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Strategic Human
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Division

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MEMORANDUM FOR HUMAN RESOURCE DIRECTORS

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Subject: Fact Sheet on Continuing Service Agreements

Training resources in the Federal Government typically have been limited. Leaders continue to do what they can to achieve a culture of continuous learning with limited resources, and as such it is extremely important for agencies to protect their investment in people.

The Government Employees Training Act (GETA), codified at 5 U.S.C. 4108, gives agency heads authority to determine the conditions for requiring continued service agreements (CSAs) for training provided. The law states that, before an employee is assigned to training, the employee must agree in writing to continue to serve in the Federal Government for at least three times the length of the training period. If the employee voluntarily leaves the Federal Government before the agreed upon service period, the agency has the right to recover payment. Each agency must develop its own policy for implementing this law. The agency must specify in their CSA policy and agreement whether employees will be required to repay the full cost of the training or repay a prorated amount against the remaining portion of the CSA.

The Office of Personnel Management (OPM) has received numerous inquiries regarding Continued Service Agreements (CSA). In response to these inquiries, OPM has developed a fact sheet to help agencies develop and implement their CSA policies.

Any questions regarding this document can be sent to hrdleadership@opm.gov.

Continued Service Agreement Fact Sheet

Introduction

The Government Employees Training Act (GETA), codified in 5 U.S.C. 4108, and further explained in 5 CFR 410.309, gives agency heads the authority to determine the conditions for requiring employees to agree to continue to work in the agency after completing Government or non-government training. The law states that an agency can require an employee who participates in training to continue to work in the Federal Government for at least three times the length of the training period. If the employee voluntarily leaves the Federal Government before the agreed upon amount of service, the agency has the right to recover payment. The agency must develop its own Continued Service Agreement (CSA) policy and have the employee sign the CSA prior to the start of the training. The head of an agency may decide to waive in whole or in part the agency's right to recovery if it is shown the recovery would be against equity and good conscience or against the public interest.

Some facts regarding Continued Service Agreements (CSA) include:

- An agency head determines the requirements and the minimum period of continued service before a CSA is required of any employee.
- Continued service after training is at least three times the length of the training period but agencies have the option to require more time.
- If a CSA is required of an employee, the employee must agree in writing *before* the training begins.
- If an employee is involuntarily separated from the Federal Government, the employee no longer is required to reimburse the agency. The agency cannot require reimbursement under these circumstances.
- The head of any agency may waive the CSA in whole or in part if it is shown that the recovery would be against equity and good conscience or against the public interest.
- If the employee fails to continue to serve in the agency for the agreed amount of time, the agency may recover the cost of the training by setoff against accrued pay, compensation, retirement credit, or other monies due the employee.

Q. For which programs/courses can an agency require an employee to sign a CSA?

A. An agency can require an employee to sign a CSA for any and all courses funded by the Government. Agencies should develop policies that identify the types of training subject to a CSA. Training announcements and course descriptions should list CSA requirements to ensure employees are aware of them. Here are examples of training programs/courses most often subject to a CSA:

- Internal and external Leadership Development programs
- SES Candidate Development programs
- Academic degree programs

- Certification or certificate programs
- Training lasting longer than one week
- Conferences
- Other training an agency deems appropriate

Q. When should an agency waive repayment obligations under a CSA?

A. Section 4108 of Title 5, United States Code, states:

- The employee is not required to reimburse the agency if he or she is involuntarily separated from the Federal Government
- The head of any agency may waive the CSA in whole or in part if it is shown that the recovery would be against equity and good conscience or against the public interest
- A waiver could be granted if the employee resigned due to the following:
  - Personal illness
  - Illness of a family member
  - Inability to make the required payment because of severe financial hardship

Q. What signatures are required for a CSA?

A. It is up to the agency. Since the employee has to agree to the terms of the CSA prior to the start of training the only required signature is that of the employee. We recommend the employee's first line supervisor also sign the CSA. Agencies have the option of including additional signatures on the form, such as a second line supervisor, Human Resources Director, Training Officer or the Chief Human Capital Officer.

