

ISSUES OF MERIT

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Office of Policy
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Fair and Equitable Treatment in the Federal Government: Are We There Yet?

A new MSPB report finds both progress and opportunity in achieving fair and equitable treatment in the Federal workforce.

In the recently released Merit Systems Protection Board (MSPB) report, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, we examined trends in the composition and opinions of the Federal workforce. We compared these trends to those published in our 1996 fair and equitable treatment report. Overall, we found that progress has been made toward achieving a workforce consistent with the ideals of the merit system principles.

As an example, the Federal workforce has become more diverse, corresponding to changes in the U.S. population. Additionally, a growing percentage of Federal employees believe they have been treated fairly, while fewer perceive discrimination based on ethnicity, race, gender, and age.

However, as the report title indicates, challenges remain. First, the Federal Government has yet to achieve a workforce "representative of all segments of American society." For example, African American, Hispanic, and American Indian employees do not hold higher-graded, or supervisory positions at rates comparable to their representation in the

overall Federal workforce. Similarly, the Federal Government has few Asian/Pacific Islanders at the senior executive level, despite their comparatively high employment in professional occupations.

Second, although survey data indicates that employees perceive that overt race-based discrimination occurs less often than reported in the previous study, employees do not believe that the Federal Government is blind to ethnicity and race, or is free of discrimination. Nearly one in four employees still believe that their ethnicity/race is a liability in terms of career advancement.

While fewer employees reported that they were personally discriminated against than in the previous study, over half of African American employees reported "great" or "moderate" discrimination against African Americans on the job. Such perceptions can hinder efforts to recruit a diverse workforce, discourage high-performing employees from seeking advancement, and deprive agencies—and the American public—of Federal employees' full talents and best efforts.

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ISSUES OF MERIT

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Our Mission

The MSPB Office of Policy and Evaluation conducts studies to assess the health of Federal merit systems and to ensure they are free from prohibited personnel practices.

Issues of Merit

We offer insights and analyses on topics related to Federal human capital management, particularly findings and recommendations from our independent research.

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DIRECTOR'S PERSPECTIVE

Getting to Know the Prohibited Personnel Practices

MSPB is taking a fresh look at Federal management "don'ts."

Sometime back I wrote a column on why the merit principles are so important to the practice of human resources in the Federal Government. As I noted then, the merit principles represent good management practices that underpin the successful operation of any organization. By the same token, prohibited personnel practices (PPPs) are behaviors that will undermine the performance and credibility of any organization. But do most Federal workers know what these practices are?

There are 12 prohibited personnel practices (5 U.S.C. § 2302), including, in short:

1. Discriminating on the basis of any number of personal characteristics in employment decisions;
2. Considering recommendations that are not job-related and based on personal knowledge of the employee or applicant;
3. Coercing political activity;
4. Deceiving or obstructing a person from competing for employment;
5. Influencing anyone from withdrawing from competition;
6. Providing an unauthorized preference or advantage to an employee or applicant;
7. Giving employment advantages to relatives;
8. Retaliating against a whistleblower, whether an employee or applicant;
9. Retaliating against employees or applicants for filing an appeal, complaint, or grievance
10. Discriminating based on

personal conduct that is not job related;

11. Violating veteran's preference requirements; and

12. Violating the merit principles.

All of these prohibitions are important because they ensure that managers treat employees fairly and equitably and that employees are provided their due process rights in terms of employment decisions. Avoiding each of these PPPs is critical since the existence of even one of these actions can poison the working environment in any organization.

Over the years, the MSPB has looked at the extent to which PPPs are occurring in the Federal workforce through the Merit Principles Surveys that we conduct every 3 or 4 years. As noted in our 2008 report, *The Federal Government: A Model Employer or a Work in Progress*, our survey results indicate that the Government has made substantial progress in achieving a workplace that is, and is perceived as, free of discrimination. Reports of discrimination based on ethnicity, race, sex, and age have dropped dramatically from 1992 to 2007, while reports of discrimination based on disability, religion, marital status, and political affiliation have remained low.

Similarly, the percentage of employees who believe that they have been retaliated against for exercising their right to file an appeal, reporting an unlawful behavior, or disclosing a safety danger has fallen in recent years. The percentage of employees who reported retaliation in 2005 for engaging in a specific protected activity, however, was actually quite close to the percentage

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PPPs

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of employees who reported engaging in that activity— suggesting that most people who reported disclosing wrongdoing believe that they were retaliated against for doing so.

