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# The CPAC Informer

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## Pension Protection Act & TSP

Previously, when an unmarried TSP participant died, the non-spouse beneficiary would receive their TSP funds in a single lump sum payment and be subject to a 10 percent tax penalty.

Under new provisions, non-spouse beneficiaries can receive TSP funds without the tax penalty if they transfer the funds to an "inherited" Individual Retirement Account (IRA). An "inherited" IRA is an IRA that the non-spouse beneficiary received from another individual. In other words, the non-spouse beneficiary is not the original owner of the IRA.

Another improvement applies to members of the uniformed services who contribute their tax-exempt money into their TSP account. These individuals may also transfer tax-exempt money from their TSP account into a 403(b) annuity contract if the 403(b) administrator allows this transfer of funds.

The final change, which took effect on January 1, 2008, pertains to separating employees who withdraw their TSP funds. They may now transfer these

funds into a Roth IRA. This change also applies to employees who take an age-based withdrawal. The



### Market Decline Erodes Value of TSP

Thrift Saving Plan will provide more information once the Internal Revenue Service has published its regulations.

The Standard & Poor's 500 index fell 3.5 percent in February, and the Dow Jones Industrial Average lost about 3 percent.

Naturally, the continuing market troubles eroded value in most Thrift Savings Plan funds. The biggest mover was the Common Stock Index Investment Fund, or C Fund, losing 3.28 percent. The C Fund is an equity index fund that tracks the S&P 500. Its February loss slightly outperformed

the I index.

Despite the overall market decline, the funds in the conservative duo, which do not invest in equities, continue to weather the storm. The F Fund, or Fixed Income Index Investment Fund, gained 0.16 percent. The G Fund, or Government Securities Investment Fund, gained 0.24 percent, and was the biggest gainer last month.



The TSP Board has mailed **new** annual participant statements to 4.1 million current and former TSP participants ! The statements are also available online through Account Access. Because the annual statements are new, you may have questions about them. Go to [www.tsp.gov](http://www.tsp.gov) for more information.

## Federal Flexible Spending Account Program (FSAFEDS): 2008 Administrative Fees



FSAFEDS participation has increased by 9 percent for 2008, with the number of dependent care accounts increasing by 14 percent. The current 2008 enrollment is 246,435 employees.

Since the FSAFEDS program began in 2003, many positive changes have taken place:

- ❖ Improved claims processing time dramatically, with more than 99 percent of claims paid within 5 business days.
- ❖ Allowed reimbursement for eligible over-the-counter products.
- ❖ Partnered with many FEHB plans for paperless reimbursement to automatically reimburse enrollees' eligible health care expenses.
- ❖ Offered a Limited Expense Health Care Flexible Spending Account (LEX HCFA) for those enrolled in high deductible health plans with health savings accounts.
- ❖ Added one of the Federal Employees Dental and Vision Insurance Program (FEDVIP) carriers to the paperless reimbursement program.

For the first time since the program's inception, administrative fees agencies pay on behalf of their enrolled employees is increasing. The contractor's administrative fees were negotiated at the start of the program at \$4.00 per month for each health care account and 1.5 percent of the annual election amount for each dependent care account. These fees have not changed in five years.

*The change will affect employees, retirees, survivor annuitants, and former spouses*



## Supreme Court Decides *Osborn v. Haley*

The Supreme Court recently ruled in *Osborn v. Haley*, a case concerning Federal employees' immunity from a lawsuit for torts committed while acting within the scope of their employment or occurring during the course of their official duties.

The *Osborn* decision discusses the Westfall Act (codified at Section 2679 of title 28, U.S. Code), which authorizes the Attorney General to certify that a Federal employee acted within the scope of his or her employment during the period in which an alleged tort occurred.

After certification, the Department of Justice files a motion in the appropriate Federal district court to remove the case from state court and to substitute the United States for the employee as the defendant.

In this particular case, the Federal employee, Mr. Haley, was alleged to have interfered with the private-sector employment

of the plaintiff, Ms. Osborn, resulting in her termination. Ms. Osborn contends that Mr. Haley's alleged actions did not fall within the scope of his job, thus making the U.S. Attorney General's certification improper for the purpose of removing the case from the state court into the Federal district court.

