



Department of Defense

INSTRUCTION

NUMBER 1400.25, Volume 1405
June 26, 2014

USD(P&R)

SUBJECT: DoD Civilian Personnel Management System: Nonappropriated Fund (NAF) Pay, Awards, and Allowances

References: See Enclosure 1

1. PURPOSE

a. Instruction. This instruction is composed of several volumes, each containing its own purpose. The purpose of the overall instruction, in accordance with the authority in DoD Directive (DoDD) 5124.02 (Reference (a)), is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the DoD.

b. Volume. In accordance with the authority in DoDD 1400.25 (Reference (b)), this volume:

(1) Reissues Volume 1405 of DoD Instruction (DoDI) 1400.25 (Reference(c)) to establish and implement policy, assign responsibilities, and provide procedures for NAF employee pay, awards, and allowances.

(2) Provides guidance and requirements for setting and adjusting the pay of NAF executives in the Nonappropriated White-Collar Payband (NF) System, NF-6 payband.

(3) Incorporates and cancels Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum (Reference (d)).

2. APPLICABILITY. This volume applies to:

a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this volume as the "DoD Components").

(1) The Army and Air Force Exchange Service (AAFES) is considered a DoD Component for purposes of this volume if delegated authority to oversee NAF employee pay, awards, and allowances policy by the Secretary of the Army or the Secretary of the Air Force, as applicable.

(2) The United States Marine Corps; the Navy Exchange Service Command; and the Commander, Navy Installations Command, are considered DoD Components for the purposes of this volume if delegated authority to oversee NAF employee pay, awards, and allowances policies by the Secretary of the Navy.

b. All NAF employees and positions within the DoD, including those NAF positions authorized to receive funding from appropriated funds (APF).

3. POLICY. It is DoD policy that:

a. The pay systems described in this volume are the only pay systems authorized for DoD NAF employees.

b. NAF employee pay, awards, and allowances must be administered equitably and in compliance with all applicable laws and regulations and the requirements in this volume.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. RELEASABILITY. **Cleared for public release.** This volume is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE. This volume:

a. Is effective June 26, 2014.

b. Will expire effective June 26, 2024 if it hasn't been reissued or cancelled before this date in accordance with DoDI 5025.01 (Reference (e)).


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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (b) DoD Directive 1400.25, "DoD Civilian Personnel Management System," November 25, 1996
- (c) DoD Instruction 1400.25, Volume 1405, "DoD Civilian Personnel Management System: Nonappropriated Fund (NAF), Pay and Allowances," December 1, 1996, as amended (hereby cancelled)
- (d) Under Secretary of Defense for Personnel and Readiness Memorandum, "Re-delegation of Authority to Approve Compensatory Time Off for Certain Nonappropriated Fund (NAF) Employees," March 30, 2006 (hereby cancelled)
- (e) DoD Instruction 5025.01, "DoD Issuances Program," June 6, 2014
- (f) Title 5, United States Code
- (g) Office of Personnel Management Operating Manual, "Federal Wage System - Nonappropriated Fund," current edition¹
- (h) Title 5, Code of Federal Regulations
- (i) DoD Instruction 5120.39, "DoD Wage Fixing Authority - Appropriated Fund and Nonappropriated Fund Compensation Programs," September 10, 2008
- (j) Title 10, United States Code
- (k) DoD Instruction 6060.2, "Child Development Programs (CDPs)," January 19, 1993, as amended
- (l) Title 29, United States Code
- (m) DoD 7000.14-R, "Department of Defense Financial Management Regulations (FMRs)," Volumes 1-15, date varies by volume
- (n) Section 659 of Title 42, United States Code
- (o) Joint Travel Regulations, Volume 2, "Department of Defense Civilian Personnel," current edition
- (p) Executive Order 11137, "Certain Allowances and Benefits for Civilian Employees of Nonappropriated Fund Instrumentalities of the Armed Forces," January 7, 1964, as amended
- (q) Sections 1911-1919 of Public Law 111-84, "The National Defense Authorization Act for Fiscal Year 2010," October 28, 2009
- (r) Under Secretary of Defense for Personnel and Readiness Memorandum, "Administrative Claims for Sunday Premium Pay as a Result of the Decision in Fathauer v. United States 566 F.3d 1352 (Fed. Cir. 2009)," July 21, 2010
- (s) DoD Instruction 6060.4, "Department of Defense (DoD) Youth Programs (YPs)," August 23, 2004
- (t) DoD Instruction 6060.3, "School-Age Care (SAC) Program," December 19, 1996
- (u) Chapter 43 of Title 38, United States Code

¹ Available through the Internet at <http://www.opm.gov/oca/wage/nafnew/index.asp>

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR READINESS AND FORCE MANAGEMENT (ASD(R&FM)). Under the authority, direction, and control of the USD(P&R), and in accordance with Reference (a), the ASD(R&FM) is responsible for implementing DoD civilian personnel policy, including development of NAF policies governing pay, awards, and allowances.

2. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY (DASD(CPP)). Under the authority, direction, and control of the USD(P&R), and through the ASD(R&FM), the DASD(CPP) monitors and administers NAF civilian personnel policies, including provisions for pay, awards, and allowances, ensuring consistent implementation and continuous application throughout DoD.

3. DIRECTOR, DEPARTMENT OF DEFENSE HUMAN RESOURCES ACTIVITY (DoDHRA). Under the authority, direction, and control of the USD(P&R), the Director, DoDHRA, administratively oversees the Defense Civilian Personnel Advisory Service (DCPAS) and its Wage and Salary Division (WSD).

4. DoD COMPONENT HEADS. The DoD Component heads:
 - a. Delegate pay-setting authority to the lowest practical level.

 - b. Oversee NAF programs, through personnel management evaluations or other means, to ensure equitable and efficient pay administration and the balancing of fiscal constraints with the need to recruit and retain a high-quality workforce.

 - c. Ensure that managers have access to necessary operating instructions, and advise the DASD(CPP) of any need for such instructions to be included in this volume.

 - d. Ensure compliance with the labor relations provisions of chapter 71 of Title 5, United States Code (U.S.C.) (Reference (f)).

 - e. Establish incentive awards programs to the extent feasible, and within resources available, for recognizing NAF employees who contribute to the accomplishment of the employing organization's mission and goals.

ENCLOSURE 3

PROCEDURES

1. PAY SYSTEMS FOR DoD NAF EMPLOYEES. Occupational categories authorized for DoD NAF positions are described in Volume 1407 of this instruction. The only pay systems authorized for DoD NAF employees are:

a. Pay System for White-Collar (Non-Crafts and Trades) NAF Employees. This system covers NAF white-collar employees world-wide, except as otherwise indicated in paragraphs 1c through 1e of this enclosure. The NAF pay system for white-collar employees must be implemented in accordance with Appendix 1 to this enclosure.

b. Crafts and Trades (CT) Federal Wage System (FWS)

(1) Mandatory instructions for implementing the NAF instrumentality (NAFI) FWS for CT employees are contained in Office of Personnel Management (OPM) Operating Manual (Reference (g)), which implements subchapter IV of chapter 53 of Reference (f) and part 532 of Title 5, Code of Federal Regulations (Reference (h)). Appendix 2 to this enclosure provides supplemental instructions.

(2) DoDI 5120.39 (Reference (i)) sets out the authorities and responsibilities of the WSD, under the DCPAS (a component of DoDHRA), for determining pay for NAF employees.

c. Child and Youth (CY) Payband System. This system covers NAF CY program assistants, leaders, and technicians. It implements the provisions of sections 1791-1800 of Title 10, U.S.C. (Reference (j)), which requires that child caregivers at military installations be paid wages competitive with those of other federal employees in the labor pool. It also implements DoDI 6060.2 (Reference (k)) to apply comparable requirements to youth program employees. The CY Payband System must be implemented in accordance with Appendix 3 to this enclosure.

d. Summer and Student Employment of Dependent Youth in Foreign Areas. Youth employed at DoD overseas installations where sections 201-219 of Title 29, U.S.C., commonly known and referred to in this volume as the “Fair Labor Standards Act (FLSA)” (Reference (l)), does not apply will be paid in accordance with the rates issued by WSD.

e. Foreign National Pay. Pay for foreign national NAF employees must be in accordance with Volume 1231 of this instruction.

