

Employee Development and Training Flexibilities

INTRODUCTION

Federal law and regulations provide many ways to support employees' training and development. Agencies are encouraged to use these flexibilities to meet agency needs and to support employee self-development and learning. There are examples of flexibilities in current Federal training law and regulations, including providing academic degree training. The following information addresses these flexibilities:

- Establishment of training programs
- Training and education related to an employee's official duties
- Individual learning accounts.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2004

On October 4, 2004, the President signed legislation to enact the Federal Workforce Flexibility Act of 2004. On November 2, 2004, OPM released a memorandum about this Act (<http://www.opm.gov/oca/compmemo/2004/2004-22.asp>). The Act provides even greater emphasis on employee development and training to promote strategic alignment with agencies' missions. This part of the Act is effective immediately; OPM and Federal agencies will be working together to align training programs with agency strategic goals and performance objectives. Federal agencies, in consultation with OPM, will also develop comprehensive management succession programs.

ESTABLISHMENT OF TRAINING PROGRAMS

To assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the law prescribes that "the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate a program or programs, and a plan or plans thereunder, for the training of employees in or under the agency by, in and through Government facilities and non-Government facilities." (5 U.S.C. 4103(a))

Examples of these programs include:

- Tuition assistance programs
- Targeted career training
- Professional development.

Employee Development and Training Flexibilities (continued)

| | |
|---|---|
| Tuition Assistance Programs | Agencies may offer employees assistance to attend academic courses that are job related. |
| Targeted Career Training | In the case of the Career Intern Program, a centralized effort is used to provide effective and consistent training. This training often combines formal coursework with rotations and is based on defined competencies. Such program designs provide professional, technical, and leadership training. |
| Professional Development/ Leadership Development | Agencies may establish professional development programs designed to provide technical and general knowledge and experience to career employees. Agencies may also establish leadership development programs to ensure leaders continue to develop and “grow” the knowledge and skill necessary to effectively lead the organization. Such programs usually include well-rounded orientation consisting of formal coursework and on-the-job training assignments throughout the agency. |

TRAINING AND EDUCATION RELATED TO AN EMPLOYEE'S OFFICIAL DUTIES

There are several options for training and education related to an employee's official duties. These include:

- Paying costs of training and education from program funds
- Paying costs of training and education in advance
- Reimbursing employees for training and education costs
- Sharing the costs of training and education with employees
- Paying costs of qualifying exams (when part of training)
- Paying for academic degrees
- Allowing employees to accept training or reimbursement of training expenses from a non-profit organization
- Training and education-related travel expenses
- Training and education unrelated to an employee's official duties: adjusting employees' work schedules for educational purposes
- Paying expenses to attend meetings from appropriated funds
- Allowing employees to accept reimbursement of meeting expenses from a non-profit organization
- Paying for memberships in professional organizations
- Continued service agreements to protect the Government's interest.

Employee Development and Training Flexibilities (continued)

Paying Costs of Training and Education from Program Funds

Agencies may pay training and education expenses from appropriated funds or other available funds. Program funds may be used to pay for training needed to support program functions. (5 U.S.C. 4112)

For example, the agency procurement officer may use program funds to pay for Government-provided training of the agency acquisition workforce. Or, an agency program manager may use his/her program funds to pay for non-Government provided technical training for General Schedule or Federal Wage System employees.

Paying Costs of Training and Education in Advance

Agencies may pay a vendor the costs of training and education in advance. They may also advance an employee all or part of the costs of approved training and education. Expenses of training include the cost of tuition; purchase or rental of books, materials, and supplies; library and laboratory fees; and travel, per diem, and relocation expenses. (5 U.S.C. 4109(a)(2))

For example, if a facility requires payment of tuition prior to admitting a student to a course, the agency may pay the tuition when an employee enrolls. Or, an agency may pay all or part of the tuition directly to the facility. To encourage employees to pursue education, an agency may establish a tuition assistance program and advance employees some or all of the cost of college tuition.

Reimbursing Employees for Training and Education Costs

An agency may reimburse employees for all or part of the costs of training or education. Expenses of training include the cost of tuition; purchase or rental of books, materials, and supplies; library and laboratory fees; and travel, per diem, and relocation expenses. (5 U.S.C. 4109(a)(2))

For example, to encourage employees to pursue education, an agency may establish a tuition reimbursement program and reimburse employees for some or all of the cost of tuition for successfully completed courses. Some tuition reimbursement programs tie reimbursements to the grade employees earn in the course. An "A" might receive 100 percent reimbursement; a "B," 75 percent; and a "C," 50 percent.

Employee Development and Training Flexibilities (continued)

Reimbursing Employees for Training and Education Costs
(continued)

In the absence of an agency tuition reimbursement program, a manager may use an agency training form to approve training and specify what expenses the agency will pay. The employee pays for the training and submits claims for reimbursement when the training is completed.

