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&
100th AREA SUPPORT GROUP
IG NEWS LETTER



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INSPECTOR GENERAL CORNER

Open Door Policy & Lawful Communications

Commanders and leaders can use open door policies as an effective tool to resolve issues at the lowest level and promote a positive command climate built on trust and confidence. Based on experience, I recommend commanders frequently: review the effectiveness of their open door policy to ensure open communications are viable; inform their chain of command that their open door policy is a “protected communication”; and brief their soldiers on the content of their policy.

Chapter 2-2, AR 600-20, Army Command Policy, states, “Commanders will establish an open door policy within their commands. Soldiers are responsible to ensure that the commander is made aware of problems that affect discipline, morale, and mission effectiveness; and an open door policy allows members of the command to present facts, concerns, problems of a personal or professional nature, or other issues which the soldier has been unable to resolve. The timing, conduct, and specific procedures of the open door policy are determined by the commander...”

Commanders and their chain of command also need to know what are lawful communications. Contacting the IG is such a lawful communication.

Title 10 US Code, Section 1034, “ Prohibits the restriction of, or retaliatory personnel actions against, Members of the Armed Forces in making or preparing to make lawful communications to Members of Congress, Inspectors General, members of a DOD audit, inspection, investigation, or law enforcement organization, or any other person (including the chain of command) designated to receive such communications. These regulations apply to civilian and contract employees:

- Appropriated Fund (AF) Employees
Title 5 US Code, Sections 1213, 1214, 1221
- Non-Appropriated Fund (NAF) Employees
Title 10 US Code, Section 1587 and DoDD 1401.3
- Defense Contractors Employees
Title 10 US Code, Section 2409

That said, IGs always encourage complainants to solve their issue at the lowest level and often redirect them back to the chain of command for resolution. Make *every effort* to avoid any perception on your part and that of your chain of command of violating lawful communications.

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ASSISTANCE CORNER

NAF Business Based Actions (BAA)

The purpose of this article is to inform managers and their affected employees of the process regarding Nonappropriated BBA Actions.

1. Types of BBA

a. BBA are non-disciplinary, management-initiated actions taken to adjust personnel resources with a minimum of disruption to operations. NAFI activities are not businesses however, they still must be staffed in the most economical manner consisted with maximum efficiency.

b. BBA include:

- (1) Reduction in pay rate (NAF only).
- (2) Change in employment category.
- (3) Furlough of regular employees for eight calendar days or more.
- (4) Separation.

2. Administration

a. When it becomes necessary to reduce or realign the workforce, the head of the activity will obtain the concurrence of the next higher level prior to initiating any actions.

b. Management must identify which specific positions or functions to eliminate in order to determine which employees will be affected.

c. In cases where more than one employee is affected, management considers certain factors regarding employee knowledge, skill, and ability as demonstrated through performance.

d. Employees must be ranked to determine the order in which they will be affected.

e. The rating process must include performance and seniority in determining ranking. The performance ratings will include the two most current years (in the absence of documented performance ratings) a **satisfactory rating** will be presumed.

f. Employees have a right to grieve within 7 calendar days after the effective date of the BBA only, if they believe that regulations and procedures were not properly applied (refer to Grievances, Chapter 8, AR 215-3).

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However, employees may not grieve the management decision to conduct a BBA.

3. Factors Effecting BBA

a. Upon notification of the specific employees to be affected, the official initiating the action will record the basis for the actions to be taken.

The record will include:

- (1) The business or operational conditions that necessitated the reduction or realignment.
- (2) The basis used for determining which employees are impacted.
- (3) The names of all employees included in the BBA and the actions taken on each.

b. Employees with retention priority based upon on military service will be by-passed until completion of the mandatory retention period. If the situation is such that they cannot be retained in their same position, they will be placed in a position of like seniority and pay.

c. In overseas areas, retention is authorized when necessary to complete transportation arrangements.

4. Notices and notice periods.

a. A written notice will be provided to all affected employees. Notices will not be issued between 15 December and 3 January. Employees not in a duty status at the time of notification will be informed by means of certified mail.

b. The notice must clearly and specifically inform the employee of the action taken and the reason/s for the action. If the action is separation, refer to Chapter 10-9.