2. SPECIFIC PAY PROCEDURES

a. Prohibition on Personal Service Contracts. A personal service contract may not be used where an employer and employee relationship results from the performance of work. Such jobs must be graded and paid under the applicable pay system described in this volume. Section

080601 of Volume 13 of DoD 7000.14-R (Reference (m)) lists the common law rules that characterize employment relationships.

b. FLSA. FLSA provisions cover all employees, including off-duty military personnel determined to be nonexempt from FLSA. FLSA nonexempt and exempt determinations must be made in accordance with part 551 of Reference (h).

c. Premium Pay (Overtime, Holiday, Sunday, and Night Pay). Refer to Appendix 4 to this enclosure for NAF premium pay rules.

d. Severance Pay. Refer to Appendix 5 to this enclosure for NAF severance pay rules.

e. Garnishment of Wages. NAF employees are subject to the garnishment rules of section 5520a of Reference (f) and section 659 of Title 42, U.S.C. (Reference (n)). OPM implementing regulations, parts 581 and 582 of Reference (h), apply to Executive Branch employees including NAF employees. The agents designated to accept legal process are listed in Appendix A of part 581 of Reference (h). Appendix A of part 582 of Reference (h) provides listings only for those executive agencies where the designations differ from those found in Appendix A of part 581 of Reference (h).

f. Debt Collection by Offset

(1) NAF employees are subject to section 5514 of Reference (f). Volumes 5, 8, and 13 of Reference (m) identify salary offset rules for debt collection.

(2) NAFIs:

(a) Are required to ensure that procedures are developed to comply with section 5514 of Reference (f).

(b) Must refer to chapter 28 of Volume 5 and chapter 8 of Volume 8 of Reference (m) and use the applicable guidance in developing indebtedness and debt collection procedures.

(3) Volume 13 of Reference (m) also identifies additional implementing instructions covering those NAFIs that receive payroll services from the Defense Finance and Accounting Service.

g. Incentive Awards and Recognition Programs

(1) Recognizing that NAF employees at all levels share responsibility and credit for the efficient and economical operations of the activity in which they are employed, incentive awards programs will be established to the extent feasible, and within the resources available. The DoD Component will issue written criteria and procedures for the purpose of recognizing employees who contribute to the accomplishment of the DoD Component's mission and goals.

(2) Awards and recognition may be granted to employees as individuals or as members of a team. Awards recognize, for example, superior accomplishments, productivity gains, length of service, suggestions, special acts or services, or sustained performance.

(3) For NAF payband employees, a monetary award may be a performance-based pay increase, lump sum cash bonus, or any combination of the two. Performance-based monetary awards for NF-6 employees must be paid in accordance with Appendix 1 to this enclosure.

(4) NAF employees may receive honorary awards, including those established in accordance with Volume 451 of this instruction. Honorary awards may be granted independently or in addition to other awards.

(5) NAF employees may receive time-off awards, commensurate with contributions and accomplishments. Time-off awards will not be transferred between the DoD Components and do not move with an employee to an APF position. The DoD Components may establish policy prohibiting the transfer of time-off awards between NAFIs within the DoD Component.

h. Pay Limitations or Restrictions

(1) Pay Supplementation. No monetary or non-monetary supplementation of wages will be provided to or accepted by any NAF employee except as authorized by applicable laws, Executive orders, this volume, or other DoD issuances.

(2) Dual Compensation. Sections 5531 and 5533 of Reference (f) and part 550, subpart E of Reference (h) pertaining to dual pay and employment apply to NAF employees.

(3) Aggregate Limitation on Pay. Other provisions of this volume limit specific elements of compensation. An employee's aggregate compensation, basic pay plus any allowance, differential, bonus, award, or other cash payment, must not exceed the annual rate payable for Level I of the Executive Schedule as of the end of the calendar year. This aggregate limitation on pay must be in accordance with subpart B of part 530 of Reference (h). Any waiver of the aggregate limitation on pay granted to DoD APF employees applies to NAF in the same manner, as appropriate. Paragraph 3f(2) of Appendix 1 to this enclosure provides rules for the aggregate limitation on NF-6 pay.

(4) Back Pay Act. The provisions of section 5596 of Reference (f) do not extend to NAF employees. DoD Components will not pay interest on administrative claims from NAF employees.

i. Payment of Travel and Transportation Expenses

(1) General. When it is clearly in the interest of the NAFI, expenses for essential travel and transportation of employees and their dependents will be allowed in amounts not to exceed those prescribed in Volume 2 of the Joint Travel Regulations (Reference (o)). Travel and transportation must be paid in accordance with Reference (o), when appropriate, to employees assigned duties associated with area wage surveys. DoD Component heads and the Director and Chief Executive Officer of AAFES have approval authority for all matters covered by

Reference (o) and may authorize specific exceptions in writing only when it is in the best interest of the DoD Component.

(2) Emergency Situations. NAF employees must be treated the same as APF employees in emergency situations such as evacuations. NAF employees are to be paid in accordance with the provisions of Reference (o) and not less than what is authorized. During an authorized or ordered foreign area evacuation, DoD Component heads have discretion to determine whether or not to pay travel and transportation expenses for eligible locally hired NAF employees and their dependents. This discretion must be consistently applied to all eligible locally hired NAF employees within the DoD Component.

j. Separate Maintenance Allowance (SMA) for Permanent Change of Station Transfers

(1) The DoD Components may pay SMA to NAF employees in the NF payband system who transfer nonlocally and who maintain separate households for minor dependent children so that they can finish the school term at the old duty station.

(2) SMA will be paid for no more than one semester, except that it may be paid for a full school year when the dependent is a high school senior. Maintaining a separate household means any living arrangement at the old duty station where the employee is paying a monthly amount for room and board for the dependents.

(3) SMA must be in the same amount as those prescribed by the Department of State for overseas employees receiving SMA for dependents living in the continental United States. Employees stationed in foreign overseas areas may receive SMA for other reasons as prescribed by the Department of State.

k. Recruiting Bonuses, Relocation Bonuses, and Retention Allowances

(1) General

(a) These bonuses and allowances may be paid to NAF employees not to exceed the basic limitations applicable to APF employees in sections 5753 and 5754 of Reference (f) and part 575 of Reference (g).

(b) For the purpose of granting recruitment and relocation bonuses, section 5753 of Reference (f) includes NAF in the definition of employee. Therefore, a NAF employee is not considered newly appointed when moving to an APF position. The same applies to an APF employee moving to a NAF position. Restrictions related to the federal government or non-federal government status of the prospective employer in Reference (h) do not apply.

(c) These bonuses and allowances are used sparingly and only in very selective situations. They will not be considered part of an employee's rate of basic pay for any purpose, including calculation of retirement annuity. Recovery of funds on a pro-rata basis must be sought when employees fail to complete their required period of service.

(d) The amount of a retention allowance should be reduced or terminated when it is determined that a lesser amount or no allowance at all would be sufficient to retain the employee; e.g., labor-market conditions have changed to the extent that recruitment of employees with needed qualifications is possible, the need for the services of the employee has lessened, or budgetary considerations preclude payment. An annual review and recertification of necessity must be made to continue the payment of the retention allowance.

(2) Documentation and Record Keeping. At a minimum, DoD Components must annually record the information in paragraphs (a) through (d):

(a) The number of employees accepting recruiting and relocation bonuses and retention allowances.

(b) The percentage of salary accepted, and the justification for the payment, in each individual case.

(c) Any recertification of necessity, in each individual case, to continue the payment of a retention allowance.

(d) A summary statement assessing the effect the bonus and allowance authority had on the activity's ability to recruit and retain high-quality employees in key positions.