Sharing the Costs of Training and Education with Employees

Agencies may share training and education costs with employees. This authority allows agencies to support training and education that benefits both the agency and the employee. (5 U.S.C. 4109(a)(2))

For example, if both agree, an agency may pay some of the costs of training, while the employee pays the balance. Again, if both agree, an agency may pay all or partial costs, while the employee attends training during his/her own time.

| <i>Paying Training Costs</i> | <i>Training on Duty or Non-Duty Hours</i> |
|---|--|
| Agency pays training costs | Employee attends during duty hours |
| Agency pays training costs | Employee attends during non-duty hours |
| Agency pays some training costs; employee pays the balance | Employee attends during duty hours |
| Agency pays some training costs; employee pays the balance | Employee attends during non-duty hours |
| Employee pays all training costs; agency reimburses part or all of costs when course successfully completed | Employee attends during duty hours |
| Employee pays all training costs; agency reimburses part or all of costs when course successfully completed | Employee attends during non-duty hours |
| Employee pays all training costs | Employee attends during duty hours |

Employee Development and Training Flexibilities (continued)

Paying Costs of Qualifying Exams (When Part of Training)

An agency may not use appropriated funds to pay for college entrance examinations and professional examinations, such as bar exams or CPA exams. In some cases, the cost of an examination is inextricably mixed with that of a training program. In this instance an agency may pay for the training program if it is related to an employee's official duties and meets an identified training need.

For example, an agency employee development specialist takes a class on the Myers-Briggs Personality Type Indicator, which concludes with an examination. If the specialist successfully completes the examination, the specialist is awarded a professional credential that allows him/her to administer and interpret the personality test. The credential is an incidental by-product of the training.

An agency may pay for a refresher course, such as refresher training in professional engineering for an engineer or in law for an attorney. Although the training may prepare the employee for a professional examination, the training itself is justified because it will improve the employee's performance of his/her official duties.

Paying for Academic Degrees

The Chief Human Capital Officers Act of 2002 provides expanded authority to agencies to pay or reimburse employees for the cost of academic degree training when it:

- Contributes significantly to meeting an identified agency training need;
- Resolves an identified agency staffing problem; or
- Accomplishes goals in the agency strategic human capital plan.

OPM's implementing regulations provide additional flexibility to agencies in regard to how they address continued service requirements following training. The requirements for using this flexibility include making it part of a planned, systematic, and coordinated agency development program linked to accomplishing the agency's strategic goals and obtaining training from a college or university accredited by a nationally recognized body. Employees must be competitively selected for academic degree programs. (5 U.S.C. 4107, 5 CFR 410)

Employee Development and Training Flexibilities (continued)

Allowing Employees To Accept Training or Reimbursement of Training Expenses from a Non-Profit Organization

A special provision of training law allows agencies to establish procedures where by employees may accept reimbursement or waiver of tuition fees from non-profit organizations. Accepting free tuition or reimbursement of training expenses must not compromise the integrity of the employee or represent a payment for services rendered to the non-profit organization prior to the training. Prior approval from a designated high-level agency official is required, often following a consultation with, or review by, the designated agency ethics official. (5 U.S.C. 4111)

For example, a non-profit training organization invites the agency training officer to attend an upcoming train-the-trainer class free of charge. With prior approval, under established agency procedures, the employee may accept the invitation and participate in the course.

Training- and Education-Related Travel Expenses

Travel, per diem, and transportation are training expenses governed by 5 U.S.C. 4109(a)(2)(A) and (B).

The provisions in law that pertain to paying all or some of the costs of tuition and other training expenses apply to paying travel expenses. This means the agency decides which travel expenses it will pay for employees assigned to training. Examples include:

- An agency may pay the costs of training related travel and per diem from program funds. (5 U.S.C. 4112)
- An agency may pay the costs of travel to a carrier in advance or advance an employee some or all of the cost of travel. (5 U.S.C. 4109(a)(2))
- An agency may reimburse an employee for training-related travel expenses. (5 U.S.C. 4109(a)(2))
- An agency may share the costs of travel with an employee. (5 U.S.C. 4109(a)(2))
- An agency may pay a reduced per diem rate to an employee in training status.
- An agency, at its discretion, may pay limited relocation expenses for an employee assigned to training for lengthy periods of time.

Employee Development and Training Flexibilities (continued)

Training and Education-Related Travel Expenses (continued)

| <i>Paying Training-Related Travel Expenses</i> | <i>Training During Duty or Non-Duty Hours</i> |
|---|---|
| Agency pays all travel costs | Employee attends during duty hours |
| Agency pays all travel costs | Employee attends during non-duty hours |
| Agency pays some travel costs; employee pays the balance | Employee attends during duty hours |
| Agency pays some travel costs; employee pays the balance | Employee attends during non-duty hours |
| Employee pays all travel costs; agency reimburses part or all of costs when course successfully completed | Employee attends during duty hours |
| Employee pays all travel costs; agency reimburses part or all of costs when course successfully completed | Employee attends during non-duty hours |
| Employee pays all travel costs | Employee attends during duty hours |

Training and Education Unrelated to an Employee's Official Duties: Adjusting Employees' Work Schedules for Educational Purposes

Agencies may adjust an employee's normal work schedule for educational purposes. This authority allows the employee to take courses not related to his/her official duties. A special tour of duty is permissible if the following conditions are all met:

- It will not appreciably interfere with work accomplishment.
- The agency incurs no additional personnel services costs.
- Course completion will equip the employee to effectively work in the agency.
- The employee receives no premium pay while on the special tour of duty, even though premium pay would be otherwise payable. (5 CFR 610.122)

For example, the work schedule of an administrative employee in a scientific agency, who is pursuing a degree in chemistry, may be adjusted to accommodate the employee's academic schedule if the conditions above are met.