The Supreme Court held that the United States can insert itself as the defendant in lawsuits against Federal workers even if the alleged act was not within the scope of the employee's employment, if the Attorney General concludes that the employee did not commit the act. Further, the Supreme Court held that the Attorney General's certification is conclusive for the purpose of removal from the state courts to the Federal district court. Once removed, the Federal court cannot remand the case to the state court.

The Supreme Court's decision in *Osborn v. Haley* underscores

the immunity provided by the Westfall Act. It calls attention to the protections afforded to Federal employees acting within the scope of their official duties.

The ruling insulates Federal employees from the cost and effort of defending themselves in lawsuits similar to the *Osborn* case—i.e., suits based upon common law torts—thus placing the burden of defending the lawsuit on the Federal Government. (See, e.g., *Hunter v. Bryant*, 502 U.S. 224, 228 (per curiam).)

While this case reaffirms the legal protections afforded Federal employees, managers and HR professionals should still exercise due diligence in performing their official duties and responsibilities.

To read the entire decision go to: [www.supremecourtus.gov/opinions/06pdf/05-593.pdf](http://www.supremecourtus.gov/opinions/06pdf/05-593.pdf)

## DoD Pipeline Reemployment Program

The Pipeline Program initiative (a transitional return to work strategy) is a collaborative initiative designed to assist agencies in recognizing and capturing the contributions of skilled employees recovering from on the job injuries.

Additionally, it promotes a work environment that motivates and drives commitment, resulting in a contribution of value to the organization's stakeholders. From a cost benefit analysis perspective, the Pipeline Program initiative mitigates the impact that large contingencies of injured workers' have on an agency's fiscal budget.

The Program also denotes a revolutionary commitment and investment in human capital (injured workers)

by DoD agencies and installations to retain valuable education and skills that are often lost to an injured workforce.

The program enables DoD installations to overcome reemployment issues involving injured DoD civilian employees, such as budget and complement constraints by providing funding for salaries and benefits, and over-hire authority for the first year of reemployment.

Pipeline also provides an installation with the ability to integrate these injured workers back to full employment while effectively reducing lost production days during the recovery period; supporting the Safety, Health, and Return-to-Employment (SHARE) Initiative established by President

Bush in FY06.

To date the Army has saved more than \$135M using Pipeline with 218 job offers being made.

For more information contact **Cisy Newman** at **703.704.3023**



*The mission of the 21st Century Workforce Office is to ensure that all American workers have as fulfilling and financially rewarding a career as they aspire to have and to make sure that no worker gets left behind in the limitless potential of the dynamic, global economy of this new millennium.*

On March 6, 2001, Labor Secretary Elaine L. Chao announced the creation of a new Office of the 21st Century Workforce in her first major policy address at the Department of Labor. The 21st Century workforce is not just about making sure that Silicon Valley has enough engineers. Its mission is to provide hope to ensure that all American workers have the opportunity to equip themselves with the necessary tools to succeed in their careers and in whatever field they choose in this new and dynamic global economy. This is a time of tremendous change across the country and across the globe. America's 21st Century workforce needs to adjust to the changes of the 21st Century economy. These changes include a fundamental transformation for all industries and increasingly require higher skill sets and higher education. You can email the Workforce office at: [21stworkforce@dol.gov](mailto:21stworkforce@dol.gov)

### Seventh Annual Asian Pacific American Federal Career Advancement Summit

On May 15, 2008, U.S. Secretary of Labor Elaine L. Chao, in partnership with the U.S. Office of Personnel Management, will host the Seventh Annual Asian Pacific American Federal Career Advancement Summit in Washington, DC. The Summit, the first of its kind, was developed in 2002 to address the shortage of Asian Pacific Americans in senior executive and management positions in the federal government. The Summit focuses on providing management insights, skills training and other career opportunities to help Asian Pacific American government employees maximize their potential.

### Workplace, a 21st Century Vision

+This summit is scheduled for June 3-4, 2008 at Gallaudet University in Washington, D.C. The Office of the 21st Century Workforce, in collaboration with DOL's Office of Disability Employment Policy (ODEP), will co-host this first-ever national Summit, which will bring together stakeholders representing employers, researchers, and people with disabilities to examine best practices that help open the door to employment for people with disabilities. One of the goals of the Summit is to disseminate the findings of six years of ODEP's grants and research.