Additionally, as discussed in our latest report, *Fair and Equitable Treatment: Progress Made and Challenges Remaining*, 70 percent of employees still express concern that some supervisors base personnel decisions on favoritism rather than merit. Since an organization’s ability to work productively depends heavily on its ability to fairly and effectively manage its workforce, it is important that we continue to focus on ensuring that the Federal Government’s human resources policies and practices foster merit-based selection, advancement, recognition, and retention.

To build and expand upon its past research, the MSPB is currently launching a multi-pronged research effort to examine the prevalence of prohibited personnel practices within the Federal Government. This will include conducting a new administration of our Merit Principles Survey in 2010 which will focus on assessing Federal employee perceptions regarding the health of the merit systems, including the incidence of prohibited personnel practices. This will be the ninth time the MSPB has administered the Merit Principles Survey and

consequently will provide us with data regarding changes in employee opinions over time. Due to the importance of providing a safe mechanism for employees to report illegal or wasteful activities, particular attention will be devoted to the prohibited personnel practice of retaliating against a whistleblower and will explore Federal employee opinions concerning the whistleblowing process and barriers to reporting wrongdoing.

Under the leadership of our Chairman Susan Grundmann and our newly constituted Board, the research undertaken by OPE will attempt to shed greater light on the issues of prohibited personnel practices in general and whistleblowing in particular. These issues are vital to the interests of both Federal employees, who have an ethical obligation to report any serious wrongdoing that they observe, and the American public, who is entitled to a Government that manages its workforce in accord with the merit system principles while protecting against prohibited personnel practices. ❖

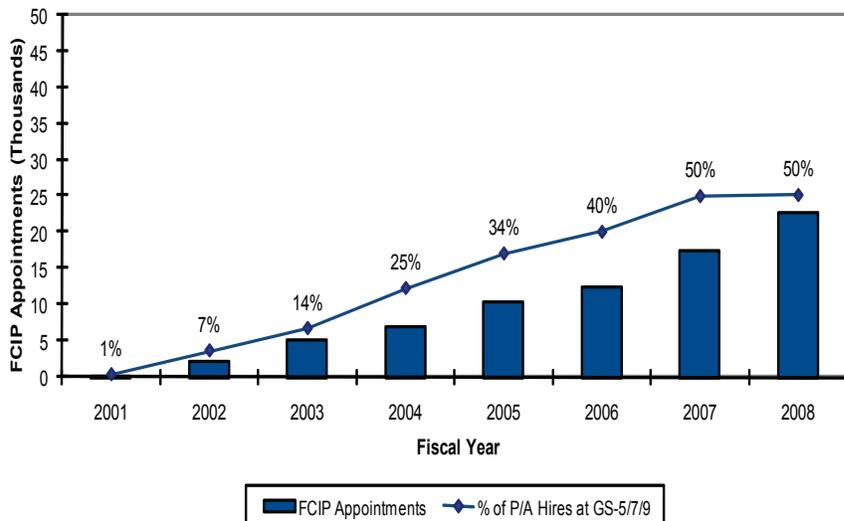
John Crum

Director, Policy and Evaluation

Fast Fact: The FCIP Continues to Grow

The Federal Career Intern Program is an excepted service appointing authority that allows agencies to hire at grades GS-05 through GS-09 (or equivalent) without public notice. While this authority is viewed by some as providing more managerial flexibility and greater timeliness than competitive hiring, it is viewed by others as limiting fair and open competition. We have noted in several studies that the use of the FCIP has increased dramatically since it was introduced in 2000. That trend continues. In 2008, over 22,500 individuals were appointed under the FCIP. FCIP now accounts for fully 50 percent of new hires in professional and administrative positions at the GS-05, GS-07, and GS-09 grade levels.

Hiring Under the Federal Career Intern Program



Trying Out for a Federal Job

A new MSPB report explores how using job simulations can improve your assessment practices.

The Federal Government is experiencing a surge in interest from potential applicants. The number of visitors to USAJOBS was up to 13.6 million in December 2008, more than double from the previous year.¹ Over 6,000 people showed up to a single Federal job fair in July 2009.² And agencies are reporting unprecedented numbers of applicants. This could be the result of current economic conditions or it could be the President's appeal and his determination to make Government "cool" again.

As the number of applicants rise, agencies need to be careful to use good assessment tools that will help distinguish the most qualified applicants. Job simulations may help accomplish this goal. MSPB's recent report, *Job Simulations: Trying Out for a Federal Job*, defines a job simulation as an assessment that presents applicants with realistic, job-related situations and documents their behaviors or responses to help determine their qualifications for the job. Job simulations include but are not limited to work samples, situational judgment tests, assessment centers, and job tryout procedures.