Employee Development and Training Flexibilities (continued)

Paying Expenses To Attend Meetings from Appropriated Funds Professional meetings and conferences are valuable sources of information about innovative practices and current trends in various fields. Training law provides an exception to the prohibition in 5 U.S.C. 5946(1) on using appropriated funds to pay employee expenses for attending professional meetings. 5 U.S.C. 4110 allows an agency to use funds appropriated for travel expense to pay for employees' expenses to attend meetings, if the meetings concern functions or activities for which the appropriation is made, or the meeting will contribute to improved conduct, supervision, or management of the functions or activities. (5 U.S.C. 4110)

For example, if one of the two conditions above is met, an agency may pay the registration and travel expenses for a public relations specialist to attend the Professional Communicators of America meeting or for an agency ethics officer to attend the Annual Ethics Conference. Paying employees' expenses to attend meetings of organizations representing Federal employees is also permitted if the meeting is for developmental purposes or the agency will derive some benefit from the employee's attendance. (5 CFR 251.202 (a)(2))

Allowing Employees To Accept Reimbursement of Meeting Expenses from a Non-Profit Organization A special provision of training law allows agencies to establish procedures under which employees may accept payment or reimbursement of travel, subsistence from a non-profit organization, and other expense incidental to attending meetings. Accepting meeting expenses must not compromise the integrity of the employee or represent a payment of services rendered to the non-profit organization prior to the meeting. Prior approval from a designated high-level official is required, often following a consultation with, or review by, the designated agency ethics official. (5 U.S.C. 4111)

Paying for Memberships in Professional Organizations 5 U.S.C. 5946(1) prohibits the use of appropriated funds to pay for individual employee memberships in professional associations and societies. However, there are several ways for an agency to obtain the professional, scientific, and technological information those associations provide their members.

Employee Development and Training Flexibilities (continued)

Paying for Memberships in Professional Organizations (continued)

For example, association membership is often included in registration fees for a conference or meeting. If the agency pays the registration fees, the employee's membership in the association is an incidental by-product of meeting attendance. In addition, agencies may purchase an organizational membership in the association or society. They may also purchase a membership for a specific agency position, such as the position of Medical Director. The incumbent in that position uses the membership to improve the conduct, supervision, or management of his/her function.

Continued Service Agreements To Protect the Government's Interest

A continued service agreement is an agreement an employee makes to continue to work for the Government for a pre-established length of time in exchange for Government-sponsored training or education. The service obligation begins when the training is completed. If the employee voluntarily leaves Government service before completing the service obligation, he or she must repay the Government all or some of the costs of the training (excluding salary).

Agencies may require service agreements for training of long duration or of high cost. 5 CFR 410.101, 410.309, and 410.310 provide a formula for determining service agreement requirements for academic degree training.

INDIVIDUAL LEARNING ACCOUNTS

An Individual Learning Account (ILA) is a 21st century learning tool that provides a flexible and innovative approach to developing Federal employees. An ILA is a base amount of resources expressed in terms of dollars or hours, or both, set aside for an individual employee to use for his or her learning and development. Accounts may be used to develop knowledge, skills, and abilities directly related to the employee's official duties. ILAs are not limited to programs delivered by learning technology.

Use of the Individual Learning Account (ILA) is a strategy that can complement current agency development, recruitment, and retention activities in some very positive ways. The objectives of agency ILAs are many. Sample objectives include such issues as:

Employee Development and Training Flexibilities (continued)

INDIVIDUAL LEARNING ACCOUNTS (CONTINUED)

- Improving organizational performance
- Meeting specific agency performance goals
- Increasing employee access to and use of emerging learning technology
- Supporting employee efforts to acquire skills and learning needed to succeed in specific occupations and professions
- Providing employees with flexible learning opportunities, and putting the responsibility for learning in the hands of the learner.

The use of ILAs is a way of improving overall Federal employee performance, increasing productivity, and improving customer service skills. It is also an opportunity to give Federal employees an additional chance to develop themselves. These issues are important in order to remain competitive in the global job market and to attract the very best candidates for Federal positions.



For OPM guidance on implementing Individual Learning Account pilot projects and descriptions of pilot projects conducted to date, visit:

<http://www.opm.gov/hrd/lead/ila/accounts.asp>