



# The Informer

## NSPS *Setting* — TAPES!

As of October 1, 2010 more than 127,962 employees have transitioned out of NSPS. Of these, 73% received a pay increase, 20% were placed on pay retention (no increase) and 7% were matched to comparable GS step.

When employees transition out of the NSPS classification and pay system, they will also transition out of the NSPS performance appraisal system.

Most Army General Schedule (GS) employees are covered by the Total Army Performance Evaluation System (TAPES). TAPES is very similar to the NSPS appraisal system. A major difference is that there are no pay pools or perform-



ance payouts under TAPES. TAPES consists of [two systems](#). Your grade determines which system will be used to evaluate your performance: **Base System** - Used for evaluating grades GS-8 and below. **Senior System** - Used for evaluating grades GS-9 and above. *Career Interns are rated under the Senior System regardless of grade.*

Supervisors and managers continue to be responsible for identifying, documenting, and clearly communicating performance expectations and holding em-

ployees responsible for accomplishing them.

The Army's minimum rating period under TAPES is 120 days. Employees cannot be rated until they perform under an approved performance plan for at least 120 days (*under NSPS, the minimum rating period was only 90 days*)

For employees assigned to Ft Belvoir rated under the TAPES. Rating cycles are: **GS-8 and below 1 Feb-31 Jan, GS-9-12, 1 Nov-31 Oct, 13 and above 1 July-30 June.**

For more information on the TAPES please contact your LMER Specialist.

### \*\*NEW\*\* CATEGORY RATING RULES FOR DELEGATED EXAMINING

As required by the President's "Hiring Reform Initiative", as of 1 November 2010, delegated examining certificates must be issued using "Category Rating" rules instead of the traditional competitive examining rules; where candidate consideration and selection was limited to the top 3 candidates (or rule-of-three). Under category rating rules, applicants are assessed and placed in 3 broad categories, *Best Qualified*, *Highly Qualified* and *Qualified* instead of in numerical score order. This is good news for selecting officials as it will give them more candidates to consider than under the old delegated examining rules. Applicants entitled to veterans' preference are placed ahead of non-preference eligibles in the same category. Selecting Officials will be able to select any candidate in the top category instead of only the top 3 candidates. However, non-preference eligibles may not be selected if there are qualified veterans' preference eligibles in the same category. If you have questions please contact your servicing HR Specialist in the Belvoir CPAC.



# Fort Belvoir Civilian Personnel Advisory Center

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**I've Got the POWER!!!**

All federal agencies of the Executive Branch are singing "I've got the POWER" !! as of the beginning FY 2011. **Protecting Our Workforce and Ensuring Reemployment (POWER)** is a new Presidential initiative that runs from FY 2011 through FY 2014.

Just like the previous SHARE (*Safety, Health, and Return-to-Employment*) initiative, this is a partnership between the Office of Occupational Safety and Health Administration (OSHA) and the Office of Workers' Compensation Programs (OWCP). The purpose of POWER is to reduce injury and illness rates, reduce overall workers' compensation costs and improve timeliness of filing workers compensation claims.

The Department of Labor (DOL) has provided the baseline numbers and the targets for FY 2011 in a memorandum signed by the Secretary of Labor, dated September 21, 2010. You can view the memo and target numbers at <http://www.dol.gov/owcp/dfec/power/POWERmemofromSecretarySolis.pdf>. Department of Army's (DA) POWER Initiative goals and information may change after the Department of Defense (DoD) and DA issue

any supplemental implementation guidance or goals.

Timeliness for CA Forms 1 and 2 and CA Forms 7 will be monitored anew and measured against our previous baseline numbers, as well as against the other DoD components and then with other departments of the Executive Branch. These numbers will be posted on a quarterly basis on

<http://www.dol.gov/owcp/dfec/power>. While Injury Compensation Program Administrators (ICPAs) at the Civilian Personnel Advisory Centers will not be directly responsible for gathering data, they are key to Army's success. This must be a team effort at the garrisons and districts because there are many players who contribute to the end results. ICPAs will need to work with safety, industrial health, and occupational health offices, as well as managers and supervisors of every level.

In turn, Army ICPAs will need help and cooperation from all players to meet the agency performance goals.