Job simulations can be an effective tool to evaluate applicant qualifications. They have many advantages. They tend to have higher predictive validity than other typical assessments, meaning they should be better at predicting future job performance. They can also provide a realistic job preview that helps applicants determine if the job is well suited to their knowledge, skills, abilities, and interests. Because job simulations replicate the tasks performed in the actual job, studies have found that applicants are more likely to view them as being fair and job-related. Finally, research has generally demonstrated that job simulation assessments have lower rates of adverse impact, as well as a lower degree of exposure to discrimination law suits based on the selection procedure.

Job simulations do have their drawbacks, though. In particular, they can be costly because they require more expertise to develop than simpler assessments. They also may require more staff and training to administer and score the results. In addition, while job simulations can be used to assess multiple competencies, a single simulation exercise will often focus on a limited number

of tasks or duties performed on the job. Finally, some job simulations are not suited to all jobs because they require the applicant to already have a certain level of knowledge, skills, or abilities to complete the assessment.

Job simulations, therefore, may not work in every situation. That is why it is important for agencies to have a good grasp of the job for which they are hiring, the competencies needed for that job, and knowledge about what assessments would best fit their specific needs. MSPB's report provides a strategy agencies can adapt that will help them determine what assessments would best fit their hiring situation. To view the report, go to www.mspb.gov and click on "MSPB Studies." ❖

... ANNOUNCING ...

MSPB Confirmations

Susan Tsui Grundmann was nominated by President Barack Obama on July 31, 2009 to serve as a Member and Chairman of the Merit Systems Protection Board (MSPB). She was confirmed by the U.S. Senate on November 5, 2009. Her term expires on March 1, 2016. Previously, Ms. Grundmann served as General Counsel to the National Federation of Federal Employees, which represents 100,000 Federal workers nationwide. Prior to that, Ms. Grundmann served as General Counsel to the National Air Traffic Controllers Association. Chairman Grundmann earned her undergraduate degree at American University and her law degree at Georgetown University Law Center.

Anne M. Wagner was nominated by President Barack Obama on July 31, 2009 to serve as a Member of the Merit Systems Protection Board with the designation of Vice Chairman. She was confirmed by the U.S. Senate on November 5, 2009. Her term expires on March 1, 2014. Previously, Ms. Wagner served as General Counsel of the Personnel Appeals Board of the U.S. Government Accountability Office. She held positions with the General Services Administration and the American Federation of Government Employees. Ms. Wagner graduated from the University of Notre Dame and received her J.D. from the George Washington University, National Law Center.

For more information on MSPB's Board Members, please visit www.mspb.gov and click on "About MSPB."

¹Stephen Losey, "HR staffs deluged by millions more applicants," *FederalTimes.com*, December 21, 2008.

²V. Dion Haynes, "Thousands Jam Job Fair to Apply for Federal Government Openings," *Washington Post*, July 17, 2009.

To Internet Test or Not To Internet Test

More and more organizations are considering unproctored Internet testing to make hiring faster and cheaper. There are pros and cons to this approach.

Conducting high-quality applicant assessments is an important aspect of the selection process. The assessment can mean the difference between hiring a superstar and hiring someone who can simply do the job. However, assessments can require a significant commitment of resources. In today's environment, organizations are looking for hiring tools that will help them save some of those resources. One of these tools is unproctored Internet testing (UIT). UIT has many advantages over traditional proctored testing, but agencies should use care when considering this approach.

UIT is a controversial procedure in assessment circles. In proctored testing, the applicant appears at a location, checks in with the administrator, presents identification, and is observed while completing the test. Proctored testing procedures help assure the security and consistency of the testing procedures. In unproctored Internet testing, the test is placed on an Internet site (secured or non-secured), and applicants complete the test in the setting of their choice (e.g., at home, at work, or at a local library).

Organizations have become more interested in this approach because of the potential resource savings, including time, money, logistics, and staff needed for establishing testing sites. In addition, UIT can help reach and test a larger applicant pool, reduce applicant travel costs, standardize the information provided to applicants, and provide a cutting-edge image to the applicants. A recent survey found that nearly 60 percent of US companies permit the use of remote testing.¹

However, there are serious potential drawbacks as well, including:

- Inability to establish that a third party is not taking the test for the applicant;
- The possibility the the applicant may use materials not permitted by the testing instructions;
- Test questions and answers can be distributed among potential applicants;
- Non-standardized testing conditions; and
- Technical problems.

