



UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES



SUBJECT: Employment of Civil Service and Military Retirees

SEP 13 2008

Instruction 1419

(CHR)

ABSTRACT

This Instruction implements Department of Defense (DoD) policies and Office of Personnel Management (OPM) guidance on the employment of civil service and Armed Forces retirees. It also outlines the responsibilities of the Uniformed Services University of the Health Sciences (USUHS) managers in respect to this program.

A. Reissuance and Purpose. This Instruction reissues USUHS Instruction 1419^a and updates the USUHS policies and procedures for the appointment of civil service and Armed Forces retirees.

B. References. *See Enclosure 1.*

C. Applicability. This Instruction is applicable to all civilian positions of the USUHS.

D. Policy. It is USUHS policy:

1. To ensure the appointment of fully qualified employees, generally the "best qualified" under consideration, consistent with the provisions of Title 5, USC, Chapter 33, Section 3326^b;

2. That retired members of the Armed Forces have the right to seek and be considered for Federal civilian employment. Consideration must be extended equitably and in compliance with the merit system principle of open competition to avoid both the practice and appearance of preferential treatment. This is essential to

protect retired members from any unwarranted allegations that they may have gained their positions through influence based upon prior military service;

3. That in accordance with DoD Directive 1402.1^c, the Secretary of Defense has delegated the authority to approve the appointment of a retired member of the Armed Forces to a position in the Federal service, during the 180 days after retirement, to the heads of DoD Components. After 180 days, no waiver or approval is required;

4. That when appropriate, the USUHS may request OPM approval of an exemption from reduction in retired pay for civil service or Armed Forces retirees employed by or under consideration for employment by the USUHS in the following instances:

a. Under provisions of Title 10, USC, Chapter 104, Section 2113(f)(2)^d, the Secretary of Defense may exempt a total of five Armed Forces retirees from loss of retired pay, which authority has been delegated to the President, USUHS. According to Title 10, USC, Chapter 104,

Section 2113(f)(2)^d, "The Secretary of Defense may exempt, at any time, a physician who is a member of the faculty from the restrictions in subsections (a), (b), and (c) of section 5532 of Title 5, if the Secretary of Defense determines that such exemption is necessary to recruit or retain well-qualified physicians for the faculty of the University. An exemption granted under this paragraph shall terminate upon any break in employment with the USUHS by a physician of three days or more. An exemption granted under this paragraph to a person shall apply to the retired pay of such person beginning with the first month after the month in which the exemption is granted. Not more than five exemptions may be in effect under this paragraph at any time."; and

b. 5 CFR, Part 553^e allows agencies to request exemption from loss in annuity or retired pay for civil service or Armed Forces retirees when such employment is needed to meet exceptional difficulty in recruiting or retaining qualified candidates for particular positions or under other unusual circumstances. The USUHS would request such an exemption through the Assistant Secretary of Defense for Health Affairs and the Director, Administration and Management, OSD, to the Office of the Personnel Management.

5. That in the employment of retired members of the Armed Forces, the USUHS will follow the policies and principles stated in Title 5, USC, Chapter 33, Section 3326^b. In addition, the USUHS will ensure that each action to employ retired members meets the requirements of Title 5, USC, Chapter 33, Section 3326^b.

E. Responsibilities.

1. The President, USUHS shall:

a. Review and approve all requests for employment of retired members of the Armed Forces during the 180 day period following their retirement;

b. Review all requests for waiver of dual compensation regulations for re-tired members of the Armed Services; and

c. Forward to the Assistant Secretary of Defense (Health Affairs), requests for dual compensation exemptions of retired members of the Armed Forces under Title 10, USC, Chapter 104, Section 2113(f)(2)^d.

2. Department Chairs and Activity Heads shall:

a. Prepare and forward to Civilian Human Resources (CHR) documentation in support of requests for 180-day waivers for prospective employees who are Armed Forces retirees when less than 180 days has elapsed since retirement. See *Enclosure 2* for the information required; and

b. Coordinate with CHR to request and document requests for waivers of dual compensation for prospective or current employees in their organization. See *Enclosure 3* for information required.

3. The Director, Civilian Human Resources shall:

a. Provide advice and assistance to supervisors, managers, and retired or prospective retired civil service employees or Armed Forces retirees in regard to provisions and requirements outlined in this Instruction;

b. Ensure that DoD principles are adhered to in the consideration of Armed Forces retirees for appointment to Federal civilian positions;

c. Ensure that all documentation required for the employment of Armed Forces retirees is completed and that all required records are complete and available for review. At a minimum, documentation for 180-day waivers will include the information outlined in *Enclosure 2*. Documentation will be retained for two years from the date of the appointment action;

d. Forward to the President, USUHS, for review and approval, all waiver requests for employment of Armed Forces retirees during the 180-day period following their retirement;

e. Make reasonable efforts to include applicants from all possible sources in vacancy requirements;

f. Report employment of all civil service and Armed Forces retirees to OPM and the military retired center responsible

for administering the member's retired or retainer pay as appropriate. Notification is done by letter for civil service retirees and by submission of the Notification of Personnel Action, Standard Form 50 for Armed Forces retirees. For Armed Forces retirees such notification is required under Title 5, Chapter 55, Section 5532^f which may require reduction in retired or retainer pay; and

g. Finalize and forward through DoD all documentation required for the OPM waiver of reduction in retired or retainer pay or annuity.

