

DRAFT -- 4/22/59

Analysis and Interpretation of Selected
Parts of the Government Employees Training Act and Regulations

This information is provided to help in better understanding the Government Employees Training Act and the regulations contained in Chapter T-1 of the Federal Personnel Manual.

Subpart B Establishing Training Programs
Through Government and Non-Government Facilities

This part of the regulations permits agencies wide latitude for exercising administrative judgment needed for effective training. The requirements are primarily guides or standards. The details as to how most of the requirements will be met are left to agency discretion.

Section 39.201 Review of Training Needs

This section requires that agencies consider information available through existing records in determining training needs. It also requires that the training needs of all employees be considered (not just professional personnel) in these determinations.

Section 39.202 Statement of Training Policy; Scope of Training Programs

Agencies must state training policies in writing. This section includes broad standards for training programs. It emphasizes the need for agencies to give thought to the purposes of training, training needs, and assignment of responsibilities for seeing that the purposes of training are achieved.

Section 39.203 Selection and Assignment of Trainees

Agencies are required to establish procedures that will insure reasonable equality of opportunity among employees for training that will result in promotions. This section also requires agencies to use the Merit Promotion when selecting career or career-conditional employees for training that is given to prepare them for promotion and that is required for promotion.

Examples:

1. Training is given to prepare employees for Purchasing Agent positions. Persons can qualify for these positions in ways other than this specific training. Therefore, you are not required to use the Merit Promotion Program when selecting employees for this training. If the training will improve the employees chances for promotion, you are only required to establish reasonable equality of opportunity for this training. You are encouraged to use the Merit Promotion Program in such instances.

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2. To qualify for a position as Internal Revenue Agent GS-11, candidates must complete a specific course given only by the Internal Revenue Service. In this situation, use of the Merit Promotion Program is required when selecting employees for this training.

This section of the regulations also places two restrictions on agency authority to approve out-service training. These are:

1. Authority to approve out-service training of more than 40 hours duration must be held at a sufficiently high administrative level to insure that the policies and viewpoints of the agency head are reflected in each decision; and
2. Each assignment of an employee who is stationed within any of the several states of the union to training outside of these states must be approved by a specifically designated official at the headquarters level of the agency.

Section 39.204 Utilization of Trainees

Agencies are required to consider significant training and self-development of their employees when position changes are effected. The Civil Service Commission does not expect documentation of such consideration and will not question agency determinations in individual cases.

Section 39.205 Evaluation of Training

The regulations require agencies to provide for evaluation of training. Agency heads are permitted to determine the manner and frequency of evaluation that is most appropriate in light of agency circumstances.

Section 39.206 Interchange of Training Information

Agencies are directed to share new, different, or particularly successful training practices with the Civil Service Commission and other agencies. Each agency is responsible for determining what should be shared (in terms of probable interest of other agencies and its own ability to share) and how sharing will be accomplished.

Section 39.207 Reports

This section prescribes that certain reports will be submitted by agencies to the Civil Service Commission. Each agency will establish procedures for gathering the required information.

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Section 39.208 Utilization of Other Government Facilities

The regulations reflect the principle that agencies are in the best position to determine whether they can make their training facilities available to other agencies (in terms of capacity and effect on training operations and other missions) and to determine whether training programs and facilities of other agencies are suitable, timely, and reasonably available to meet their training needs.

Subpart C Training By, In, or Through
Non-Government Facilities

This subpart covers regulations which relates exclusively to out-service training.

Section 39.301 General Prohibitions, Training Through Non-Government Facilities

The regulations contain two general prohibitions on out-service training. These are:

1. Training for promotion is prohibited if fully qualified employees are available in the agency. If taken literally, this prohibition would require an installation to have more knowledge of personnel in other parts of an agency than is generally available. Because of this, agency heads are directed to establish procedures that are "reasonable and necessary to assure adherence to this prohibition."
2. Agencies are prohibited against use of out-service training if Government facilities or fully trained employees are reasonably available. An agency may find that Government facilities are not reasonably available if using them would be more expensive.

Section 39.302 Selection of Non-Government Facilities for Training

Selection of out-service facilities for training shall be based primarily on the ability of such facilities to meet training needs effectively, economically, and in a timely fashion.

Section 39.303 Computing Time in Training Through Non-Government Facilities

The basic principles of this section are:

1. Count "classroom" time for part-time training;
2. Count time in pay or leave status for full-time training (up to a maximum of 8 hours a day or 40 hours a week);
3. Do not count travel, study and correspondence course time.

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There will be relatively few problems when a training program is exclusively Government or non-Government. However, a particular course may include both. If so, each type should be governed by its own regulations.

Example: An agency conducts a 24 hour course in one of its buildings. Twenty hours are taught by Government employees and four by non-Federal employees. The four hour segment is considered "training by, in, or through non-Government facilities."

Section 39.304 Continuous Civilian Service

Under the Act, no employee having less than one year of current, continuous civilian service in the Government is eligible for out-service training unless the agency determines, in accordance with Commission regulations, that such training is in the public interest.

The term "continuous civilian service" is interpreted to permit crediting of all time on the rolls in a non-pay status.