More information will be shared when received from DoD and DA. If you have any questions concerning this article please call Tangela Jordan 703-704-3023.

**Updating Your Training History**

Did you know that you can update your own training history in DCPDS? If you do, but find that you need a little help along the way, check out the My Biz Guidance section in the CPOL Portal!

Log into CPOL, <http://www.cpol.army.mil> through the Employee Portal, then Click on —Employee Data under the Employee Tab.

The Training History "help files" are only located in Army's CPOL Portal. Please note that they are not available once you are in the DCPDS Portal or My Biz.

**CIVILIAN EDUCATION SYSTEM (CES)**

To facilitate your development and training the Civilian Leader Development Program is a progressive and sequential leader development program that provides enhanced educational opportunities for Army Civilians throughout their careers. Army Civilians will become multi-skilled, agile leaders of the 21st Century, who personify the Warrior Ethos in all aspects, from war fighting support, to statesmanship, to enterprise management.

**Upcoming CES Courses being offered at Ft Belvoir:**

<u>Intermediate Course</u>			
<u>Course</u>	<u>Start Date</u>	<u>End Date</u>	<u>APP</u>
<u>DEADLINE</u>			
IC-11-004	28 FEB 11	18 MAR 11	29 DEC 10
IC-11-006	18 APR 11	06 MAY 11	16 FEB 11
IC-11-007	09 MAY 11	27 MAY 11	09 MAR 11
<u>Advanced Course</u>			
AC-11-003	07 MAR 11	01 APR 11	05 JAN 11
AC-11-004	18 APR 11	13 MAY 11	16 FEB 11
AC-11-005	06 JUN 11	01 JUL 11	06 APR 11

For more information or to register please go to: <http://www.amsc.belvoir.army.mil/main/contact/>

**Americans with Disability Act (ADA) makes Reasonable Accommodations Accessible to More Employees**

Recent changes to the ADA were is the most sweeping change to the ADA in the past decade, as it redefines who is considered "disabled" under the ADA, and consequently may potentially lead to a larger population of "disabled" employees seeking accommodations and a larger number of employees who claim they were "regarded as" disabled in disparate treatment claims. The amendments instruct courts and employers to adopt a "broad standard" when determining whether an individual is considered disabled. In fact, the amendment states it provides "a broad scope of protection" for employees, and instructs courts examining ADA cases to provide coverage for plaintiffs "to the maximum extent permitted" by the statute. The ADA Amendments Act (ADAA) contains a very broad, non-exclusive list of conditions that should always be considered major life activities. These activities are broader than the "major life activities" included in the EEOC's regulations. The ADAA states that "major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working." For more information on ADA please contact the EEO disability officer, Mr. Willie Tucker, at 703-805-2006.





## NEWS YOU CAN USE

§ If you are a FERS employee and you were hired after July 31, 2010, your agency has **automatically** enrolled you in the TSP, and 3% of your basic pay is deducted from your paycheck each pay period and deposited in your TSP account, unless you have made an election to change or stop your contributions. You can make an election by following the instructions in Starting, Changing, and Stopping Your Contributions.

§ If you are a FERS employee and you were hired before August 1, 2010, you already have a TSP account with accruing Agency Automatic (1%) Contributions. In addition, you can make contributions to your account from your pay and receive Agency Matching Contributions.

§ If you are a FERS or CSRS employee and you were rehired after July 31, 2010, **your agency has automatically enrolled** you in the TSP, and 3% of your basic pay is deducted from your paycheck each pay period and deposited in your TSP account, unless you make an election to stop or change your contributions.

§ **The L 2010 Fund to close !!!**— The L 2010 Fund reached its time horizon on July 1, 2010 and now has a final asset allocation that is identical to the L Income Fund. On December 31, the L 2010 Fund will be closed. If you have investments in the L 2010 Fund, they will be moved to the L Income Fund on December 31. If you have allocated any portion of future contributions to the L 2010 Fund, that allocation will be automatically changed to the L Income Fund. You do not need to take any action, but if you want to change your contribution allocation or do an interfund transfer to change the investment mix of money already in your account.

§ If you are a rehired FERS or CSRS employee who had a break in service, your participation in the TSP is determined by two factors: the length of your break in service and whether or not you were a TSP participant prior to the break.

