Subpart C—Employee Performance

CHAPTER 41—TRAINING

§ 4101. Definitions

For the purpose of this chapter—

(1) "agency", subject to section 4102 of this title, means—
   (A) an Executive department;
   (B) an independent establishment;
   (C) a Government corporation subject to sections 846–852 or 856–859 of title 31;
   (D) the Library of Congress;
   (E) the Government Printing Office; and
   (F) the government of the District of Columbia;

(2) "employee", subject to section 4102 of this title, means—
   (A) an individual employed in or under an agency; and
   (B) a commissioned officer of the Coast and Geodetic Survey;

(3) "Government" means the Government of the United States and the government of the District of Columbia;

(4) "training" means the process of providing for and making available to an employee, and placing or enrolling the employee in, a planned, prepared, and coordinated program, course, curriculum, subject, system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other fields which are or will be directly related to the performance by the employee of official duties for the Government, in order to increase the knowledge, proficiency, ability, skill, and qualifications of the employee in the performance of official duties;

(5) "Government facility" means property owned or substantially controlled by the Government and the services of any civilian and military personnel of the Government; and

(6) "non-Government facility" means—
   (A) the government of a State or of a territory or possession of the United States including the Commonwealth of Puerto Rico, and an interstate governmental organization, or a unit, subdivision, or instrumentality of any of the foregoing;
   (B) a foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this chapter;
(C) a medical, scientific, technical, educational, research, or professional institution, foundation, or organization;
(D) a business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization;
(E) individuals other than civilian or military personnel of the Government; and
(F) the services and property of any of the foregoing furnishing the training.

§ 4102. Exceptions; Presidential authority

(a) (1) This chapter does not apply to—
   (A) a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;
   (B) the Tennessee Valley Authority; or
   (C) an individual (except a commissioned officer of the Coast and Geodetic Survey) who is a member of a uniformed service during a period in which he is entitled to pay under section 204 of title 37.

(2) This chapter (except sections 4110 and 4111) does not apply to—
   (A) the Foreign Service of the United States; or
   (B) an individual appointed by the President (except a Postmaster), unless the individual is specifically designated by the President for training under this chapter.

(b) The President, at any time in the public interest, may—
   (1) except an agency or part thereof, or an employee or group or class of employees therein, from this chapter or a provision thereof (except this section); and
   (2) withdraw an exception made under this subsection.

However, the President may not except the Civil Service Commission from a provision of this chapter which vests in or imposes on the Commission a function, duty, or responsibility concerning any matter except the establishment, operation, and maintenance, in the same capacity as other agencies, of training programs and plans for its employees.

§ 4103. Establishment of training programs

In order to increase economy and efficiency in the operations of the agency and to raise the standards of performance by employees of their official duties to the maximum possible level of proficiency, the head of each agency, in conformity with this chapter, shall establish, operate, and maintain 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. Each program, and plan thereunder, shall—

   (1) conform to the principles, standards, and related requirements contained in the regulations prescribed under section 4118 of this title;
   (2) provide for adequate administrative control by appropriate authority; and
   (3) provide for the encouragement of self-training by employees by means of appropriate recognition of resultant increases in proficiency, skill, and capacity.

Two or more agencies jointly may operate under a training program.
§ 4104. Government facilities; use of
An agency program for the training of employees by, in, and through Government facilities under this chapter shall—
(1) provide for training, insofar as practicable, by, in, and through Government facilities under the jurisdiction or control of the agency; and
(2) provide for the making by the agency, to the extent necessary and appropriate, of agreements with other agencies in any branch of the Government, on a reimbursable basis when requested by the other agencies, for—
(A) use of Government facilities under the jurisdiction or control of the other agencies in any branch of the Government; and
(B) extension to employees of the agency of training programs of other agencies.

§ 4105. Non-Government facilities; use of
(a) The head of an agency, without regard to section 5 of title 41, may make agreements or other arrangements for the training of employees of the agency by, in, or through non-Government facilities under this chapter.
(b) An agency program for the training of employees by, in, and through non-Government facilities under this chapter shall—
(1) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and
(2) give consideration to the needs and requirements of the agency in recruiting and retaining scientific, professional, technical, and administrative employees.
(c) In order to protect the Government concerning payment and reimbursement of training expenses, each agency shall prescribe such regulations as it considers necessary to implement the regulations prescribed under section 4118(a)(8) of this title.