1. Nonforeign Area Allowances and Differentials

(1) A nonforeign allowance may be paid to DoD NAF employees in accordance with the provisions of part II of Executive Order 11137 (Reference (p)). A nonforeign allowance or differential is not granted to employees in bands NF-1 and NF-2 as their rates already are based on the prevailing rate, but may be granted to employees in bands NF-3 through NF-6. Managers should strive for consistency in a geographic area, internally and among DoD Components. Nonforeign allowance procedures covering CY Program employees is provided in paragraph b(2)(b) of Appendix 3 to this enclosure.

(2) In accordance with Reference (p), nonforeign allowances may not exceed those authorized for APF employees in the same locality. Sections 1911-1919 of Public Law 111-84 (also known as the "Nonforeign Area Retirement Equity Assurance Act," Reference (q)) transitioned the nonforeign area cost of living allowance (COLA) to locality pay for APF employees in nonforeign areas. As locality pay increases for APF employees, payable COLA rates will be reduced. Consistent with the requirements in Reference (p), the adjusted COLA rates must be used to establish nonforeign COLA rates paid to eligible NAF employees. DoD NAF employees are not authorized to receive the frozen COLA rates authorized for U.S. Postal Service employees pursuant to part 591 of Reference (h).

m. Foreign Allowances and Differentials. The payment of allowances and differentials to NAF employees in foreign areas will be paid in accordance with Volume 1412 of this instruction.

Appendixes

1. Payband Pay System for White-Collar NAF Employees
2. CT Employees Pay Administration
3. Pay System for NAF CY Program Assistants, Leaders, and Technicians
4. Premium Pay (Overtime, Night, Sunday, or Holiday)
5. Severance Pay

APPENDIX 1 TO ENCLOSURE 3

PAYBAND PAY SYSTEM FOR WHITE-COLLAR NAF EMPLOYEES

1. GENERAL. Basic policy on coverage, purpose, and requirements are located above the signature and Enclosure 3. Procedures for implementing the payband system are in sections 2 and 3 of this appendix. The CY payband procedures are in Appendix 3.

2. PAY SCHEDULES

a. WSD, DCPAS. WSD publishes NAF payband schedules. These schedules establish the minimum and maximum pay rates for each payband in accordance with the procedures in paragraphs (1) through (3):

(1) Minimum and Maximum for Bands NF-1 and 2 and Minimum for Band NF-3

(a) These rates are determined by a WSD survey of wages paid to employees in a representative number of retail, wholesale, recreation, finance, and insurance establishments in the immediate locality who are engaged in activities similar to those in NAFIs.

(b) WSD issues separate pay schedules for each geographic area surveyed. The effective dates of schedules vary depending on the survey dates. To aid pay-setting decisions, a WSD-developed pay report is attached to each schedule. It contains the average hourly rate of pay and the range of pay from high to low for certain surveyed jobs.

(c) Wage surveys are not performed for overseas areas, therefore pay reports are not developed for those areas. WSD applies an across the board increase equivalent to the Employment Cost Index (ECI) percentage increase for General Schedule (GS) employees for overseas pay band schedules.

(2) Maximum for Band NF-3 and Minimum and Maximum for Bands NF-4 through NF-5

(a) Minimum rates in effect on August 4, 1995, the date of implementation of the NAF payband system, serve as the basis for adjustments to minimum rates.

(b) The minimum rates for NF-4 through NF-5 will be adjusted by a percentage equal to any national ECI percentage increase for GS employees, rounded down to the nearest \$500.

(c) The maximum rate for NF-5 will be adjusted to equate to the highest GS-15, step 10, locality pay rate.

(d) The maximum rates for NF-3 and NF-4 will be adjusted to equate to 40 and 63 percent, respectively, of the NF-5 maximum rate, rounded up to the nearest \$500.

(3) Minimum and Maximum for Band NF-6

(a) In accordance with section 1587a of Reference (j), NF-6 executives who are not under the certified NAF senior executive performance appraisal system in Volume 1404 of this instruction, must be paid at the rates of pay established in subsections (a) and (b) of section 5382 of Reference (f). Accordingly, NF-6 executives will have their basic pay set within a pay band of 120 percent of a GS-15 step 1 to Executive Level III.

(b) Notwithstanding paragraph 2(3)(a) of this appendix, maximum pay will be set at up to Executive Level II for NF-6 executives under the certified NAF senior executive performance appraisal system in Volume 1404 of this instruction.

b. Amendments to Pay Schedule Policy. The DoD NAF Personnel Policy Committee will review pay schedule policy periodically and propose any amendments to the DASD(CPP) who, in turn, will formally coordinate proposals with the DoD Components.

3. PAY SETTING

a. General

(1) Except for the special pay-setting situations in paragraph 3b of this appendix, management may determine where within the minimum and maximum rates of the proper band to set an employee's annual rate of basic pay.

(2) In setting an employee's rate of basic pay, consideration should be given, but not necessarily limited to, such factors as assigned duties and responsibilities; performance (performance management program policy is discussed in Volume 1404 of this instruction); budget; competitiveness with federal and private sector pay; current rates of pay for similar positions; and the amount and timing of previous pay increases, cash awards, bonuses, and allowances.

(3) The term "basic pay" as used in this appendix means the annual rate of pay for the employee, including any portion that may be attributed to comparability with private sector pay in a locality, before any deductions and exclusive of additional pay of any kind. Basic pay may not exceed the maximum rate for the employee's payband. The hourly rate of basic pay is determined by dividing the annual rate by 2087. The representative rate for a payband position, used for determining whether a personnel action is a promotion, reassignment, or change to lower grade when moving to or from a CT position, is the rate of basic pay paid to an employee.

b. Special Pay-Setting Situations

(1) FLSA Minimum Wage. The minimum rate paid may not be less than the current federal minimum wage. A tip offset may be authorized for payband employees engaged in coat and hat check work if they customarily and regularly receive tips. The policies and procedures established for waiters by OPM pursuant to section 532.283 of Reference (h) are administratively extended to those employees provided that local laws provide such tip offset.

(2) Transfer of Function

(a) When a function is transferred from one NAFI to another within or between DoD Components, pay for employees who move with their positions will be set at a rate within the band that is not less than the employee's rate of basic pay immediately before the move.

(b) As an exception to this provision, where a portion of the pay is clearly defined as a locality adjustment, the locality pay adjustment need not be continued when the employee moves to an area with a lower locality pay adjustment. Future rates of pay will be in accordance with the receiving NAFI's policies and compensation programs consistent with the requirements of this volume.

(3) Promotion. See paragraph 3c of this appendix.

(4) Involuntary Moves to NAF Under the DoD Employee Benefit Portability Program

(a) When a GS employee is involuntarily moved to a NAF payband position, the employee's basic rate of pay will be set at a rate within the payband to which assigned that is not less than the employee's GS scheduled annual rate of pay as defined in subpart 531.602 of Reference (h), plus the corresponding GS locality differential. Future rates of pay will be in accordance with the receiving NAFI's policies and compensation programs consistent with the requirements of this volume.

(b) If the employee's last GS scheduled annual rate of pay plus the GS locality differential is above the maximum rate of the payband level to which involuntarily moved, pay retention is required.

c. Pay Increase. An employee may be granted a pay increase within a band with or without a position change. A promotion occurs, except for temporary details, when an employee is moved to a higher band. It may also occur where the DoD Component has established tiers or sub-bands and the employee is moved to a higher level. A promotion requires a minimum pay increase of 5 percent, or an increase to the minimum rate of the higher band, whichever is greater.

d. Pay Decrease

(1) An employee's pay may be decreased within the band for these reasons:

- (a) Change in duty station to a locality pay area with a lower locality rate of pay;
- (b) Business-based action, performance-based action, or disciplinary action;
- (c) Classification error; or
- (d) Employee-requested job reassignment.

(2) A detail is not a basis for a pay decrease. When an employee is moved to a lower band involuntarily, it is a demotion.

e. Annual Across-the-Board Adjustment for Employees in Bands NF-1 through NF-5. These adjustments are not required, but may be granted not to exceed the limits in paragraphs 3e(1) through 3e(4) of this appendix. When the minimum rate for the band is raised in accordance with section 2 of this appendix, employees at the bottom of the band who are rated at least satisfactory or equivalent must be given a pay increase to keep their rate of pay within the pay range for the band.