§ If you are a rehired FERS or CSRS employee who had a break in service of **31 or more full calendar days**, regardless of whether you were enrolled prior to your break, you will be automatically enrolled in the TSP unless you elect to contribute immediately upon rehire. You can change or stop your contributions at any time after you are rehired.

§ If you are a rehired FERS or CSRS employee who had a break in service of **less than 31 full calendar days** and you were previously contributing to the TSP, your employee contributions and, if you are FERS, your agency contributions, will resume upon rehire. If you were not previously contributing, you can begin at any time.

§ **Civilian TSP participants who are members of the Ready Reserve:** If you are a civilian TSP participant with an outstanding TSP loan and are placed in nonpay status to perform military service, make sure your agency provides the TSP with documentation to certify your status and suspend loan payments. The Internal Revenue Code allows the TSP to suspend loan payments for all participants placed in nonpay status for up to one year of nonpay. However, participants placed in nonpay status to perform military service for more than one year are authorized suspension of loan payments for the entire period of military service

*\*The elective deferral limit does not apply to contributions made from the tax-exempt pay a member of the uniformed services may receive.*

§ **If you are a member of the uniformed services**, you should pay particular attention to the Section 415(c) annual addition limit. If you contribute from pay that is subject to the combat zone exclusion, this limit allows you to put more money into your TSP account than the elective deferral limit would permit.

§ In addition, if you are eligible to make catch-up contributions and you are deployed to a designated combat zone, you must earn basic pay each month that is not subject to the combat zone tax exclusion. If 100% of your pay is tax-exempt, you will not be able to make catch-up contributions.

§ **If you are a member of the Ready Reserve** and you are contributing to both a uniformed services and a civilian TSP account as a FERS employee, the elective deferral and catch-up limits apply to the total amount of tax-deferred employee contributions you make in a calendar year to both accounts.

§ If you are called to active duty and make tax-exempt contributions to the TSP while deployed in a designated combat zone, the sum of all of your regular tax-exempt and tax-deferred contributions to both your uniformed services and civilian TSP accounts combined (including any agency contributions made to your civilian account) cannot exceed the section 415(c) annual addition limit.

§ **Loan interest rates**— for new loans is 2.125%.

§ **Annuity interest rate index:** 2.875% for annuities purchased in September 2010, and 3.125% for annuities purchased in August 2010.



### ***“Self Service My Biz”***

The Civilian Personnel Management Service and Army recently

announced the new “Self Service MyBiz” – Employment Verification (EV) Tool, the employee’s choice for quick, secure verification of employment and/or salary information. The tool is available to all employees through their MyBiz account and is accessible 24 hours a day, 7 days a week. As of 31 October 2010, employees can log into “Self Serve MyBiz” via the Defense Civilian Personnel Data System (DCPDS) to [Portal @ http://](http://)

[compo.dcpds.cpmis.osd.mil](http://compo.dcpds.cpmis.osd.mil) to provide proof of their employment and/or salary information to organizations or persons. The CPOL Portal also provides a link to the Employment Verification User Guide.

### ***New Employee Handbook***



The Army Civilian Corps New Employee Handbook is ready for distribution to new employees!

This handbook delivers up to date information for new employees to help make their transition into the US Army Civil-

ian Corps a success. It contains 23 sections full of important topics to curb the stress of a new job, such as the Army Structure, Customs and Traditions, Rank and Insignia, Pay and Benefits. One advantage of this handbook is that it is online an accessible to new employees 24 hours a day! You can review it at your convenience, at any time or location by going to [http://www.chra.army.mil/TalentAcquisition/On Board/Army%20Civilian%20Corps%20New%20Employee%20Handbook.pdf](http://www.chra.army.mil/TalentAcquisition/OnBoard/Army%20Civilian%20Corps%20New%20Employee%20Handbook.pdf)

You can always contact your friendly neighborhood CPAC if you aren't able to find an answer in the book!