Users of UIT have proposed ways to negate many of these drawbacks. For instance, the organization can provide protective procedures such as warnings, the right to re-test, using applicant identifiers and tracking systems, and using a multiple hurdle process that validates the UIT scores. As UIT matures, assessments will likely use more sophisticated computer adaptive tests and high fidelity simulations that make it more difficult to cheat.

When deciding whether to use unproctored Internet tests, organizations should weigh the advantages and disadvantages thoroughly. While UITs may make the hiring process cheaper and faster, when not used appropriately, they may undermine the integrity of the hiring process and quality of the selections made. ❖

¹Fallow and Solomonson of Previsor Talent Measurement, 2009 *Global Assessment Trends Report*, p. 12.



Your Ideas in Issues of Merit!

Would you like to see one of your ideas included in MSPB's research and discussed in a future *Issues of Merit* article or MSPB report?

This may be your chance! During the next several months, MSPB will be deciding on our research agenda—the studies we will undertake—for the next three years. We would like to hear your ideas about Federal workforce management. What should we study and what needs to be improved?

Email your ideas to research.agenda@mspb.gov or contact John Ford at 202-653-6772 x1104. Or use the feedback form which will soon be posted on our Web site, www.mspb.gov, under "MSPB Studies."

Thank you for sharing your ideas with us!

The Changing Face of Federal Supervisors

The evolving workplace and workforce is changing the roles and characteristics of Federal supervisors and managers. Federal jobs, employees, and supervisors look much different than they did a decade ago. It is important to understand how the terrain has changed so that we can anticipate, prepare for, and even capitalize on these changes. MSPB's recent report, *As Supervisors Retire: An Opportunity for Organizational Change*, examines the characteristics of Federal supervisors and managers to identify how the face of Federal supervisors is changing. We found several noteworthy trends.

First, the representation of women and minority group members among the supervisory and management ranks is increasing and is anticipated to continue to increase as these employees are provided more advancement opportunities across their careers.

Second, the average length of service is decreasing among supervisors. Therefore, as younger employees enter Federal service to replace a retiring senior base, the proportion of experienced leaders is diminishing. As less experienced employees enter the workforce, there will be a greater need for good supervision. In response, agencies should find ways to transmit institutional knowledge to the emerging leadership corps. Mentoring and coaching programs, succession plans, and job rotations have been used successfully to deepen and broaden organizational knowledge.

In addition, non-supervisors are becoming educated at rates faster than supervisors and managers. This increase in education level coincides with the emergence of a knowledge-based workforce. Supervisors face new challenges in managing a more educated workforce

and will need to adapt their leadership style to capitalize on the abilities of increasingly independent, professional, and educated workers. This may include developing more collegial supervisor-subordinate relationships and empowering workers. The shift toward knowledge-based work also affects how supervisors are selected, trained, and appraised. Each of these activities must take into account competence and comfort with these changing supervisor-subordinate dynamics.

Data from the Central Personnel Data File indicates that over the past decade, the ratio of employees to supervisors has decreased from about 8 to 7.5. This may be the result of supervisors spending more of their time on supervisory, rather than technical responsibilities. It is important for agencies to examine supervisory ratios to ensure that supervisors have appropriate time to devote to the number of non-supervisors under their direction.

The face of the Federal supervisor and manager is changing, along with the conditions under which they lead. Supervisors are increasingly likely to be women and minority group members. They will likely have fewer years of experience. Additionally, those they supervise will be more professional, better educated, and have changing expectations and motivations. In response, Federal supervisors must adapt to meet the challenges of the dynamically evolving workplace. For more information on supervisory trends, see our report at www.mspb.gov. ❖



Fair and Equitable Treatment

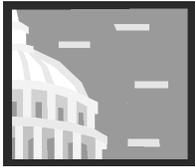
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Third, the Federal Government needs to do more to allocate opportunities—as well as positions—equitably. Employees in ethnic/racial minority groups were less likely to have received career-building opportunities, such as acting supervisor assignments or high-profile, critical projects. That matters because such roles can afford employees valuable experience, high visibility, and an “inside track” on future promotions.

Finally, agencies need to devote more attention to the “merit” in their merit systems. Employees of all ethnic/racial groups expressed concern that personal connections

inappropriately influence personnel decisions. Over 70 percent of employees reported that some supervisors practiced favoritism. When we asked employees the reasons they thought people were promoted in their organization, the most popular response by far was “who you know” at 72 percent—not competence (40 percent) or hard work (36 percent).

