

PERSONNEL



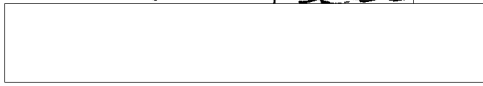
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3 April 1986

AGENCY POLICY REGARDING STAFF EMPLOYEES, ACCOMPANYING SPOUSES TO OTHER GEOGRAPHIC AREAS

Rescission: paragraph 11.1 and 11.2

No Field Counterpart *(see not rescinded)*



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1. Agency policy requires that all components concerned with planning field assignments will make every effort to provide staff position assignments to employee couples whenever possible. It must be recognized, however, that the availability of suitable positions cannot be guaranteed and sound personnel management practices, ensuring equity for all employees, prohibit making inappropriate assignments as accommodation for individual employees.

2. Personnel Management Committees and others who are responsible for long-range planning are encouraged to give every consideration to possibilities for the assignment of an employee couple. Employees are encouraged to express their interests in such assignments well in advance of the beginning of the reassignment processing procedures. Where dual assignments cannot be developed, employee couples may elect to take assignments to different posts or may remain at headquarters. This would be a personal option, however, and the Agency would have no responsibility for visitation arrangements, separation allowances, or other administrative arrangements.

3. Agency policy governing the granting of leave without pay (LWOP) for employees to accompany spouses who also are Agency employees to assignments outside the headquarters area has been reviewed by both a task force and a senior committee with representation from each Career Service.

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[REDACTED]

3 April 1980

4. Effective with the publication of this notice, the provisions concerning LWOP policy are as follows:

a. When a staff employee/spouse is accompanying an employee to a post as a dependent, the spouse will be granted ninety days of leave without pay following the expiration of accrued annual leave.

b. If a position, staff or contract, for the spouse is not identified prior to the expiration of the ninety days of LWOP, the spouse will automatically be converted to WAE contract status. All contract actions will be accomplished at headquarters by the component responsible for the field installation to which the sponsor is being assigned prior to departure for the field. The WAE contract may be used by the field installation to employ the spouse at any time subject to headquarters approval of the proposed rate of pay and schedule of work to be performed. As a staff employee converted to WAE contract status without a break in service, the spouse will continue to be covered under the Civil Service Retirement System and will accrue credit for retirement purposes for those hours actually worked. Retirement deductions will be made for hours worked. FEGLI and health insurance benefits will continue for a minimum of one year with no employee contributions.

c. A staff employee/spouse who converts to LWOP followed by WAE contract status to accompany an employee outside the headquarters area will be given a firm commitment for reinstatement to staff status when the sponsor returns to headquarters. Reinstatement to staff status will be in the same Career Service area at the same grade level achieved prior to departure for the field, but may involve a position in the headquarters area other than the position occupied by the spouse at the time of departure. Necessary security and medical processing will be accomplished after return to duty. The employee will be responsible for maintaining skills and qualifications as were required of the function prior to departure for a field assignment. The staff employee/spouse will be expected to return to work no later than 60 days after return to the headquarters area.

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[Redacted]

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3 April 1980

d. If the employee is transferred laterally to other field locations, the spouse will be given priority consideration for vacancies for which qualified which may exist at the subsequent posts of assignments. A lateral assignment does not affect commitment to the spouse for reinstatement to staff status on return to headquarters.

5. Employees who are currently on LWOP or in contract employee status who were processed under the LWOP provision of [Redacted] paragraph 11, and [Redacted] which expired 1 July 1979, are also covered by the new policy but their current status will not be redocumented until the next time they are transferred. Requests for extension of the current grant of LWOP attributable to tour extensions in excess of a year, new tours at same posts, or lateral transfers will be processed under the new policy.