(1) Employees in Bands NF-1 and NF-2. The adjustment must not exceed the average percentage adjustment stated on the pay report attached to the current pay schedule. It will not be granted if both the ECI adjustment and the locality adjustment are canceled for APF GS employees.

(2) Employees in Bands NF-3 through NF-5. The adjustment must not exceed the adjustment granted to corresponding APF GS employees.

(3) Employees at or Near the Top of a Band. The employee's basic pay may not exceed the maximum rate for the employee's band.

(4) Employees in a Less than Satisfactory or Equivalent Status. Such employees are ineligible for pay increase. This means that in some cases their pay may fall below the minimum rate of the band.

f. Pay Setting and Pay Adjustments for Employees in the NF-6 Payband

(1) General. Pay for NF-6 executives must be based on individual and organizational performance results, the complexity and scope of the work, the breadth of responsibility of the position, and the executive's experience, pay history, and qualifications.

(a) NF-6 pay adjustments must be linked to performance. Volume 1404 of this instruction contains the DoD NAF senior executive performance appraisal system applicable to NF-6 executives.

(b) NF-6 basic pay is exclusive of bonuses, differentials, and allowances.

(c) Basic pay increases will not be granted to NF-6 executives at the top of the payband. However, an executive may receive a performance bonus that does not exceed the aggregate limitation on NF-6 pay, described in paragraph 3f(2) of this appendix.

(d) The DoD Component's highest rates of executive basic pay or pay adjustments must go to those executives who demonstrate the highest level of performance and who make the greatest contributions to that Component's performance.

(2) Aggregate Limitation on NF-6 Pay. Total compensation paid to an NF-6 executive during a calendar year, including allowances, differentials, bonuses, awards, or similar cash

payments, may not exceed Executive Level I under a performance appraisal system that is not certified by the USD(P&R). Total compensation paid to an NF-6 executive under the certified NAF senior executive performance appraisal system in Volume 1404 of this instruction may not exceed the salary of the Vice President of the United States.

(3) Pay Adjustments for NF-6 Executives. An authorizing official, as defined in Volume 1404 of this instruction, may approve an increase in basic pay if warranted by the NF-6 executive's individual performance or contributions to DoD Component performance. An increase may not be approved more than once in any 12-month period, except when the authorizing official determines and documents in writing that the additional increase is needed for one or more of these reasons:

(a) To recognize an exceptionally meritorious accomplishment that contributes significantly to DoD or DoD Component performance.

(b) To compensate the senior executive for reassignment to a position with substantially greater scope and responsibility.

(c) To retain a senior executive who is critical to the mission of the DoD Component and who would likely leave that Component in the absence of a pay increase.

(d) To align a senior executive with the DoD Component's senior executive appraisal and pay adjustment cycle.

(e) To approve an increase in basic pay to maintain the senior executive's relative position in the NF-6 pay band following an increase in the NF-6 minimum or maximum rates of pay.

(4) Setting or Increasing Basic Pay Above Executive Level III Under the Certified Appraisal System

(a) Rates of basic pay higher than Executive Level III, but less than or equal to Executive Level II, under the certified NAF senior executive performance appraisal system in Volume 1404 of this instruction, may be authorized by the authorizing official where warranted. Considerations will include the position's responsibilities, the scope of the work level, the breadth of responsibility and impact on the DoD or DoD Component mission, and the executive's experience and accomplishments.

(b) Rates higher than Executive Level III should be reserved for:

1. Executives who have demonstrated the highest levels of individual performance or made the greatest contributions to DoD Component performance.

2. Newly appointed executives who possess superior leadership or other competencies, consistent with the DoD Component's strategic human capital plan.

(5) Performance Bonuses

(a) A performance bonus is a lump-sum monetary bonus paid in recognition of an executive's performance during the appraisal period. A performance bonus is not part of the executive's basic pay.

(b) Performance bonuses are tools to recognize, motivate, and reward significant individual achievements or contributions and will be an integral part of NF-6 executive performance management.

(c) Executives must have a performance rating of Achieved Expectations (based on a performance score of at least 70), or the equivalent, and must have achieved expectations for all performance elements to be eligible for a bonus.

(d) A performance bonus must not exceed 20 percent of basic pay. Normally, bonuses will not exceed 10 percent of the employee's annual rate of basic pay. Exceptional performance results by the executive, including consideration of contributions to the organization's performance, may justify a bonus of up to 20 percent of basic pay.

(6) Prorated Payout. A prorated payout (increase to basic pay, performance bonus, or combination) may be recommended by the rating official or performance review board for executives who have less than a full year of contributing to organizational goals. The final determination to prorate the payout will be made by the authorizing official.

(7) Incentive Awards

(a) Receiving a performance bonus does not preclude an NF-6 executive from receiving other awards, provided that the employee is not monetarily awarded twice for the same accomplishment.

(b) Consistent with DoD Component awards authorities, awards may be granted to NF-6 executives either as individuals or as members of a team. An award may be based on a suggestion, invention, superior accomplishment, productivity gain, or other personal effort that contributes to the efficiency or economy of or other improvement to DoD or DoD Component operations, or that achieves a significant reduction in paperwork. The award may be monetary, non-monetary, informal recognition, honorary, or a combination.

APPENDIX 2 TO ENCLOSURE 3

CT EMPLOYEES PAY ADMINISTRATION

1. GENERAL. This appendix supplements and complements governing pay policies and procedures prescribed by subchapter S8 of Reference (g). Section and paragraph titles within this appendix are followed by parenthetical references to the applicable parts of Reference (g).

2. SECTIONS OF OPM OPERATING MANUAL, "FEDERAL WAGE SYSTEM, NAF," SUBCHAPTER S8 CLARIFIED

a. General (S8-1)

(1) Introduction (S8-1.a.). For purposes of subchapter S8 and this appendix, the term "lead agency" means the Department of Defense. The DoD wage fixing authority is exercised by WSD.

(2) Agency Responsibility (S8-1.b.). As used in this appendix, the term "agency" includes the DoD Components. Unless authority is delegated to subordinate levels, Component headquarters are responsible for:

(a) Defining the period of 7 consecutive calendar days that make up each employee's administrative workweek.

(b) Determining each employee's basic workweek. (See definitions of these terms under section S8-2 of subchapter S8 of Reference (g).)

b. Scheduled Rate of Pay (S8-2.(2)). Any rate corresponding to the appropriate grade and step on the CT nonsupervisory (NA), leader (NL), or supervisory (NS) wage schedules issued by WSD, including a retained rate of pay and a rate on a temporary promotion when applicable.

c. Application of Pay Rates to NAF Wage Employees (S8-3)

(1) New Appointments (S8-3.b.)

(a) Appointments Above Minimum Rates in Recognition of Special Qualifications (S8-3.b.(1)). DoD NAFIs may exercise the authority contained in S8-3.b.(1), subchapter S8 of Reference (g).

(b) Appointments Above Minimum Rates for Jobs in Specific Hard-to-Fill Occupations (S8-3.b.(2)). The term "Federal Wage Schedule" includes the NA, NL, and NS wage schedules. A particular finding that a local NAF activity cannot recruit at the minimum rate may be based on a DoD study, a DoD Component, or any local installation that has NAF employees.

(2) Position or Appointment Change (S8-3.c.). DoD NAFIs may exercise the authority provided under this paragraph to set an employee’s step rate based on his or her highest previous rate, but only in connection with those personnel actions identified within the paragraph. (See paragraph 2c(3) of this appendix for an illustration of the computation and application of the highest previous rate rule.)

(3) Computation of Highest Previous Rate (S8-3.e.)

(a) Illustration of Computation. Table 1 illustrates subparagraph S8-3.e.(5) of Reference (g). (Although this example uses NA grades, the same principle applies to NL and NS.)