References:

AR 215-3, NAF Personnel Policy, dated 26 Aug 02

http://www.army.mil/usapa/epubs/pdf/r215_3.pdf

ASSISTANCE CORNER

Tuition Assistance “Top Up”

On 30 Oct 00, the President signed into law an amendment to the Montgomery GI Bill – Active Duty education program that permits VA to pay a Tuition Assistance Top-up benefit. The amount of the benefit can be equal to the difference between the total cost of a college course and the amount of Tuition Assistance that is paid by the military for the course.

To be eligible for the Top-up benefit, the person must be approved for federal Tuition Assistance by a military department and be eligible for MGIB-Active Duty benefits. To be eligible for MGIB benefits, the person must be an MGIB – Active Duty participant and must have served at least 2 full years on Active Duty.

The amount of the benefit is limited to the amount that the person would receive for the same course if regular MGIB benefits were being paid. In no case can the amount paid by the military combined with the amount paid by VA be more than the total cost of the course.

If a person received the Top-up benefit, his or her regular MGIB benefits will be reduced. The amount of entitlement charged for Top-up payments is determined by dividing the amount of the payment by the claimant’s full-time monthly rate.

The application and other evidence should be sent to one of VA’s four education processing offices in Atlanta, Buffalo, Muskogee (OK), or St. Louis. Claims should specify that Tuition Assistance Top-up is being claimed.

Top-up can apply retroactively, **but** you must be eligible for the Montgomery GI Bill, **and** we can only go back one year from the date your claim was/is received in VA **and** only for training in terms that began on or after 30 Oct 00, which is the effective date of the law.

The following procedures should be followed:

If you have not previously filed a claim for MGIB, you should do the following:

- 1) Request a copy of your TA form from your education counselor.
- 2) Complete an application for VA education benefits, VA Form 22-1990.
- 3) Indicate “Top-up” on the VA application in item 1A under the MGIB-Active Duty block
- 4) Have the VA application reviewed and signed by the Education Services Specialist
- 5) Send your TA approval form(s), along with the application for VA education benefits, to one of VA’s education processing offices. The address is on the form.

If you’ve previously filed a claim for MGIB and were not denied benefits, simply submit your signed TA approval form to one of VA’s four education processing offices.

Top-up program is not available at this time to persons who are eligible for the MGIB Selected Reserve program.

For additional information, contact your local education center.

Reference:

[Welcome to the GI Bill Web Site](#)

INSPECTION CORNER

FY 03 Inspection Schedule

1st QTR: NCO Counseling

2nd QTR: Mobilization / Force Protection

3rd QTR: Follow-Up: Drivers Training

4th QTR: Follow-Up: COR Functions/Housing

Counseling Inspection Synopsis

a. Synopsis. We can enhance the following areas of our counseling program:

- 1) Timeliness of initial and follow-on counseling
- 2) Discussion of developmental counseling
- 3) Discussion of performance objectives
- 4) Discussion of performance standards
- 5) Redress and/or grievance procedures
- 6) Documentation (example: use DA Form 4856 to record counseling and update rating schemes when the rater/senior rater changes)

b. Recommendations.

- 1) Use the Army counseling website
www.counseling.army.mil
 - 2) Use the Army leadership website
<http://www.leadership.army.mil/>
 - 3) Use the CHRMA website
<http://www.chrma.hqusareur.army.mil/> (Mgt Tools)
 - 4) Review NAF counseling programs
 - 5) Include Local National Employees
- c. Some appropriate regulations
- 1) AR 623-105 OER System
 - 2) AR 623-205 NCOER System
 - 3) AR 690-400 TAPES
 - 4) AR 215-3, NAF Personnel Policy

IMPORTANT

Commanders are reminded to become familiar with the provisions of DOD Instruction 6490.4, DOD Directive 6490.1 and USAREUR Regulation 40-6 dealing with "Referring Soldiers for Mental Health Evaluations". There are certain requirements that must be met prior to sending a soldier for a mental health evaluation. Paramount is that commander must inform the soldier, ***in writing***, of their rights pursuant to the referral. This is in addition to the USAREUR Form 40-6A-R (Unit Commanders Request for Mental Health Evaluation). Do not forget the memo. A verbal statement to the soldier of their rights is not enough. DOD Instruction 6490.1 has an example of a proper memorandum to a soldier explaining their rights.

Comments may be addressed to HQ 7ATC, Office of the Inspector General, ATTN: AETT-IG, APO AE 09114 or please call DSN 475-5555.

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MAJ, IG
Inspector General

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