Q. How is the CSA obligation determined?

A. Section 4108(a)(1) of Title 5, United States Code, states that continued service after completion of the training is at least equal to three times the length of the training period. For example, if the training course was 120 hours, the obligated continued service would be at a minimum 360 hours (120 hours times 3). Three times the length of training is the minimum amount. Agencies have the option of increasing the period of time required to serve beyond the minimum.

In accordance with 5 CFR 410.310, an employee on an 8-hour per day work schedule who is assigned to training on a full-time basis is considered in training for 8 hours. If the employee is on an alternative work schedule, the agency is responsible for determining the number of hours the employee is in pay status during the training. If the employee on an 8-hour or alternative work schedule day is assigned to training less than a full-time basis, the employee is considered in training for the number of hours the employee spends in training whether it is in a classroom, an on-line course, or a formal self-study program.

If an employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay.

For academic degree programs, agencies typically compute the length of continued service based on the academic institution contact hours. This method establishes an effective minimum commitment for continued service and allows agencies the flexibility to establish required service times above the minimum to address their specific goals in using the academic degree program. For further assistance in computing the amount of time required for continued service in an academic degree program, please refer to the Training Policy Handbook on the OPM website at http://www.opm.gov/hrd/lead/policy/fea-00.asp#QA

Q. Which costs can be included in an agency's policy?

A. An agency may require employees who do not fulfill the terms of the CSA to reimburse the agencies for training costs such as: course tuition, books and materials, other fees (i.e. lab fee), travel and per diem, and other administrative costs including assessments and selection costs. This excludes salary and benefits. To calculate the cost of an internal onsite course, the agency can divide the total cost of the course by the number of people attending. The agency must specify in their CSA policy and agreement if employees will be required to repay the full cost of the training or repay a prorated amount against the remaining portion of the CSA.

Q. When does an employee begin his or her continued service obligation for an academic degree program - at the completion of the academic degree program or after the completion of each course?

A. This is up to the agency. Agencies must establish written policies regarding academic degree programs. As part of their academic degree program policies, agencies should determine when an employee begins the period of obligated service. For example, if an agency pays for an employee's entire master's degree program, the agency may require the CSA to begin after the employee's master's degree program is completed. If the agency pays for the employee to take one or more courses at a time, the agency may require the CSA to begin after the completion of each course.

Q. In determining the parameters of the CSA, can an agency look at the cost of the training as well as the length of the course?

A. Yes, agencies have the option of considering a dollar amount along with number of hours. Here is an example of what one agency has determined in the past:

Cost of training is under $3,000 and under 80 hours	Cost of training is $3,000 to $20,000 and 80 to 120 hours	Cost of training is $20,001 to $50,000 and 120 to 240 hours	Cost of training is over $50,000 and over 240 hours
No CSA required	Service Obligation required – 3 months	Service Obligation required - 12 months	Service Obligation required – 36 months

Q. What if an employee fails to sign a CSA before the training begins; can the employee be denied training?

A. Yes, the employee can be denied training if the agency's policy requires a CSA.

Q. Can an agency require an employee to enter into a CSA during the training?

A. As stated in 5 U.S.C. 4108(a) and 5 CFR 410.309(b)(2), an employee selected for training subject to an agency CSA must sign an agreement prior to starting the training. An agency may not require an employee to enter into a CSA after the training has begun.

Q. What if an employee leaves his or her current agency to go to another agency before completing the requirements of the CSA; can the agency require the employee to reimburse the current agency for the period of service not completed?

A. As stated in 5 U.S.C. 4108(b) and 5 CFR 410.309(c), the head of an agency has the option to require full or prorated reimbursement if an employee leaves the agency to enter into service of another Federal agency, but it must be stated in the agency policy. Requiring reimbursement is optional. If payment is required, the head of an agency must notify the employee before the effective date of his or her entrance into service of the other agency. The agency head decision must be in writing.

Q. If an employee works in one component of an agency and decides to go work in another component within the same agency but has not completed the requirements of the CSA, yet, can the component require the employee reimbursement for the period of service not completed?

A. As stated in 5 U.S.C. 4108(a)(1), an employee is required to continue in the service of his agency after the end of the training period at least three times the length of the training unless the employee is involuntarily separated from the agency. An agency is defined in 5 U.S.C. 105 as an Executive department, a Government corporation, and an independent establishment. Thus, the employee does not have to reimburse the component but needs to continue service within the agency.