4. Applicants who are civil service or military retirees shall:

a. Provide accurate and current information regarding their retired status and annuity or retirement pay upon request; and

b. Provide all information regarding their professional qualifications and work experience upon request.



Charles L. Rice, M.D.
President

Enclosures:

1. References
2. Information to Accompany Requests for Approval of Proposed Appointments of Retired Members of the Armed Forces During the 180 Day Period Following Retirement
3. Information to Accompany Requests for Approval of Exemption From Reduction in Annuity or Retired Pay

REFERENCES

- (a) USUHS Instruction 1419, "Employment of Retired Civil Service and Military Retirees," dated September 28, 1993
- (b) Title 5, United States Code, Chapter 33, Section 3326, "Appointments of Retired Members of the Armed Forces to Positions in the Department of Defense"
- (c) DoD Directive 1402.1, "Employment of Retired Members of the Armed Forces," dated January 21, 1982
- (d) Title 10, United States Code, Chapter 104, Section 2113(f)(2), "Administration of University"
- (e) 5 Code of Federal Regulations, Part 553, "Reemployment of Military and Civilian Retirees to Meet Exceptional Employment Needs"
- (f) Title 5, United States Code, Chapter 55, Section 5532, "Employment of Retired Members of the Uniformed Services; Reduction in Retired or Retainer Pay"

**INFORMATION TO ACCOMPANY REQUESTS FOR APPROVAL
OF PROPOSED APPOINTMENTS OF
RETIRED MEMBERS OF THE ARMED FORCES
DURING THE 180 DAY PERIOD FOLLOWING RETIREMENT**

1. Information About the Proposed Appointee:

- a. The effective date (YYMMDD) of retirement from the Uniformed Services;
- b. Rank at the time of retirement;
- c. Pay grade and the Uniformed Service at the time of retirement; whether regular or non-regular; and
- d. A current application for federal employment completed by the proposed appointee.

2. Information About the Position Involved:

- a. Date (YYMMDD) the position was established;
- b. Date (YYMMDD) it was last occupied;
- c. Whether the position was converted from military to civilian status;
- d. Date (YYMMDD) of conversion (if converted);
- e. Reason for conversion;
- f. Whether the proposed appointee was the last military occupant;
- g. A current position description;
- h. Whether the position is continuing or temporary;
- i. A copy of the qualification standard covering the position (alternatively, reference may be made to OPM Standards when applied without modification); and
- j. Whether efforts to fill the position have been continuous since it became vacant; if not, the reasons therefore.

c. A statement as to how the proposed appointee is superior to any eligibles standing higher on the certificate.

3. Consideration of Career Employees.

To ensure that full consideration was given to eligible career employees in accordance with placement and promotion procedures of the DoD Component concerned, the following information shall be included:

- a. A copy of any notices used to publicize the vacancy to interested career employees;
- b. Documentation on how the proposed appointee is superior to all qualified employees given consideration; and
- c. A statement as to whether the appropriate placement and promotion procedures were followed; if not, the reasons therefore.

4. Appointments From a Civil Service Register.

When the proposed appointee has eligibility on an appropriate civil service register and has been reached for appointment, the following additional information shall be provided:

- a. A copy of the certificate of eligibles on which the proposed appointee's name appears. The examination announcement under which the proposed appointee filed shall be identified if it is not included on the certificate itself;
- b. A copy of the request for the certificate, including selective factors and names of nominees if selective certification or name request was involved; and

5. Appointment From Other Than a Civil Service Register. When it is proposed to appoint a retired member from other than a

civil service register, the following additional information shall be provided:

a. Under what authority (OPM regulation) the retired member will be appointed;

b. If temporary appointment pending establishment of register authority has been secured, a copy of the request for a certificate of eligibles, including selective factors and a copy of the authority; and

c. If any positive recruiting efforts were made to seek out applicants for the position, the methods used (including specific dates and places), copies of any notices publicizing the vacancy, and any contacts with recruiting sources.

**INFORMATION TO ACCOMPANY REQUESTS FOR APPROVAL
OF EXEMPTION FROM REDUCTION IN
ANNUITY OR RETIRED PAY**

1. For waiver of reduction in retired or retainer pay, documentation must support the existence of exceptional difficulty in recruiting or retaining a qualified candidate for a particular position. All requests must:

- a. Identify the individual for whom the exception is requested;
- b. Identify the appointing authority to be used;
- c. Identify the position to which he/she will be appointed;
- d. Describe the length, breadth, and results of the agency's recruiting efforts; and
- e. Include any other factors demonstrating that a legitimate recruiting need cannot be met without the requested waiver. These factors may include, but are not limited to, unusual qualification requirements or working conditions, possibility of job reengineering or contracting, or a need to fill the position without further delay.

2. Exceptions may be appropriate when an agency needs to retain the services of a particular individual who is uniquely qualified for an ongoing project. Requests for such exceptions must address the following criteria:

- a. The critical nature of the project to include the importance of the project to the agency mission, the potential cost of project failure or delay, legislative or Presidential deadlines, if any, and other factors demonstrating the project is unusually critical;
- b. The candidate's unique qualifications to include a description of the knowledge, skills, and abilities possessed by the individual that are essential for the successful completion of the project;
- c. The need for retention showing good cause to believe that the employee will retire or resign from the position and the agency will lose his/her services if the exception is not granted; and
- d. The consideration of other staffing options (i.e., why the work could not be reassigned to other employees).