation and Performance recently announced his retirement to take a position with the county of San Diego, after 34 years of Federal service.
- ◆ Robert Tobias, former National President of National Treasury Employees Union, was recently elected to replace well-known civil service attorney G. Jerry Shaw as President of the Federal Employees Education and Assistance Fund (FEEA). Mr. Tobias is a founding member of the organization. FEEA provides educational stipends and emergency assistance to federal employees in need.

Labor Management Partnerships

(This excerpt was taken from the most recent OHRM Monthly Conference Call.)

On February 17, 2001, President Bush signed Executive Order 13203, entitled Revocation of Executive Order and Presidential Memorandum Concerning Labor-Management Partnerships. This was followed by a March 1, 2001, OPM Memorandum to Agency Heads, discussing the affect of the Executive Order on labor-management partnerships.

The Office of Labor-Management Relations and the Office of General Counsel are completing an analysis of what VA is required to do as a result of this Order. Until VA has released an official position, we ask that you continue to honor your partnership arrangements to include continuing to bargain in permissive areas.

The Executive Order has dissolved the Federal-wide National Partnership Council. In addition, it directs Agency Heads to rescind any orders, rules, regulations, guidelines, or policies, which were used to implement or enforce the Executive Order, which required the establishment of labor management councils.

The Order however makes it clear that VA's existing collective bargaining agreements remain in full force and effect. Most of our agreements contain partnership articles and commitments for VA to bargain in permissive areas. At the same time, permissive bargaining is conditioned on the premise that EO 12871 remains in effect. Since it has been revoked, VA needs to decide whether it wants to continue this requirement. If it decides not to, then either party can reopen that part of the agreement.

OPM's Memorandum additionally makes it clear that the EO does not prescribe any particular approach to labor-management relations. Agencies have discretion to adopt a labor relations strategy best suited to their own needs.

When the analysis is complete, we will be presenting VA leadership with a set of suggested actions and policy considerations, particularly in the area of permissive bargaining.

**For additional service, call
Ron Cowles, 202-273-5369**

Upcoming Changes to Title 38 Personnel Records and Files

Upon approval, this issuance will establish VHA procedures concerning the establishment, maintenance, and disposition of Title 38 personnel records and files. The Handbook will identify the purpose or required Title 38 personnel records and files as well as the individuals covered by each record or file. The issues also outline procedures concerning safeguarding, accessing, or amending Title 38 records and files. It also contains guidance on documenting and reporting disclosures as required by the Privacy Act (5 USC 552a).

Once these documents are approved, they will be posted on the Office of Human Resources Management and VHA Directives web sites.

**For additional service, contact
Chuck McClellan, 202-273-8262**

HR LINK\$ - VA Shared Service Center

The VA Shared Service Center is the operational component of HR LINK\$ – VA's automated human resources and payroll system specially designed to allow VA employees and managers to make their HR/payroll changes from a desktop computer or by dialing a 1-800 number. Located in Topeka, Kansas, the SSC has more than 240 HR/payroll subject matter experts to assist more than 240,000 VA employees nationwide. The frontline employees – Customer Service Representatives – answer calls and assist customers with initiating various transactions including enrolling health/life insurance, initiating payroll allotment for direct deposit, ordering special forms and brochures, plus updating personal information. CSRs answer approximately 900 calls per day. Classification and staffing experts offer support to VA managers/supervisors in the areas of job classification and the recruitment of employees. Also to assist with classification, the SSC has established a special web site that provides human resources staff with a position description library plus other tools to aid them in classifying positions. In addition to the customer support, employment system technicians code and process all transactions initiated with HRLINK\$ technology. The SSC has been providing manual internal recruitment services for several HRLINK\$ prototype sites since October 1999. As part of HRLINK\$, the SSC has

also provided retirement services for prototype sites. Services include all reviewing and processing retirement applications including voluntary retirement applications, disability applications, early out, and death cases. Retirement annuity estimates are also developed.

The SSC also provides auxiliary payroll advisory support services to VA payroll staff in the field, plus provides a special liaison phone line for HR staff to use when they need assistance. Another service recently assumed by the SSC is managing the Delegated Examining Unit (DEU) in Richmond, Virginia which provides nationwide examining within VA. Since opening in 1998, the SSC staff has answered more than 500,000 calls, and processed over 400,000 transactions from VA employees.

**For additional service, call
Larry Staley, 202-565-8093**

OPM Legislative

OPM has issued a legislative proposal to amend the United States Code in the areas of recruitment and relocation bonuses, retention allowances and academic degree training/credentials. The proposal requests new and expanded authority to allow for the payment of recruitment bonuses to current employees; payment of recruitment/relocation bonuses in installments; payment of retention allowances to employees likely to leave for other Federal employment (proposed by VA in 3/01); reimbursement for the costs of academic degrees, licensure, certification, and other professional credentials and testing expenses; and elimination of the special annuity computation formula for part-time service. The Human Resources Management Programs and Policies Service (formerly the Customer Advisory and Consulting Group) recommended concurrence on the proposed legislation and will monitor its outcome.

**For additional service, call
Ken Quantock, 202-273-9753**

VA Child-Care Tuition Assistance Program

VA now has the largest program in government. The average weekly subsidy is \$20.85. There are 54 applications currently pending. There are 784 VA employees receiving benefits which includes 1,005 children enrolled in the program. Employees enrolled in the program should be reminded to forward their 2000 tax information to FEEA in order to avoid suspension of their benefits.

Disbursements for subsidies during the first 4 months of the program totaled \$178,953.95.

**For additional service, call
Julie Mostellar 202-273-9704**

VA Shines in Timely Submission of Retirements

	VA	Govt-Wide
1 st Qtr	93%	75%
2 nd Qtr	93%	88%
3 rd Qtr	96%	86%
4 th Qtr	91%	84%

Retirements Received Within 30 Days

The Office of Personnel Management's (OPM's) annual Aging of Separations Report shows that VA has a superb record for timely submitting retirements to OPM for processing. OPM's standard is met if at least 80% of individual retirement records and the associated retirement applications are received within 30 days of an employee's retirement. As shown below, VA not only far exceeded OPM's timelines standard for each quarter of 2000, VA was also well above the average for all Agencies combined.

The 1st Quarter in 2001 continues the trend of excellence with VA continuing to exceed OPM's standard by achieving 91% this quarter.

This achievement reflects the commitment that the VA has made to ensuring that there are no obstacles to former employees receiving their lump-sum payments and/or retirement annuities in a timely fashion.



OHRM Monthly Conference Call

Join the OHRM Monthly Conference Call on Wednesday, June 13, 2001 at 3:00 PM (EST). OHRM subject-matter experts will discuss topics of relevance. Mark your calendar and join us for some lively discussion.

For additional service, call Ken Quantock, 202-273-9753

Highlights are published monthly by the Office of Human Resources Management.

For additional service, call Robyn Hanna, 202-273-9749