(b) Description of Steps to be Followed

1. Compare the NA-8, step 1 rate (\$10.97) in Washington, DC, with the employee’s previous earned rate (\$11.17). In this instance, the previous earned rate is higher; therefore, this rate is the employee’s highest previous rate. Thus, in this example, the employing DoD NAFI may pay this employee at any rate of grade NA-7 (the grade at which reemployed) that does not exceed the fourth step rate. (Since the employee’s highest previous rate (\$11.17) falls between two steps of grade NA-7 (steps 3 and 4), the employee must be paid at step 4.)

2. In no case will an employee be paid more than the top step of the grade in which reemployed, regardless of the employee’s highest previous rate. A NAF employee is not entitled to receive his or her highest previous rate of pay upon reemployment.

3. The designated official with delegated authority has the administrative discretion to fix the employee’s rate at the minimum step rate of the grade, or at any step rate in between. However, a DoD Component may adopt a policy of always using the highest previous rate or placing an employee at the first step rate of the grade upon reemployment.

Table 1. Highest Previous Rate Computation

EXAMPLE. An employee in New York earning NA-8 step 1 was reemployed in Washington, DC, at the NA-7 grade level. Pertinent wage schedule rates are:						
LOCATION	GRADE	STEP RATES				
		1	2	3	4	5
New York	NA-8	\$11.17*	\$11.66	\$12.13	\$12.61	\$13.07
Washington, DC**	NA-8	\$10.97	\$11.42	\$11.88	\$12.34	\$12.79
Washington, DC**	NA-7	\$10.28	\$10.73	\$11.14	\$11.58	\$12.01
* Previously earned rate.						
** Current rates in the wage area where the employee is being employed.						

d. Night Shift Differential and Premium Pay (S8-4.)

(1) General (S8-4.a.). The term “premium pay,” as used in this subsection, refers to additional compensation for overtime, holiday, and Sunday work, as well as for standby or on-call duty and callback overtime work. For purposes of all premium pay computations in accordance with section S8-4 of Reference (g), where there is a reference to payline rate or representative rate, the employee’s actual grade and step are to be used.

(2) Overtime Pay (S8-4.b.). Entitlement to overtime pay is authorized as described in section S8-4 of Reference (g) and section 532.503 of Reference (i). However, consideration must also be given to the overtime provisions in accordance with the FLSA in part 551 of Reference (h). (Employees covered by FLSA are referred to as nonexempt. Such employees are entitled to overtime pay in accordance with part 551 of Reference (h)). Subchapter S8 of Reference (g) speaks only to the overtime provisions of Reference (f). Therefore, the examples in subschapter S8 regarding overtime illustrate overtime pay entitlements solely in accordance with the provisions of Reference (f) and do not apply to any FLSA overtime entitlements. FLSA nonexempt employees must be paid in accordance with the FLSA regulations in part 551 of Reference (h). In cases where the provisions of Reference (h) appear in conflict with the provisions of Reference (g), the provisions of Reference (h) take precedence.

(a) Computing Overtime Pay for NAF Employees Paid on Other than a Time Rate Basis (S8.4.b.(7)). For employees paid from a NAF regular wage schedule or agency multistep special schedule, computation of overtime payments is based on the employee’s grade and step if he or she is on a multistep rate schedule before any reduction in consideration of tips. The amount of the tip offset (no more than 50 percent of the current FLSA minimum hourly rate, or State or local rate, whichever is higher) may then be deducted from the overtime rate, but only where the offset has been authorized for use at the appropriate DoD Component level and is not precluded when State or local laws are considered as required by section 18(a) of Reference (l).

(b) Computation of Overtime Worked (S8-4.b.(8)), Leave with Pay. Table 2 illustrates the computation of overtime hours when an employee is in a leave-with-pay status. This provision applies only to Regular full-time and Regular part-time employees as defined in this volume.

Table 2. Overtime Pay Computation with Paid Leave

An employee has a regularly scheduled workweek of 40 hours, Monday through Friday, 8 a.m. to 4:30 p.m. The employee takes annual leave from 8 a.m. to 4:30 p.m. on Tuesday. The employee performed 4 hours of overtime work outside the employee’s basic workweek on Saturday. Overtime hours are computed as follows:								
	Compensable Hours							
	S	M	T	W	T	F	S	Total
Hours of work		8		8	8	8		32
Approved annual leave			8					8
Overtime hours worked							4	4

(3) Night Shift Differential (S8-4.c.). The term “majority of hours,” as used in subsection S8-4.c. of Reference (g), means majority of **whole** hours. (Hours are considered to be periods of 60 minutes.) Accordingly, there must be a minimum of 5 whole hours of a scheduled 8-hour shift that fall during the period covered by a night shift differential for an employee to qualify for such payment for the entire shift.

(a) Part-Time and Intermittent Employees (S8-4.c.(5)). These categories of employees are entitled to night shift differentials when the majority of their whole hours are worked during a period in which a night shift differential is payable. The term **intermittent** includes employees employed in a Flexible employment category.

1. Example I. An employee is regularly scheduled to work a period from 2 p.m. to 8 p.m. Since the majority of whole hours were worked during a period for which the night shift differential of 7.5 percent is payable, the employee is entitled to that differential for the entire shift.

2. Example II. An employee is regularly scheduled to work from 1 p.m. to 5:30 p.m. Because the employee performed 2 hours of work before the night shift period and only 2.5 hours within the night shift period, the employee is not entitled to the shift differential. (To qualify for the differential, the employee must perform 3 whole hours of work during the applicable night shift period.)

(b) Split Shifts (S8-4.c.(6)). The following examples illustrate night shift differential entitlements under the “majority of whole hours” concept when an employee’s tour of duty overlaps more than one established shift, or includes a break of more than 1 hour within a scheduled basic workday.

1. Example I. An employee works an 8-hour shift from 8 p.m. to 4 a.m. with a 20-minute paid meal period. The employee works 3 hours in the second shift (7.5 percent differential) and 5 hours in the third shift (10 percent differential) and will be paid a 10 percent differential for all 8 hours because a majority of whole hours falls within a period for which the 10 percent night shift differential is payable.

2. Example II. An employee who works 4 hours during the second shift (7.5 percent differential) and 4 hours in the third shift (10 percent differential) will be paid a 7.5 percent differential for the entire shift since a majority of hours is not worked during the third shift. The 7.5 percent differential is paid because a majority of hours is worked during a period in which a night shift differential is payable.

3. Example III. An employee scheduled to work 3 hours during the third shift, 3 hours during the first shift, and 2 hours during the second shift (i.e., 5 a.m. to 11 a.m. and 3 p.m. to 5 p.m.) is entitled to a 7.5 percent night shift differential for all 8 hours because a majority of the regularly scheduled hours of work fall within a period during which a night shift differential is payable. The 10 percent differential is not paid because a majority of the regularly scheduled 8-hour shift does not fall within the period of 11 p.m. to 8 a.m.

4. Example IV. An employee performs work from 10 a.m. to 12 noon, and from 4 p.m. and 8 p.m. on the same day. Hours worked each day total 6, with the employee performing 4 hours of work during the established night-shift period. This employee is entitled to the 7.5 percent night differential for all hours of work performed (i.e., 6 hours).

(c) Meal Breaks (S8-4.c.(7)). These examples illustrate how meal breaks of 1 hour or less are included in the computation of majority of whole hours.

1. Example I. An employee works an 8-hour shift from 11:30 a.m. to 8 p.m. The meal break is set from 3:30 p.m. to 4 p.m., and is included in the 5-hour period from 3 p.m. to 8 p.m. The resulting majority of whole hours entitles the employee to a 7.5 percent shift differential for all 8 hours.

2. Example II. If the employee's shift is from 11 a.m. to 7:30 p.m. with a meal break from 3 p.m. to 3:30 p.m., no shift differential is paid because there is no majority of whole hours between 3 p.m. and midnight (i.e., the employee is credited with only 4.5 hours during the second shift).

3. Example III. An employee who works from 7 p.m. to 3:30 a.m. with a meal break from 11 p.m. to 11:30 p.m. is paid a 7.5 percent differential for all 8 hours because a majority of whole hours is worked during a period in which a night shift differential is payable. The 10 percent differential is not paid because, even when the meal period is counted, a majority of the employee's regularly scheduled 8-hour shift does not fall between 11 p.m. and 8 a.m.