**\$7  
million  
Savings!**

## ***Tangela's Workers' Compensation Corner***

The Army has done an excellent job this year in getting injured employees back to productivity, making an almost 7 million dollar reduction in compensation. We are now at the lowest compensation cost in more than a decade. In FY10, Injury Compensation Program Administrators (ICPA) used the Pipeline Program 142 times and the future cost avoidance for these previously long term workers compensation claims is approximately \$129,000,000. Ft. Sam, Ft. McCoy, **Ft. Belvoir**, and WRAMC's Pipeline Charge Backs made a significant impact in Army's overall Pipeline usage. Last fiscal year, Army returned 96 long term claimants to work with a future cost avoidance of \$69,000,000. FY 10 is proving to be even more of a success!

The DoD Pipeline Program (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. Bringing a long-term claimant back to work takes a great deal of coordination between the claimant's physician, the local CPAC, the gaining supervisor and the ICPAs. Sometime installations say they have no money in the budget to pay a returning claimant. Pipeline addresses this budget concern by sending a MIPR to the installation to pay the salary for the first 365 days of full-time employment or a pro-rated amount if return is less than full time. Pipeline saves Army money in two ways: the claimant come off the chargeback PLUS the salary is "free" for the first year.

#### **Ft. Belvoir Garrison Cost for 2010:**

Medical costs: \$103,429  
Compensation costs: \$351,788  
TOTAL COST FOR 2010: \$455,217

#### **Ft. AP Hill Garrison Cost for 2010:**

Medical cost: \$74,633  
Compensation costs: \$34,710  
TOTAL COST FOR 2010: \$109,343



#### **Ft. Belvoir Garrison Cost for 2009:**

Medical costs in 2009 were \$105,913  
Compensation costs in 2009 were \$482,843  
TOTAL COST FOR 2009: \$588,756

#### **Ft. AP Hill Garrison Cost for 2009:**

Medical costs in 2009 were \$245,875  
Compensation costs in 2009 were \$63,763  
TOTAL COST FOR 2009: \$309,638

I appreciate all of the hard work and cooperation managers and supervisors have provided over the past two years. Management of the Workers' Compensation Program is a collaborative effort, in other words, the program cannot be a success without the full support of everyone involved. If you have any questions about how your organization can benefit from the DoD Pipeline Reemployment Program, please do not hesitate to contact me at 703-704-3023 or via email [tangela.d.jordan@us.army.mil](mailto:tangela.d.jordan@us.army.mil)

# Healthcare Reform What Changes Now???



**SMALL BUSINESS TAX CREDITS**—Offers tax credits of up to 35 percent of employer premium contributions for those small businesses that choose to offer coverage. *Effective beginning for calendar year 2010.* (Beginning in 2014, offers credits of up to 50 percent of employer premium contributions, for up to 2 years.)

**FOR SENIORS— BEGINS TO CLOSE THE MEDICARE PART D DONUT HOLE**—Provides a \$250 rebate to those Medicare beneficiaries who hit the donut hole in 2010. Beginning in January 2011, there is a 50% discount on prescription drugs in the donut hole. (Also completely closes the donut hole by 2020.)

**FREE PREVENTIVE CARE UNDER MEDICARE**—Eliminates co-payments for preventive services and exempts preventive services from deductibles under the Medicare program. *Effective on January 1, 2011.*

**HELP FOR EARLY RETIREES**—Creates a temporary re-insurance program (until the Exchanges are available) for employer health plans providing coverage for early retirees, helping to protect coverage while reducing premiums for employers and these early retirees age 55-64. *Effective on June 21, 2010.*

**COMMUNITY HEALTH CENTERS**—Increases funding for Community Health Centers to allow for nearly doubling the number of patients served over the next 5 years. *Effective beginning in fiscal year 2011.*

**MORE PRIMARY CARE PRACTITIONERS**—Provides new investments to increase the number of primary care practitioners, including doctors and nurses. *Effective beginning in fiscal year 2011.*

**HEALTH INSURANCE CONSUMER ASSISTANCE**—Provides aid to states to establish offices of health insurance consumer assistance to help consumers file complaints and appeals. *Effective beginning in fiscal year 2010.*

**CREATES NEW, VOLUNTARY, PUBLIC LONG-TERM CARE INSURANCE PROGRAM**—Creates a long-term care insurance program to be financed by voluntary payroll deductions to provide benefits to adults who become functionally disabled. *Effective on January 1, 2011.*