**Employment Summit: Transforming the American**

## Changes in the Career Referral Program (CRP)

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The Family and Morale, Welfare and Recreation Command (FMWRC) obtained G-1 approval to modify the processes used in the operation of the CRP for NAF positions. These modifications affected both employers and applicants and were designed to improve the quality of referral lists. Effective late summer 2007, all requests for referrals submitted to the CRP were advertised on the

Army Vacancy Announcement Board for a period of two weeks. Different announcement periods and advertisement on USAJOBS also are used if specified by the requesting official. Referral lists issued based on vacancy announcements will consist only of those qualified applicants who apply against a specific vacancy announcement. This change eliminated the referral of qualified applicants drawn from inventory and reduced instances of referred applicants who are unavailable for vacancies when

contacted by the selecting officials. For applicants, these changes mean individuals need to specifically apply against a vacancy announcement to be considered.

- Madelyn Windmiller  
NAF HR Specialist

## NAF Workers' Compensation Transition

NAF  
Workers'  
Compensation  
Undergoes  
Transition

CCSI takes  
Reigns...

Effective January 1, 2008, Contract Claims Services, Inc. (CCSI) took over NAF workers' compensation claims from Broadspire, who was previously our workers' compensation insurance carrier. There is no change in how injuries are reported due to the change in insurance carriers.

As a reminder, all employees should report their injuries promptly to their supervisors to insure that their workers' compensation

benefits begin as soon as possible. Managers and supervisors are also reminded to complete all required forms completely and accurately, and to send them promptly to the NAF HRO office for processing.

Please update your records and LS forms with the following address:

**Contract Claims Services, Inc.**

P.O. Box 541328  
Dallas, TX 75354

If you have any questions please contact the NAF Human Resources Office and speak to Mike Pollack at 703-704-3028 or Dédra Allen at 703-704-3013.

**NAF TIPSTER:** *Managers often want to know when employees are thinking about retiring so that plans can be made for future staffing. So can you just ask? What's the downside?*



Employees who are pushed to provide a retirement date when the employees themselves have not volunteered the information are likely to feel pressured by their managers. If the pressure felt by such an employee is accompanied by other work-related pressure, the employee may feel like he or she is being forced out, whether it is true or not. The employee's perception may be that he or she is

being subjected to age discrimination, again, whether it is true or not.

The flip side of the coin is that employees who do share their retirement plans with management are free to change their minds at the last minute and stay, unless management has actually recruited a replacement for the position. Usually, though, that type of recruitment does not

occur in advance. This means that management **cannot** force an employee to retire, if the employee previously announced an intention to retire, but then has a change of heart. For more guidance contact your CPAC Office.



## **REGISTER NOW FOR THE ARMY MANAGEMENT STAFF COLLEGE**

Registration is open for the Army Management Staff College Continuing Education for Senior Leaders (CESL) course. The CESL course will be offered May 12-16 at the Army Management Staff College at Fort Belvoir, Va. The application deadline is Mar. 28. CESL will be offered May 12-16.

The objective of CESL is to further develop leaders by refining their skills and potential for the Department of Defense's future contemporary operating environment.



Students complete 40 hours of distributed Learning (dL) prior to attending a four-and-a-half day resident phase at Fort Belvoir. The dL consists of readings and pre-work that is not computer based. The course is open to civilian personnel serving in supervisory and non supervisory positions to include GS-14/15.

Enrollment is also open to DoD personnel who meet the eligibility requirements, however CESL is only centrally funded for permanent Army personnel.

Applicants must have completed one of the following courses: AMSC Sustaining Base Leadership Management (SBLM) program, SBLM Non-resident, SBLM Metro, Command and General Staff College/Intermediate Level Education, Warrant Officer Senior Staff Course and Sergeants Major Course. Visit the website at: [Amsc.belvoir.army.mil/cesl/](http://Amsc.belvoir.army.mil/cesl/)

### **“Federal Employees Short-term Disability Security Act of 2008.”**

The Office of Personnel Management (OPM) is submitting a legislative proposal entitled the “Federal Employees Short-term Disability Security Act of 2008.” A primary goal for offering this new voluntary benefit program is to ensure there is an opportunity for employees, particularly new employees, to obtain additional income protection for recovery from accidents or illnesses or for maternity purposes.