(4) Pay for Work Performed on a Holiday (S8-4.d.). Table 3 illustrates the pay entitlements authorized by subparagraph S8-4.d.(2) of Reference (g).

Table 3. Holiday Premium Pay Computation

An employee's regularly scheduled workweek is 8 a.m. to 4:30 p.m., Monday through Friday. Monday is a holiday and the employee is required to work 8 hours on that day. Holiday premium pay is computed as follows:								
	Compensable Hours							
Regularly scheduled workweek	S	M	T	W	T	F	S	Total
Basic rate (scheduled rate only)		8	8	8	8	8		40
Premium pay - equal to the employee's basic rate		8*						8
* Holiday								
The employee is paid for all regularly scheduled hours at the basic rate. Premium pay at a rate equal to the basic rate is paid for the number of non-overtime hours worked on the holiday.								
If the employee does not work on the holiday but instead is excused from work, the employee is simply paid the basic rate for the number of regularly scheduled hours normally worked.								
If the employee is excused on the holiday, and if a shift differential would otherwise have been earned because of the employee's regular schedule of work, the shift differential is retained in the basic rate for that day.								

(5) Pay for Sunday Work (S8-4.e.)

(a) Authorization of Pay for Sunday Work (S8-4.e.(1)). Both full-time and part-time employees in the Regular and Flexible employment category may receive Sunday premium pay (where otherwise eligible), and in accordance with USD(P&R) Memorandum (Reference (r)), all regulatory provisions relevant to the administration of Sunday premium pay apply for both full-time and part-time employees.

(b) Entitlement. A limitation to full-time prevailing rate employees is contained in subchapter S8-4e(3) of Reference (g). DoD Components are instructed to disregard this limitation until the provisions of Reference (g) are revised.

(6) Within-Grade Increases - Waiting Period (S8-5.b.). Table 4 shows waiting periods for Regular and Flexible employees with a regularly scheduled tour of duty. Table 5 shows waiting periods for Flexible employees without a regularly scheduled tour of duty.

Table 4. Waiting Period for Within Grade Increases (Regularly Scheduled Employees)

Employee advances to step rate number...	At the end of a waiting period of creditable service in the previous step of...	Provided the number of workweeks in a nonpay status during the waiting period does not exceed...*
2	26 calendar weeks	1 workweek
3	78 calendar weeks	3 workweeks
4	104 calendar weeks	4 workweeks
5	104 calendar weeks	4 workweeks
* Leave without pay in excess of these amounts must be made up with creditable service before the within-grade increase is effected.		

Table 5. Waiting Period for Within Grade Increases (Non-Regularly Scheduled Employees)

Employee advances to step rate number...	When the employee has worked...*	Over a period of no fewer than...
2	130 workdays in a pay status	26 calendar weeks
3	390 workdays in a pay status	78 calendar weeks
4	520 workdays in a pay status	104 calendar weeks
5	520 workdays in a pay status	104 calendar weeks
* Any day on which part-time service is performed constitutes a full workday of credit. (Only the days on which service is performed are counted for employees without a prearranged, regularly scheduled tour of duty.)		

e. Procedures for Requesting Increased Minimum Rates (Hourly Paid Employees)

(1) Coordination. The DoD Components must submit requests to WSD, who will coordinate such requests with the Military Departments and AAFES.

(2) Increased Minimum Rates. WSD may authorize increased minimum rates in accordance with subparagraph S5-13 of Reference (g) when demonstrated recruitment and retention problems exist for an hourly paid occupation in a wage area. Authorization of increased minimum rates permits a NAFI to pay at a higher step rate of the wage schedule at the location concerned. Requests must contain the title of the occupation, series, and grade; the recommended minimum step of the grade to use as the increased minimum rate; the area or location for which the rates are recommended; and any additional information supporting the need for increased minimum rates.

(3) Special Rates. Special rates may be authorized when increased minimum rates are not sufficient to respond to existing or likely significant staffing problems for an hourly paid occupation. When a DoD Component can demonstrate that special rates are required for the recruitment or retention of qualified personnel, the request must be forwarded to WSD in accordance with subchapter S12 of Reference (g). OPM approval is required to apply special rates to CT employees.

APPENDIX 3 TO ENCLOSURE 3

PAY SYSTEM FOR NAF CY PROGRAM ASSISTANTS, LEADERS, AND TECHNICIANS

GENERAL. Basic policy on coverage, purpose, and requirements for classification, pay, and allowances is in section 3 above the signature of this volume. This appendix to Enclosure 3 implements chapter 71 of Reference (f), sections 1791-1800 of Reference (j), DoDI 6060.4 (Reference (s)) and DoDI 6060.3 (Reference (t)) to provide additional procedures and guidance for administering the classification and pay system for NAF CY program assistants, leaders, and technicians.

- a. Structure of Pay System. Table 6 depicts the two-band structure.

Table 6. Structure of Pay System for NAF CY Program

BAND	STANDARD POSITIONS	PAY RATES (Equivalent to the Corresponding OPM-Designated GS Locality Schedule Rate)	
		MINIMUM	MAXIMUM
CY-I	CY Program Assistant, Entry Level, CY-1702-I (Comparable to the GS-2 Level) CY Program Assistant, Intermediate Level, CY-1702-I (Comparable to the GS-3 Level)	GS-2, Step 1	GS-3, Step 10
CY-II	CY Program Assistant, Target Level, CY-1702-II (Comparable to the GS-4 Level) CY Program Assistant, Leader Level, CY-1702-II (Comparable to the GS-5 Level) CY Program Technician, CY1702-II (Comparable to the GS-5 Level)	GS-4, Step 1	GS-5, Step 10

- b. Pay

- (1) Schedules and Across-the-Board Pay Increases

(a) WSD does not issue CY schedules. As shown in Table 6, the minimum and maximum rates for payband CY-I are the rates for GS-2, step 1, and GS-3, step 10, respectively; for CY-II, they are the rates for GS-4, step 1, and GS-5, step 10, respectively. These minimum and maximum rates will be adjusted by servicing civilian personnel offices or human resources offices, as necessary, to equate to the corresponding rates on the GS schedule for the locality in which the CY job is located.

(b) Adjustments are effective the first day of the first pay period beginning on or after the effective date of the GS locality schedule. An employee's pay must be increased as

necessary to prevent it from falling below the minimum rate of the band. However, employers have the discretion to set pay within the minimum and maximum rates for each band within the limits of paragraph b(2) of this appendix.

(2) Pay-Setting

(a) Pay Comparability. Sections 1791-1800 of Reference (j) establish pay comparability requirements related to NAF child caregiver positions in military child development centers. Reference (s) applies comparable requirements to youth program employees. Accordingly, pay for CY positions must be set at a rate of pay substantially equivalent to the rates of pay of other employees at their installation with similar training, seniority, and experience. To meet the requirements in sections 1791-1800 of Reference (j) and in Reference (s), the CY-I and CY-II paybands apply the pay rates for comparable-level civil service positions. (Pay ranges are described in paragraph b(1) of this appendix.)

(b) The pay-setting provisions of section 3 of Appendix 1 apply within the requirements of paragraph b(2)(a) of this appendix by substituting “CY” for “NF,” with the exception of the rules for promotions in paragraph 3b(3) of Appendix 1. Additionally, non-foreign allowances established for similarly situated APF employees must be granted to CY employees.

(3) Premium Pay. Refer to Appendix 4 to this enclosure.

(4) Pay Upon Advancement Within or Between Paybands. A position change to the next level of responsibility within or between paybands requires a minimum 6 percent hourly rate increase, or payment of the minimum rate associated with the applicable GS grade in the locality to which assigned, whichever is higher. Advancement occurs when an employee moves from the children and youth program assistant (CYPA) entry level to the intermediate level and to the target levels, or from the target level to either the program leader or program technician position.

c. Training and Advancement to Target Position

(1) Training Requirements

(a) The Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy implements sections 1791-1800 of Reference (j) requirements for a training program for child-care employees. Training requirements for NAF positions providing direct care for children and youth are found in References (k), (s), and (t).