**HOLDS INSURANCE COMPANIES ACCOUNTABLE FOR UNREASONABLE RATE HIKES**—Creates a grant program to support states in requiring health insurance companies to submit justification for requested premium increases. *Effective beginning in fiscal year 2010.*

**EXTENDS COVERAGE FOR YOUNG PEOPLE UP TO 26TH YEAR THROUGH PARENTS' INSURANCE**—Requires health plans to allow young people up to their 26th year to remain on their parents' insurance policy, at the parents' choice **regardless of marital status.** **Note:** Language in H.R. 4872 Reconciliation Act of 2010 amends provisions in H.R. 3590 by adding a provision to clarify dependent coverage as it relates to the income definition under the Internal Revenue Code of 1986. This language defines an adult dependent as any child of the taxpayer who as of the end of the taxable year has not attained age 27. NCSL has requested clarification of the congressional intent due to the differences in the language of the two bills. *Effective 6 months after enactment.*

**CREATES NEW, VOLUNTARY, PUBLIC LONG-TERM CARE INSURANCE PROGRAM**— Establishes a national voluntary insurance program for purchasing Community Living Assistance Services and Support (CLASS program), a long-term care insurance program to be financed by voluntary payroll deductions to provide benefits to adults who are actively employed and become functionally disabled. The program allows for an opt-out by employees, and a five year vesting period. *Effective on January 1, 2011.*

**MORE REFORMS BEGIN  
IN 2014**

**-NO  
DISCRIMINATION  
AGAINST ADULTS  
WITH PRE-  
EXISTING  
CONDITIONS**

**-BAN ON HIGHER  
PREMIUMS FOR  
WOMEN**

## Changes for Federal Employees Health Benefits Programs Effective January 1, 2011

Several provisions of the Affordable Care Act (ACA) will affect eligibility and benefits under the Federal Employees Health Benefits (FEHB) Program and the Federal Flexible Spending Account Program (FSAFEDS) beginning January 1, 2011. As a result of the ACA, children are covered under their parent's FEHB health plan's Self and Family enrollment until age 26.

Children	Effect of ACA
Between ages 22 and 26	Children between the ages of 22 and 26 are covered under their parent's Self and Family enrollments up to age 26
Married Children	Married children (but <b>NOT</b> their spouses or their own children) are covered up to age 26. This is true even if the child is currently under age 22.
Children with or eligible for employer-provided health insurance	Children who are eligible for or have their own employer-provided health insurance are eligible for coverage up to age 26.
Stepchildren	Stepchildren do not need to live with the enrollee in a parent-child relationship to be eligible for coverage up to age 26.
Children Incapable of Self-Support	Children who are incapable of self-support because of a mental or physical disability that began before age 26 are eligible for continued coverage.
Foster Children	Foster children are eligible for coverage up to age 26.

If you currently have a Self and Family enrollment and do not change to another health plan or option during Open Season, your newly eligible children will be covered beginning January 1, 2011. You should contact your FEHB plan to provide information on the newly eligible child or children. You do not complete an SF 2809 or use an agency self-service enrollment system to add a child to an existing Self and Family enrollment.

If you currently have a Self Only enrollment and have newly eligible children you must change your enrollment from Self Only to Self and Family to cover the newly eligible children. You must use an SF 2809 or an agency self-service enrollment system to make this change.

If you who are not currently enrolled and want FEHB coverage for newly eligible children you must enroll in Self and Family coverage. You must use an SF 2809 or an agency self-service enrollment system to make this change.

All changes are effective on January 1, 2011. The effective date of coverage for your newly eligible children depends upon the event used to enroll or change enrollment.

Other Federal benefits programs are not affected by the Affordable Care Act for 2011. The Act has made no changes to the Federal Employees Dental and Vision Insurance Program (FEDVIP), the Federal Employees' Group Life Insurance Program (FGLI) or the Federal Long Term Care Insurance Program (FLTCIP).