The STDI program would safeguard Federal employees during their tempo-

rary inability to perform normal occupational duties because of a non-work related disability. There are no Government contributions toward premiums under this proposal. However, employees would be eligible to purchase short-term disability insurance coverage with premiums based on group coverage which will help to keep the premiums affordable.

Currently, Federal employees are not covered by short-term disability insurance. This proposal would ensure em-

ployees have the opportunity to obtain insurance which will provide partial income replacement during their temporary time away from work. This coverage would be especially beneficial to new employees who have not had sufficient time in service to accrue a bank of leave.

The proposal also leverages the size of the Federal population which would benefit employees who choose to purchase short-term disability insurance coverage at group rates.

## **Management Without Fear — Abusive Language**

Although there is considerable variation in what is considered appropriate or acceptable language in the workplace, depending upon the work environment and the prevailing practice, all agencies require employees to keep their comments, statements and utterances within certain broad boundaries. Failure to use appropriate language in dealing

with managers, co-workers, subordinates or even non-employees can prove disruptive to operations, and provide the basis for discipline--action up to and including removal. Another area that deserves mentioning is the tone of email traffic. Communication between humans is approximately 90% body language, 8% tone of

voice, and 2% what you say. With email, you remove the first 98%. Be aware of this when you write emails. Be very obvious with your meanings, since subtleties will be lost or completely misunderstood. Remember this too, when reading others' emails. Their grasp of the language, or their haste in composing the email may have

given it a "virtual tone" that may come off as derogatory or aggressive. Reread it and see if you are simply misinterpreting the words."





## DO YOU KNOW YOUR ABCs?

The Army Benefits Center-Civilian (ABC-C) located at Fort Riley, Kansas provides the tools Army Civilians need to take the driver's seat regarding their federal benefits. The ABC-C provides automated benefits services to civilian employees worldwide. The ABC-C replaces the old way of doing personnel business, where employees often made trips to their CPACs to obtain, complete and submit forms to change their health,

life or Thrift Savings Plan elections. Employees now have a convenient, self-service system which allows them to make these changes electronically by contacting ABC-C's Employee Benefit Information System (EBIS) using the Internet <https://www.abc.army.mil>) or ABC-C's Interactive Voice Response System (IVRS) using a touch-tone telephone (1-877-ARMY CTR) in CONUS. Employees serving in OCONUS locations may call the benefits center using the following numbers:

Belgium 0800-78245; Italy 800-780821; Japan 00531-1-20378; Korea 00798-14-800-4766; Netherlands 0800-0232739; Saudi Arabia 1-877-276-9287 (same as the CONUS number); United Kingdom 08-000857723; Germany 0800-1010282.

Now you know your ABCs!



The March 2008 edition of the ABC-C Newsletter is located on the ABC-C homepage at <https://www.abc.army.mil>



## ANNUAL WEINGARTEN RIGHTS NOTICE



*For employees covered by a collective bargaining agreement, there is an annual requirement to notify employees of their right to request Union representation in connection with an investigation that the employee reasonably believes could result in disciplinary action. This provision is often referred to as employees' "Weingarten" rights, as based on a Supreme Court decision.*

*The Federal Service Labor-Management Relations Statute establishes three conditions that must be met for a meeting to be considered a "Weingarten" meeting:*

1. One or more agency representatives are examining (questioning) a bargaining unit employee in connection with an investigation;
2. The employee reasonably believes that the examination may result in disciplinary action against the employee; and

3. The employee requests union representation.

*Once all three conditions have been met, supervisors may generally not continue the examination without allowing the employee his or her requested representation.*

*Specifically, the supervisor's options under these circumstances are:*

1. Grant the request and notify the union that a meeting to examine a bargaining unit employee is going to take place and that the employee has requested union representation. If the union attends the meeting, it must be allowed to make relevant comments but cannot disrupt the meeting nor can it answer the questions posed to the employee;
2. Discontinue the interview and rely on evidence already available or information

*obtained from other sources; or*

3. Offer the employee a clear choice to:
  - a) continue the interview without representation, or
  - b) have no interview.

*The "Weingarten" rights differ from the "Miranda" rights in that management is not obligated to inform employees of their rights each time before questioning them. "Weingarten" rights are not applicable when management issues a disciplinary action since management is not asking any questions. Additionally, the "Weingarten" right does not come into play when engaging in performance counseling as this does not concern disciplinary matters but, rather, performance issues.*