(b) Before advancing to the next level of responsibility within or between paybands, direct-care staff must have completed prerequisite training and education using approved OSD and Service materials, to include designated training modules. Managers must promptly inform new CY staff of the training requirements for advancement and ensure that the training is available.

(2) Mandatory Assignment to Target Level After Training. Within two pay periods of completing prerequisite training and experience at a satisfactory level, direct-care staff must be advanced to the CYP A position in band CY-II, the target level position.

APPENDIX 4 TO ENCLOSURE 3

PREMIUM PAY (OVERTIME, NIGHT, SUNDAY, OR HOLIDAY)

1. OVERTIME PAY RULES. These rules vary depending on whether the employee is exempt or nonexempt from FLSA and is assigned to a CT or white-collar position. Table 7 references the laws and regulations and provides guidance on overtime pay for NAF employees.

2. FLSA EXEMPT OR NONEXEMPT DETERMINATION. The criteria in part 551 of Reference (h) should be used to make this determination. The designation must be documented on the position description and personnel action documents. Based on Reference (h) criteria, all employees properly placed in paybands NF-1 and NF-2 are designated nonexempt unless they are permanently stationed in an exempt area as defined in Reference (h).

3. NIGHT, SUNDAY, AND HOLIDAY PAY. Since FLSA does not cover night, Sunday, or holiday pay, the exempt or nonexempt status is not a factor in determining such pay. The prevailing rate law covering CT employees, subchapter IV of chapter 53 of Reference (f), does cover this pay. Therefore, there are two categories of employees for purposes of applying rules for night, Sunday, and holiday pay: CT and white-collar.

a. CT Employees. Payment for night, Sunday, and holiday work must comply with sections 5343 and 5544 of Reference (f); subparts 532.505, 532.507, and 532.509 of Reference (h); and Reference (g). Pay for Sunday work must also comply with paragraph 2d(5) of Appendix 2 to Enclosure 3.

b. White-Collar Employees. There is no law or regulation external to the Department of Defense that addresses night, Sunday, or holiday pay for NAF white-collar employees. DoD Components may grant these payments in consideration of the prevailing practice in the locality, and recruitment and retention problems. Payments may be less than, but may not exceed, payments pursuant to part 550 of Reference (h).

4. COMPENSATORY TIME-OFF IN LIEU OF OVERTIME PAY. In accordance with section 5543(d) of Reference (f), DoD NAF employees, at their request, may be granted time off in lieu of overtime pay for overtime work. The Secretaries of the Military Departments and the Director and Chief Executive Officer of AAFES are delegated the authority to grant DoD NAF employees, at their request, compensatory time-off from duty in lieu of overtime pay for overtime work. That authority may be further delegated in writing.

Table 7. Overtime Pay Rules for NAF Employees

CATEGORY	WHERE RULES ARE FOUND	GUIDANCE
1. Nonexempt CT	<ul style="list-style-type: none"> • FLSA • Section 2105(c)(1)(C) of Reference (f). • Part 551 of Reference (h). • Section 5543 of Reference (f). • Subchapter II of chapter 61 of Reference (f). 	<ul style="list-style-type: none"> • Overtime pay for hours worked in excess of 8 per day and 40 per week (section 551.501(a) of Reference (h)). • Paid leave is counted as hours worked (part 532.503(b) of Reference (h)). • Compensatory time off is authorized (sections 5543(f) and 6123 of Reference (f)). Compensatory time off must be used by the end of the 26th pay period after that in which it was earned or be paid at the overtime rate at which it was earned if not used within the established time period. • Overtime rate is 150 percent of hourly regular rate (parts 551.511 and 551.512 of Reference (h)).
2. Nonexempt White-Collar	<ul style="list-style-type: none"> • FLSA • Sections 2105(c)(1)(C) and 5543(d) of Reference (f). • Part 551 of Reference (h). 	<ul style="list-style-type: none"> • Overtime pay only for hours worked in excess of 40 hours per week (section 551.501(a)(4)) of Reference (h)). • Paid leave is not counted toward hours worked. (NAF white-collar employees are not employees as defined by section 5541(2) of Reference (f); therefore part 551.401(b) of Reference (h) does not apply.) • Compensatory time off is authorized (sections 5543(f) and 6123 of Reference (f)). Compensatory time off must be used by the end of the 26th pay period after that in which it was earned or be paid at the overtime rate at which it was earned if not used within the established time period. • Overtime rate is 150 percent of hourly regular rate (parts 551.511 and 551.512 of Reference (h)).
3. Exempt CT	<ul style="list-style-type: none"> • Section 5544 of Reference (f). • Part 532.503 of Reference (h). • Reference (g). 	<ul style="list-style-type: none"> • OPM rules apply. • Overtime pay for hours worked in excess of 8 per day and 40 per week (section 5544(a) of Reference (f)). • Compensatory time off is authorized (sections 5543(d) and 6123(a)(1) of Reference (f)). Compensatory time off must be used by the end of the 26th pay period after that in which it was earned or be paid at the overtime rate at which it was earned if not used within the established time period. • Paid leave is counted as hours worked (part 532.503(b) of Reference (h)). • Overtime rate is 150 percent of basic rate of pay (section 5544(a) of Reference (f)).

Table 7. Overtime Pay Rules for NAF Employees, Continued

CATEGORY	WHERE RULES ARE FOUND	GUIDANCE
4. Exempt White-Collar	<ul style="list-style-type: none"> • No laws or regulations external to the Department of Defense establish overtime pay policy for exempt white-collar NAF employees. • DoD NAF procedures are found in this appendix. 	<p>The DoD Components may grant overtime pay to these employees as follows:</p> <p>DEFINITIONS</p> <ul style="list-style-type: none"> • <u>Overtime Pay</u>. Pay for officially ordered and approved overtime work. • <u>Overtime Work</u>. Time in a duty status in excess of 40 hours in an administrative workweek. • <u>Duty Status</u>. Time on duty at the workplace, and not on paid leave or otherwise absent from duty. • <u>Administrative Workweek</u>. The 40-hour workweek established for 7 consecutive calendar days for full-time employees. It need not coincide with the calendar week and may begin on any day and at any hour. <p>AUTHORIZED AND APPROVED RULE. No employee identified as an exempt white-collar employee may be paid overtime pay or given compensatory time off for work in excess of 40 hours in an administrative workweek unless the overtime work is specifically authorized and approved in advance. The doctrine of compensation for hours permitted or suffered will not apply. Overtime pay or compensatory time off for administratively uncontrollable overtime work is not authorized.</p> <p>OVERTIME PAY CALCULATION. The overtime rate equals 1.5 times the basic pay rate for hours that exceed 40 in duty status in a workweek, provided the employee's basic rate does not exceed the locality rate for grade GS-10/1. When it exceeds the locality rate for GS-10/1, the overtime rate equals 1.5 times the rate for grade GS-10/1 or the employee's hourly rate of basic pay, whichever is greater.</p> <ul style="list-style-type: none"> • <u>Leave with Pay</u>. If an employee is on annual or sick leave, absent on legal holidays, absent on non-workdays established by Executive or administrative order, or absent on compensatory time during the basic workweek, the employee must be in a duty status an equal period of time before any remaining period may be paid for at overtime rates on the basis of exceeding 40 hours in a week. • <u>Nonpaid Absence</u>. A nonpaid absence is not counted as duty status in determining overtime pay.

Table 7. Overtime Pay Rules for NAF Employees, Continued

CATEGORY	WHERE RULES ARE FOUND	GUIDANCE
4. Exempt White-Collar, Continued		<ul style="list-style-type: none"> • <u>Night, Sunday, or Holiday Duty</u>. These duty hours are included in the hours of employment in the administrative workweek. <p>COMPENSATORY TIME OFF IN LIEU OF OVERTIME PAY. Compensatory time off may be granted to exempt white-collar employees in lieu of overtime pay for an equal amount of irregular or occasional overtime work. Compensatory time off must be used by the end of the 26th pay period after that in which it was earned.</p>

APPENDIX 5 TO ENCLOSURE 3

SEVERANCE PAY

1. ELIGIBLE EMPLOYEES. Regular employees who have completed at least 12 months of continuous creditable service (see section 4 of this appendix) with one or more DoD NAFIs are eligible for severance pay. The continuous service qualifying the employee for severance pay must have occurred within the 12 months preceding the effective date of the business-based action (BBA).