**For the most up-to-date information visit [www.opm.gov/insure](http://www.opm.gov/insure) or contact the Army Benefit Center-C at 877-276-9287 or TDD 877-276-9833.**

# Use or lose notice



## **Use or Lose Your Leave by 1 January 2011**

Employees are limited to a maximum accumulation of 240 hours annual leave at the end of each leave year, unless the employee was eligible for other carryover through overseas duty or BRAC provisions. Any excess accrued annual leave, identified as "use or lose", must be used by the end of the leave year, 1 January, 2011. Otherwise, it will be forfeited.

Restoration of forfeited annual leave is permitted only in very specific instances defined by law and regulation. The law allows restoration of annual leave forfeited due to: 1) administrative error; 2) exigency of public business, or 3) sickness of the employee.

Leave which is forfeited due to either exigency of public business or sickness of the employee must have been scheduled in advance in order to be considered for restoration. For the leave year ending 1 January 2011, this means the leave must be scheduled in writing prior to 21 November 2010.

Employees requesting restoration of forfeited leave must submit a written request, along with documentation to support the request, through their chain of command to the appropriate approving official within their organization. The approving authority must certify that the loss of leave resulted from a business exigency of major importance. Approved requests must be submitted to the payroll office. Questions concerning this issue should be directed to the Labor/Management-Employee Relations Specialist that supports your organization.

If employees are unable to use their excess leave, rather than forfeiting it, they may want to donate the annual leave to the Voluntary Leave Transfer Program. Questions concerning the Leave Transfer Program can be directed to Mr. Rodney Butler at 703-704-0887.

## **FERS Retirement Deposits**

FERS deposit service is any period of Federal civilian service performed **BEFORE** 01-01-89, during which FERS retirement deductions were not withheld from your pay. FERS deposit service also includes service for which CSRS retirement deductions were refunded, and the service later became creditable under FERS rules.

The amount of a FERS deposit equals 1.3% of the basic pay earned during the period of deposit service, plus interest. Interest on FERS deposits is charged at the variable market rate. If you pay the FERS deposit, you will receive full credit for the period(s) of deposit service. If you do not pay the deposit, the service is not creditable for retirement eligibility or annuity computation purposes.

If you want to make a deposit, you must complete a SF 3108, Application to Make Service Credit Payment for Civilian Service (FERS).

You can obtain the SF 3108 by contacting the ABC-C IVRS FAX-Back at 1-877-ARMY CTR (276-9287) or for the hearing impaired 1-877-ARMY TDD (276-9833). It can also be obtained from the ABC-C website <https://www.abc.army.mil/Forms/RetirementForms.htm> or from the OPM website at:



<http://www.opm.gov/forms/html/sf.asp>

You will need to complete the applicant's portion and mail the form to the ABC-C. The address is:

*Department of the Army, SW-CPOC, ATTN: ABC-C, 301 Marshall Avenue, Ft. Riley, KS 66442-5004.*

ABC-C will then certify your SF 3108 and mail the form to the Office of Personnel Management (OPM).

OPM will send you an acknowledgement letter notifying you of the required deposit/redeposit. Once you receive your letter from OPM, you may pay your deposit/redeposit in installment payments of at least \$50.00 or you may choose to pay the deposit/redeposit in full. You will need to pay your deposit/redeposit directly to OPM. You will continue to be charged interest on the unpaid balance until it is paid in full.

It is important to remember that the longer you take to pay the deposit/redeposit, the more interest you will be charged on the amount due. You will need to retain your copy of OPM's receipt showing full or partial payment.

Upon final payment, you will need to furnish a copy of OPM's receipt to the CPAC for filing in your OPF.

# OPM USERRA FACTS

**Q1: Has there been any guidance on extending the 24 month health or life insurance coverage for employees on Military-LWOP?**

A1: We are not aware of any initiative extending beyond the 24-month coverage.

**Q2: If someone is on military orders, and it indicates they're on MPA (Military Personnel Authorization) orders, it's not training, but they are on active duty. Is MPA orders excluded from the 5 year rule (which doesn't exist)?**

A2: If an individual is absent from civilian employment for purposes of serving on active duty, s/he would have reemployment rights provided the following 5 criteria are met. They are: 1) Must be absent for a period of covered military service; 2) Must provide advance notice to the employer (oral or written); 3) Cumulative period of active service not to exceed 5 years subject to a number of exceptions; 4) Application for reemployment must be timely; and 5) Cannot have a disqualifying discharge.