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[Redacted Signature]

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Frank C. Carucci
Deputy Director for Central Intelligence

DISTRIBUTION: ALL EMPLOYEES

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7/22/82

Irene:

I talked this morning with Tom Douglass,
Technical Guidance Division, EEOC (634-6855).
He stated that an allowance, or other entitlement
that an individual would have been eligible for,
can be included in the settlement agreement adjust-
ment of complaint.

walt p.

Title 29—Labor

Chapter XIV—Equal Employment Opportunity Comm. 29 CFR § 1613.218

informed decision on the shall, if available, be recorded in the investigative file. In this subpart, the term "investigative file" shall mean the various and information acquired in the investigation under this including affidavits of the of the alleged discriminatory, and of the witnesses of, or extracts from, agency statements, or regulatory agency—organized to show to the complaint or the environment out of which the arose.) If necessary, the may obtain information re membership or nonmem a person in the complain by asking each person provide the information vol shall not require or coerce to provide this informa-

Director of Equal Employment Opportunity shall arrange to the person conducting the in a written authorization: investigate all aspects of discrimination, (2) to require of the agency to cooperate in the conduct of the in and (3) to require employment agency having any knowledge matter complained of to testimony under oath or affidavit without a pledge of confidence. Commission may assume responsibility for the investigation of or all of an agency's compliance the execution of a memorandum of understanding to this the agency. The agency advise the Commission for all incurred in connection with investigation. The Commission referred to the agency upon completion of the investigation and the recommended disposition of the complaint the agency shall adopt as its disposition within 30 days after the gives the investigative file recommended disposition the been informally adjusted in with § 1613.217(a), or the notified the complainant

of its own proposed disposition in accordance with § 1613.217(b).

(42 U.S.C. § 2000e-16(b), President's Reorganization Plan No. 1 of 1978, Executive Order 12106)

[37 FR 22717, Oct. 21, 1972. Redesignated at 43 FR 60901, Dec. 29, 1978, and amended at 44 FR 40499, July 11, 1979; 44 FR 45623, Aug. 3, 1979]

§ 1613.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant and the complainant's representative a copy of the investigative file promptly after receiving it from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials.

If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and made part of the complaint file, with a copy of the terms of the adjustment provided the complainant. An informal adjustment of a complaint may include an award of back pay, attorney's fees or other appropriate relief. Where the parties agree on an adjustment of the complaint, but cannot agree on whether attorney's fees or costs should be awarded or on the amount of attorney's fees or costs, the issue of the award of attorney's fees or costs or the amount which should be awarded may be severed and shall be the subject of a final decision under § 1613.221(d). The decision of whether to award attorney's fees or costs or of the amount to be awarded may be the subject of an appeal to the Commission under the provisions of §§ 1613.231 through 1613.236. If the agency does not carry out, or rescinds, any action specified by the terms of the adjustment for any reason not attributable to acts or conduct of the complainant, the agency shall, upon the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment.

(b) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing: (1) Of the proposed disposition of complaint, (2) of his right to a hearing and decision by the agency head or his designee if he notifies the agency in writing within 15 calendar days of the receipt of the notice that he desires a hearing, and (3) of his right to a decision by the head of the agency or his designee without a hearing.

(c) If the complainant fails to notify the agency of his wishes within the 15-day period prescribed in paragraph (b) of this section, the appropriate Equal Employment Opportunity Officer may adopt the disposition of the complaint proposed in the notice sent to the complainant under paragraph (b) of this section as the decision of the agency on the complaint when delegated the authority to make a decision for the head of the agency under those circumstances. When this is done, the Equal Employment Opportunity Officer shall transmit the decision by letter to the complainant and his representative which shall inform the complainant of his right of appeal to the Commission and the time limit applicable thereto and of his right to file a civil action as described in § 1613.231. If the Equal Employment Opportunity Officer does not issue a decision under this paragraph, the complaint, together with the complaint file, shall be forwarded to the head of the agency, or his designee, for decision under § 1613.221.