2. CONDITIONS UNDER WHICH ELIGIBLE EMPLOYEES RECEIVE SEVERANCE PAY. An eligible employee must receive severance pay when, as a result of a BBA:

a. The employee is separated. An employee who resigns following receipt of a specific written notice of separation due to BBA or a general written notice that announces that all positions will be abolished is considered to have been involuntarily separated.

b. The employee's basic pay is reduced, and the employee resigns instead of accepting the reduction.

c. The employee's employment category is involuntarily changed from Regular category full-time to Regular category part-time, or from Regular category to Flexible employment category, and the employee resigns instead of accepting the change. DoD Components have discretion to establish a policy whereby employees involuntarily changed from Regular category to Flexible category may be paid severance pay without resigning.

d. The employee is furloughed for more than 60 consecutive days and resigns in lieu of accepting the furlough.

3. EXCLUSIONS. Otherwise eligible employees will not receive NAF severance pay if they:

a. Are employed, without a break in service of more than 3 calendar days after separation, in another DoD NAF Regular employment category position or a DoD APF position, without a time limit on the length of the appointment. DoD NAF employees who move to DoD APF positions without a break in service of more than 3 days are eligible for portability of benefits. Pursuant to section 550.708 of Reference (h), NAF service is creditable for computing an employee's APF severance pay if the employee is later separated from an APF position under conditions entitling the employee to APF severance pay. Section 7 of this appendix addresses entitlement to APF severance pay for certain NAF employees, based on a previous involuntary move from a DoD APF position to a DoD NAF position.

b. Have refused an offer of employment in any DoD NAFI that would not result in a rate of basic pay that is lower than the rate of basic pay received immediately before the BBA, or that

would not result in a loss of employment category (i.e., from Regular category full-time to Regular category part-time, or from Regular category to Flexible employment category). Offers must be in the same commuting area unless the employee is covered by an agreement in which mobility is a condition of employment.

c. Are entitled to an immediate annuity that is not reduced because of the employee's age at the time of retirement. This exclusion covers an annuity from a NAF retirement plan, or from a civil service retirement plan in which the employee elected to remain following movement between employment systems pursuant to sections 8347(q) and 8461(n) of Reference (f).

d. Are receiving payments from the Department of Labor's Office of Workers Compensation Programs for a job-related injury.

4. DETERMINING CREDITABLE SERVICE

a. This service is creditable for purposes of NAF severance pay:

(1) Service in a pay status as a Regular category employee in one or more DoD NAFIs.

(2) Military service that interrupted creditable service, as prescribed in chapter 43 of Title 38, U.S.C. (Reference (u)).

(3) Service in a continuing (i.e., without a time limit on the length of the appointment) APF position, if the employee moved from a DoD APF position to a DoD NAF position on or after January 1, 1987, without a break in service of more than 3 calendar days.

b. This service is not creditable for purposes of NAF severance pay:

(1) Service upon which a NAF or civil service annuity is based if the annuity began before the date of the BBA.

(2) Periods of service for which NAF or APF severance pay was previously granted.

(3) Service used to determine an employee's APF severance pay entitlement pursuant to the provisions of section 5595(h) of Reference (f).

5. COMPUTATION OF SEVERANCE PAY. The DoD Components must establish severance pay calculation formulas. Formulas may be more generous for employees for whom unlimited mobility has been made a condition of employment, and for employees separated because of base realignment and closure. Calculation formulas will be established within these limits:

a. Minimum. One week of basic pay for each full year of creditable service. DoD Components may give prorated credit for service of less than 1 year. The amount of severance pay will be based on the number of hours the employee is regularly scheduled to work during the

week, averaged over a period not to exceed the preceding 12 months, and at the basic pay rate received immediately before separation. The DoD Components may place a cap on the maximum number of weeks paid under this option; however, the cap may not be set at less than 4 weeks of basic pay.

b. Maximum. A NAF employee will not be paid severance pay greater than the amount calculated using the severance pay formula in section 5595(c) of Reference (f).

6. PAYMENTS. The DoD Components may pay severance pay on a bi-weekly basis or in a lump sum. Personnel action documents must reflect the amount paid and the creditable service on which it was based to prevent overpayment or duplicate credit for service.

7. LIMITATION ON PAYMENT OF APF SEVERANCE PAYMENTS TO CERTAIN EMPLOYEES MOVING TO NAF POSITIONS

a. Pursuant to section 5595(h) of Reference (f), DoD APF employees may not receive rights to APF severance pay upon movement to DoD NAF positions without a break in service (i.e., no more than 3 calendar days). The law provides that the original APF severance pay entitlement will be reinstated if the employee is subsequently involuntarily separated from NAF employment. The employee will be advised at the time of move and an annotation placed in the official personnel folder.

b. When an employee who is entitled to resumption of APF severance pay pursuant to section 5595(h) of Reference (f) is involuntarily separated from a NAF position, the servicing NAF civilian personnel office or human resources office will inform the employee of his potential entitlement and notify the employee's previous APF employer (or the successor in cases of regionalization, consolidation, or reorganization). This notification should include documentation of the BBA resulting in the involuntary separation from NAF. The notice should also include any NAF severance pay paid at the time of separation from NAF and the period of service for which the severance pay was computed. This information will help ensure that the employee is not inadvertently paid severance pay from both APF and NAF for the same service. The intent of the law and this volume is that eligible employees must receive APF severance pay for creditable APF service, and NAF severance pay for creditable NAF service.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

AAFES	Army and Air Force Exchange Service
APF	appropriated fund
ASD(R&FM)	Assistant Secretary of Defense for Readiness and Force Management
BBA	business-based action
COLA	cost of living allowance
CT	crafts and trades
CY	child and youth
CYPA	children and youth program assistant
DASD(CPP)	Deputy Assistant Secretary of Defense for Civilian Personnel Policy
DCPAS	Defense Civilian Personnel Advisory Service
DoDD	DoD Directive
DoDHRA	Department of Defense Human Resources Activity
DoDI	DoD Instruction
ECI	Employment Cost Index
FLSA	Fair Labor Standards Act
FWS	Federal Wage System
GS	General Schedule
NA	nonsupervisory
NAF	nonappropriated funds
NAFI	nonappropriated funds instrumentalities
NF	Nonappropriated White-Collar Payband
NL	leader
NS	supervisory
OPM	Office of Personnel Management

SMA	separate maintenance allowance
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
WSD	Wage and Salary Division

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this volume.

APF. Defined in section 010202 of Volume 13 of Reference (m).

Flexible employment category. Defined in Volume 1403 of this instruction.

involuntarily move. The movement of the incumbent of a GS position in DoD with the position, when it is moved to a NAF payband position in DoD.

NAF. Defined in section 010213 of Volume 13 of Reference (m).

NAF employee. Defined in section 2105(c) of Reference (f).

NAFI. Defined in section 010214 of Volume 13 of Reference (m).

night shift for prevailing rate employees. Defined in subchapter S8 of Reference (g).

nonwage. Refers to an NF employee.

overtime work for prevailing rate employees. In addition to the definition of overtime work in subchapter S8 of Reference (g), overtime work means any hours worked, whether scheduled, ordered, suffered, or permitted, that exceed 40 hours of **actual work** performed in a week pursuant to FLSA.

payband. The NF pay system that covers NAF white-collar employees in professional, technical, administrative, and clerical positions and the CY pay system that covers NAF white-collar employees in program assistant, leader, and technician positions.

performance review board. Defined in Volume 1404 of this instruction.

prevailing rate employee. Refers to an employee of a DoD NAFI who is employed in a recognized craft or trade or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor,

in a position having craft, trade, or laboring experience and knowledge as the paramount requirement.

rating official. Defined in Volume 1404 of this instruction.

Regular employment category. Defined in Volume 1403 of this instruction.