Exceptions to the 5-year cumulative service limit are set forth by 38 U.S.C. § 4312(c). It is ultimately up to the service branch to determine what periods of active service fall within and without exceptions to the 5-year cumulative limit. Further, the employee's discharge certificate, not initial orders to active duty would be dispositive as to whether any or all of his/her military duty is exempt from the 5-year limit. An employee is not required to provide orders to active duty to an employer prior to leaving for active duty. All that is required is that the employee advise the employer orally or in writing that s/he will be on active duty.

**Q3: How is it fair or reasonable to management and the organization if a military member is considered for a position, and they are selected, but they won't be returning to civilian service any time soon? The work and mission will not be fulfilled, and management will have to hire someone temporarily until the military member returns to the civilian job. This is fiscally irresponsible. Isn't it?**

A3: USERRA is a Federal statute imposing certain requirements on all employers in order to ensure that Service Members' employment and reemployment rights are preserved. The Veterans' Employment and Training Service (VETS), the U.S. Department of Justice, and the Office of Special Counsel do not have discretion as to which provisions of that law they will administer or enforce. You may, however, wish to direct your comments to the Senate and House Veterans' Affairs Committees, and it is reasonably certain that the Chairs of both committees will be highly interested in hearing your views.

**Q4: If a civilian employee is coming off of military service, do they ALL automatically get the 5 days of uncharged leave or does it depend on how they were called up (i.e. the authority they were called up under). We have lots of employees who are called up —IN SUPPORT OF OIF or OEFII under Title 10, but they are not deploying to the theater, they are performing their military service in CONUS. Does the 5 days apply to them?**

A4: Not necessarily – it depends on the orders and how he or she was called to serve. A civilian employee is entitled to 5 days of excused absence after he or she returns from active military service in connection with the continuing Global War on Terrorism

(GWOT)—as well as any other current or future military operations deemed to be part of the GWOT. An employee must be on active duty in support of the GWOT for at least 42 consecutive days to qualify for 5 days of excused absence. An employee does not qualify for excused absence for active duty of less than 42 days or for an accumulation of 42 or more days of active duty if at least one of the activations does not meet the 42 consecutive days standard. However, agencies may exercise their normal policies to grant excused absence in circumstances not covered by this policy.

**Q5: Can a disabled veteran who is being terminated from a career conditional appointment during a probationary period use USERRA to appeal the termination if he/she believes that the termination is related to his/her military service? This is a newly hired employee, not someone who has returned from military service.**

A5: An employee may always allege and file a complaint to the effect that s/he believes that an employer has taken an adverse action due to his/her status as a veteran. But the simple fact that the employee is a disabled veteran does not offer protection against discharge during a probationary period or for cause. Rather, the law provides that the employer may not take any adverse action against the employee due in any part to his/her status as a veteran. As long as his/her military status is not a factor in the decision to terminate, then USERRA would not be violated.

**Q6: I was told by one of our employees that documentation is not required for less than 30 days. Is that true, even if they are requesting paid military leave differential? What about if the employee leaves for 22 days and claims that the service is for a contingency operation? Don't we need documentation to verify that it was contingency service?**

A6: The employer may ask for, but may not **require** documentation for USERRA reinstatement/reemployment purposes for periods of service less than 30 days. The employer may, however, require such documentation if the employee wishes to claim military leave or differential pay. OPM can best address issues involving military leave and differential pay.

**Q7: We had an employee who turned in an unsigned letter on blank bond paper to request military leave. When the supervisors requested a signed letter or a document that was on the military letterhead, the employee was indignant. How do you suggest we handle this?**

A7: USERRA only requires that an employee provide advance notice orally or in writing to the employer prior to leaving for a period of covered military service. If the employer questions whether or not the duty is actually performed, s/he may contact the employee's unit of assignment to verify the employee's current military status.

**Q8: In respect to career promotions, are employees entitled to all successive promotions that would have occurred had it not been for active duty?**

A8: Short answer, yes. If the promotion is part of a normal ladder promotion, only contingent upon successful completion, then the employee should be brought back at the GS level s/he otherwise would have attained.

Source: OPM, Employee Services Directorate—Partnership & Labor Relations Division, <http://www.opm.gov>