(Sec. 717 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-16, Reorganization Plan No. 1 of 1978 (43 FR 19807) and Executive Order 12106 (44 FR 1053))

[37 FR 22717, Oct. 21, 1972, as amended at 37 FR 25699, Dec. 2, 1972. Redesignated at 43 FR 60901, Dec. 29, 1978, and amended at 45 FR 24131, Apr. 9, 1980]

§ 1613.218 Hearing.

(a) *Complaints examiner.* The hearing shall be held by a complaints examiner who must be an employee of another agency except when the agency in which the complaint arose is: (1) The government of the District of Columbia or, (2) an agency which, by reason of law, is prevented from di-

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7/22/82

Comm. 29 CFR § 1613.218

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 Commission and the time limit
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ADMINISTRATIVE - INTERNAL USE ONLY

This Notice Expires 1 July 1979

PERSONNEL

8 June 1978

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THREE-YEAR LEAVE WITHOUT PAY POLICY

1. The Agency has now had approximately five years experience with the policy of granting three-years leave without pay (LWOP) to employees accompanying employee spouses to assignments outside the Headquarters area. While the initial intent was to limit this benefit to a one-time grant, the policy has recently been reviewed by the Executive Advisory Group and recommended new guidelines have been approved by the Deputy Director of Central Intelligence.

2. It is Agency policy to assign employee couples to the same field location whenever possible. Operating components make every effort, within good personnel management practices and the availability of appropriate positions, to accommodate the desires of these employees and to this end will give particular consideration for long-range planning for their assignments.

3. When dual assignments are not possible, one of the employees may request LWOP to accompany the employee spouse to an assignment outside the Headquarters area. The following guidelines will be followed in processing such requests:

a. A grant of three-years LWOP may be approved for employees who have either completed the former one-year trial period or two years of the new three-year trial period of employment.

b. A three-year LWOP grant may be extended when the tour of the assigned employee is extended for the convenience of the Government. The grant may also be extended to allow for a reasonable period of time after completion of the tour prior to return to duty, but not to exceed 60 days.

c. Subsequent grants of three-years LWOP may be approved provided they are interspersed with assignments as staff employees of at least three-years duration.

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[Redacted]
8 June 1978

d. Individuals who break the three-year LWOP with staff or contract employment may return to the LWOP status for the period of time remaining in the original grant if the assignment for which it was originally approved has not been completed. LWOP in the three-year grant unused during one tour assignment is not applicable to a subsequent tour.

4. This grant of three-years leave without pay does not guarantee reinstatement to staff status at the former grade and responsibilities upon return to Headquarters. Individuals in this status, however, are given first consideration by the parent organization for any vacant position for which qualified. Former employees, not approved for the three-year grant of LWOP, who wish to return to staff employment with the Agency are given next priority consideration for reappointment when suitable positions become available. Operating officials who are unable to provide a suitable position for the returning employee spouse within their components will be assisted by the Career Service and the Office of Personnel in their placement efforts.

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[Redacted Signature]

Frank C. Carlucci
Deputy Director of Central Intelligence

DISTRIBUTION: ALL EMPLOYEES

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ROUTING AND TRANSMITTAL SLIP

Date

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Pete		
2.		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

I have to assume that OGC's signature on the cable indicates their awareness of the limitations on retroactive compensation of 2 years prior to the filing of a claim and that this case satisfies that requirement. I also have to assume they are aware of the parameters of the home leave system which requires signing of agreements, intention to serve overseas, etc. If those assumptions are correct, then there is nothing I can add. I don't think we can ignore, however, the implication involved in the determination that our 3-year LWOP policy for spouses (under which I assume this employee went overseas) (given the reference in paragraph 3 of the cable) was an "unsound management practice...." (which OGC's signature on the cable implies agreement with). There are a lot of people involved -- shouldn't we **DO NOT use this form as a RECORD of approvals, concurrences, disposals, (overseas) clearances, and similar actions**

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
 7/22/82	Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

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plan to pursue this issue to provide similar relief for all those other Agency employees who were treated similarly?

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