For example, an employee currently works for Transportation Security Administration (TSA) which is part of the Department of Homeland Security (DHS). The employee accepts a position at the U.S. Customs and Border Protection (CBP) within DHS. The employee has entered into a CSA, but has not completed the requirements of the CSA when the employee accepted the position with CBP. Since the employee is remaining in DHS, the employee cannot be required to reimburse the TSA since both components are part of the DHS.

Q. How can an agency recover expenses if an employee fails to fulfill their service obligation?

A. The head of an agency must establish written procedures to protect the Government's interest if the employee voluntarily fails to complete his or her service obligation. These procedures should be included in the agency's separation procedures. If the employee fails to continue to serve in the agency for the agreed amount of time, the agency may recover the cost of the training by setoff against accrued pay, compensation, retirement credit, or other monies due the employee. The agency can deduct the reimbursement amount from the employee's final paycheck(s) or the establishment of a payment plan if the employee shows evidence of financial hardship.

Q. Can agencies require a CSA for employees who go on detail assignments?

A. Yes, an agency can require a CSA for employees who participate in detail assignments especially if there is a cost to the agency (i.e. travel, lodging and per diem). However, some agencies set up details as reimbursable so there is essentially no cost to the employee's agency. It is advisable to find out if the detail is reimbursable before requiring the employee to enter into a CSA.

For those agencies who would like to require a CSA in this situation it must be stated in the agency's CSA policy. Agencies can use the length of service calculation as stated in 5 CFR 410. 309(b)(2). For example, if an employee participates in a 480 hour detail assignment (12 weeks full-time), the period of service required would be at least 1440 hours (3 times 480 hours), which is equivalent to 36 weeks.

Q. How does an agency determine the length of service commitment for a long-term development program (e.g., long term Leadership Development programs, SES Candidate Development Program)?

A. It is difficult to determine the length of service commitment because there are different components to a long-term development program, and participants continue to work as employees of their agencies. It is recommended to choose a reasonable length of time for continued service. For example, some agencies run an SES Candidate Development Program (SESCDP) for 18 months and require 5 years of continued service to that agency. Other agencies send their employees to external 12 month development programs and require three years of continued service.

Q. If an employee voluntarily drops out of a long-term training program such as an SES Candidate Development Program or an internal or external leadership development program and entered into a CSA before the program began, is the employee still required to fulfill the requirements of the continued service agreement?

A. It depends. Agencies need to specify in their policy what will be required of an employee if they voluntarily drop out of a long-term program. The agency can require the employee to continue in service for at least three times the amount of time the employee participated in the program even if the employee voluntarily drops out of the program. In addition, the agency must include in its policy what will be required if the employee is involuntarily removed from the program (e.g., for performance related issues). It is at the agency's discretion whether they will require continued service or reimbursement if they remove the employee from the program.

Q. Can an agency require an employee to sign a CSA for participating in Veteran's Education Assistance Program?

A. No. Funding from Veterans Education Assistance Program (VEAP) comes from the Department of Defense. VEAP is only available to members of the armed forces who contribute to VEAP from their military pay. To learn more about VEAP, please refer to this website: http://www.gibill.va.gov/pamphlets/ch32/ch32_pamphlet_general.htm.

Q. If an employee participates in agency mandatory training such as IT Security Awareness training, Ethics training, or No FEAR Act training, can the agency require the employee to enter into a CSA?

A. It is up to the agency to identify the types of training subject to a CSA. Typically, agencies do not require a CSA for Federally mandated training, nor for training that is short-term in nature.

Q. How can agencies capture whether a CSA is required or not?

A. CSA is one of the mandatory government-wide training data elements defined in 5 CFR 410.701 and in the Guide to Human Resources Reporting. As a result, agencies must capture whether a CSA is required or not on the Standard Form 182 and reporting this information along with the other mandatory government-wide training data elements to the OPM Governmentwide Electronic Data Collection System.

References:

5 U.S.C. § 4108: Employee agreements; service after training

5 CFR 410.309: Agreements to continue in service