Section 39.305 Waiver of Limitations on Training of Employees Through Non-Government Facilities

The Act limits the total amount of out-service training an agency can give a year. It prohibits out-service training during the first year of employment unless the agency head determines such training to be in the public interest. Finally, it prohibits more than one year of out-service training during any decade of an employee's service.

The Act permits the Commission to waive these limitations upon recommendation of the head of an agency.

This regulation:

1. authorizes the waiver of all three prohibitions for periods of out-service training of 40 hours or less, correspondence courses, and training conducted by manufacturers as a part of the normal service incident to initial purchase or lease of their products under procurement contracts;
2. authorizes the waiver of the prohibition against out-service training during the first year of employment and the prohibition against more than one year of out-service training in a decade for career or career-conditional employees in work-study programs if three conditions are met: agency does not pay employees' salary while in college; programs cannot operate successfully unless the agency pays some training expenses; and employees are in fields of natural or mathematical sciences or engineering;

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3. permits agency heads to waive the prohibition against out-service training during the first year of service for employees whose training is essential to protection of life, safety, or property, or to intelligence or law enforcement activities; for employees in positions for which higher minimum rates of pay are approved under section 803 of the Classification Act; and for employees who can participate at little or no added cost in programs conducted for others.

Section 39.306 Agreement to Continue in Service

The Act requires employees who are given out-service training at Government expense to agree to stay in the service for a period equal to at least 3 times the length of such training or pay the Government for the additional expense.

This regulation excepts from the requirement

1. training that involves only salary expense;
2. training provided by manufacturers as a normal service incident to initial procurement or lease of their product;
3. training of 40 hours or less;
4. training through correspondence courses,

This section also permits a shorter period of obligated service for employees taking training on their own time at Government expense. In such situations, the obligated service must be at least one month or equal to the length of the training whichever period is longer.

Section 39.307 Failure to Fulfill Agreements to Continue in Service

The Act has two special provisions which permit relief when employees fail to fulfill obligated service agreements. One of these says, when an employee moves to another agency, recovery of training expenses may be made only if his agency notifies him before he moves that it will require recovery. Employees must give the agency 10 days notice of their intention to transfer. The other special provision offering relief says that agency heads may waive the right of recovery, under Commission regulations, in the interests of equity and good conscience or in the public interest. Under this latter provision agencies may also pro-rate the amount of the remaining obligation. (Example: An employee completes 3 months of a 6 month obligation. The added cost of the out-service training was \$500.00. The agency may require the employee to pay \$250.00 for the 3 months of incomplete obligated service.)

This section of the regulations requires agencies to give timely notice of their intention to recover expenses from employees moving to other agencies. It also gives agencies the authority they need to waive the right of recovery. At the same time it directs that delegations of authority to waive the right of recovery be held to high administrative levels in the agency.

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Subpart D Expenses of Training

Section 39.401 Determination of Necessary Expenses of Training

This section gives agency heads (subject to delegation as they see fit) responsibility for determining which expenses of training are appropriately paid under the provisions of this Act.

Section 39.402 Exceptions from Prohibitions on Payment of Premium Pay

The Act prohibits payment of overtime, holiday, and night differential pay during training. The Commission has given relief from this prohibition through its delegated authority to make exceptions. Excepted by this section are:

1. employees given training (but not full time training in colleges or universities) during periods for which they are already receiving premium pay;
2. employees given training at night in situations occurring only at night;
3. employees given training on overtime because it is cheaper to do it this way;
4. employees given training during periods of temporary assignment covered by a savings provision in the pay regulations.

Section 39.403 Protection of Government's Interest, Incomplete Training

This section requires agencies to consider the need for procedures that will protect the Government's interests when employees don't complete training. The primary effect would probably be on correspondence training. Agencies may wish, for example, to pay for certain types of training (e.g., correspondence courses) only upon completion of the training, or to require employees to share the costs of training under certain circumstances.

Section 39.404 Records of Training Expenses

Records of payment connected with out-service training must be maintained. The form of these records is not set by the Commission.

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Subpart E Contributions, Awards, and Payments

This subpart covers payments from outside sources (certain tax-exempt organizations) in connection with training and attendance at meetings. The tone of this subpart is set by the sensitive nature of the matter and potential conflict-of-interest problems.

Section 39.501 Scope

This subpart covers only training and meetings that employees attend while on duty or that agencies pay for in whole or in part. This subpart doesn't relieve agency heads of their responsibility for regulating payments by outside organizations under other circumstances.

Section 39.502 Acceptance of Contributions, Awards, and Payments

The regulations require written authorization from a person in the agency with the power to approve such acceptance.

Section 39.503 Authority of Departments to Authorize Acceptance

This section sets two broad conditions on acceptance of contributions, awards, or payments from outside sources. First, it must not be a reward for past services to the organization. Second, it must be proper and ethical for the employee concerned, and not inimical to the integrity of the employee in his official capacity, to other employees, or to Government programs.

Section 39.504 Identification of Organizations When More Than One Participates

This section clarifies a technical point that sometimes arises. It provides that "organization" in the regulations is one selecting recipients and administering funds.

Section 39.505 Delegation of Authority to Authorize Acceptance

Delegations must be kept to high administrative levels. This reflects sensitivity of area and keen Congressional interest.

Section 39.506 Records

This section requires maintenance of basic records on authorizations.