Although much has been achieved, much remains to be done. Fortunately, much can be done. The report, including the findings and recommendations, is available on the “MSPB Studies” page at www.mspb.gov. ❖



Agency Corner: USDA's Success Story of Organizational Collaboration and Communication

AgLearn, the Department of Agriculture's (USDA) learning management system (LMS), is an example of how important collaboration and communication are in organizational initiatives.

What is AgLearn? AgLearn allows USDA employees, customers, and partners to log on from any computer with an Internet connection at any time to search for, enroll in, and complete more than 8,000 courses. Both online and instructor-led courses are offered in a wide range of topics in technical, leadership, and personal development content areas. The LMS includes a number of agency-specific advantages, such as individual development planning, competency assessment, and reporting functionality. It also provides supervisors with a method of managing and tracking employee development planning and implementation. It offers online learning communities so employees can participate in online discussions with fellow students or others with similar interests, encouraging active learning beyond the completion of training. AgLearn also issues course evaluation surveys to participating employees, providing valuable feedback for course improvement.

Getting over Development Obstacles. Learning management systems are difficult to implement due to the complexity of integrating IT systems and business practices and the need to generate and sustain support from employees and managers at all levels of the organization. USDA overcame these obstacles by harnessing the power of collaboration and communication. Prior to AgLearn, the department supported seven separate systems for managing and tracking training and no one knew how much USDA was spending on learning across the department. The AgLearn program manager built top management's support for a unified system by demonstrating the potential for a high return on investment through reduced training costs and increased learning opportunities for employees. The next step was to work with each of the agencies and staff offices within the department to identify the LMS capabilities desired and to align these with current business practices. This meant stimulating and sustaining collaboration among USDA management, IT staff members, the training communities, human resources, and contractor partners.

Keys to Success. Communication at all levels is of vital importance when an LMS is introduced. A contact person was selected for each agency to work with the central AgLearn program office to help communicate with employees. The AgLearn contacts launched an intensive communication and marketing effort including such outreach strategies as in-person and virtual briefings, e-mail notices of learning opportunities tailored to the needs of employees in different job series and supervisory status, workshops for the training community, and presentations to executives.

Through strategic collaboration and communication, USDA has designed and implemented a fully functional and well used LMS. All employees world-wide now have access to learning any time, anywhere. AgLearn resulted in a 291 percent increase in course completions with a total of more than 2.5 million course completions. USDA can now readily identify and thus more easily manage department-wide training costs and has developed a successful model for future organizational performance improvement efforts. To learn more about AgLearn, go to www.aglearn.usda.gov. ❖

Workplace Learning



As discussed in previous newsletter editions, there are numerous low-to-no cost resources available to help meet staff training needs. Here are a few more ideas about learning opportunities your organization can provide.

OPM's GoLearn

OPM's e-training initiative is a Governmentwide LMS that provides agencies free access to many high-quality e-training products and services. These e-products and services result in an economies-of-scale advantage. See www.golearn.gov for more information.

Communities of Practice (CoP)

Invite employees who work in specific functional areas to join a CoP. The groups can meet in-person, via teleconference, or online. Activities can include presentations, roundtable discussions, bulletin boards, newsgroups, etc. Communities of practice offer the benefits of both sharing information and helping employees develop productive relationships with their peers.

Trade Magazines

Many trade magazines and newspapers are available without charge to qualifying employees working in a specific field. These periodicals typically include a range of interesting, helpful articles on timely topics. Employees can share and exchange magazines as well.



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MSPB finds that progress has been made in recent years in terms of fair and equitable treatment in the Federal Government, but there are still opportunities for change. (Page 1)

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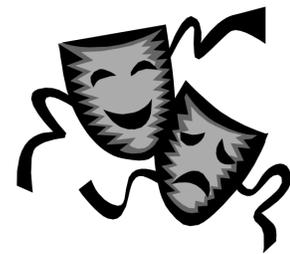
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Unproctored Internet Testing.

Some organizations use it to help save resources. But is it a good idea? Find out more. (Page 5)



The Changing Face of Federal Supervisors.

MSPB looks at how the evolution of the workforce and workplace are changing the role of supervision in the Federal Government. (Page 6)

Agency Corner.

USDA used collaboration and cooperation to build a successful learning management system. Here's how they did it. (Page 7)