§ 4106. Non-Government facilities; amount of training limited
(a) The training of employees by, in, and through non-Government facilities under this chapter is subject to the following limitations:
(1) The number of man-years of training for an agency in a fiscal year may not exceed 1 percent of the total number of man-years of civilian employment for the agency in the same fiscal year as disclosed by the agency budget estimates for the year.
(2) An employee having less than 1 year of current, continuous civilian service is not eligible for training unless the head of his agency determines, under regulations prescribed under section 4118 of this title, that training for the employee is in the public interest.
(3) The time spent by an employee in training may not exceed 1 year in the first 10-year period and in each subsequent 10-year period of his continuous or non-continuous civilian service in the Government.

The Civil Service Commission may prescribe other limitations, in accordance with the provisions and purposes of this chapter, concerning the time which may be spent by an employee in training.
(b) On recommendation of the head of an agency, the Commission may waive, with respect to that agency or part thereof or one or more employees therein, all or any of the limitations covered by subsection
(a) of this section, if the Commission determines that the application of all or any of the limitations thereto is contrary to the public interest. The Commission, in the public interest, may reimpose all or any of the limitations so waived.

§ 4107. Non-Government facilities; restrictions

(a) Appropriations or other funds available to an agency are not available for payment for training an employee—

(1) by, in, or through a non-Government facility which teaches or advocates the overthrow of the Government of the United States by force or violence; or

(2) by or through an individual concerning whom determination has been made by a proper Government administrative or investigatory authority that, on the basis of information or evidence developed in investigations and procedures authorized by law or Executive order, there exists a reasonable doubt of his loyalty to the United States.

(b) This chapter does not authorize training an employee by, in, or through a non-Government facility a substantial part of the activities of which is—

(1) carrying on propaganda, or otherwise attempting, to influence legislation; or

(2) participating or intervening, including publishing or distributing statements, in a political campaign on behalf of a candidate for public office.

(c) This chapter does not authorize the selection and assignment of an employee for training by, in, or through a non-Government facility, or the payment or reimbursement of the costs of training, for—

(1) the purpose of providing an opportunity to an employee to obtain an academic degree in order to qualify for appointment to a particular position for which the academic degree is a basic requirement; or

(2) the sole purpose of providing an opportunity to an employee to obtain one or more academic degrees.

§ 4108. Employee agreements; service after training

(a) An employee selected for training by, in, or through a non-Government facility under this chapter shall agree in writing with the Government before assignment to training that he will—

(1) continue in the service of his agency after the end of the training period for a period at least equal to three times the length of the training period unless he is involuntarily separated from the service of his agency; and

(2) pay to the Government the amount of the additional expenses incurred by the Government in connection with his training if he is voluntarily separated from the service of his agency before the end of the period for which he has agreed to continue in the service of his agency.

(b) The payment agreed to under subsection (a) (2) of this section may not be required of an employee who leaves the service of his agency to enter into the service of another agency in any branch of the Government unless the head of the agency that authorized the training notifies the employee before the effective date of his entrance into the service of the other agency that payment will be required under this section.

(c) If an employee, except an employee relieved of liability under subsection (b) of this section or section 4102(b) of this title, fails to
fulfill his agreement to pay to the Government the additional expenses incurred by the Government in connection with his training, a sum equal to the amount of the additional expenses of training is recoverable by the Government from the employee or his estate by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned, under the regulations prescribed under section 4118 of this title, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest.

§ 4109. Expenses of training

(a) The head of an agency, under the regulations prescribed under section 4118(a)(8) of this title and from appropriations or other funds available to the agency, may—

(1) pay all or a part of the pay (except overtime, holiday, or night differential pay) of an employee of the agency selected and assigned for training under this chapter, for the period of training; and

(2) pay, or reimburse the employee for, all or a part of the necessary expenses of the training, without regard to section 529 of title 31, including among the expenses the necessary costs of—

(A) travel and per diem instead of subsistence under subchapter I of chapter 57 of this title or, in the case of commissioned officers of the Coast and Geodetic Survey, sections 404 and 405 of title 37, and the Joint Travel Regulations for the Uniformed Services;

(B) transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under section 5724 of this title or, in the case of commissioned officers of the Coast and Geodetic Survey, sections 406 and 409 of title 37, and the Joint Travel Regulations for the Uniformed Services, when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training;

(C) tuition and matriculation fees;

(D) library and laboratory services;

(E) purchase or rental of books, materials, and supplies; and

(F) other services or facilities directly related to the training of the employee.

(b) The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training.

§ 4110. Expenses of attendance at meetings

Appropriations available to an agency for travel expenses are available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of the functions or activities.
§ 4111. Acceptance of contributions, awards, and other payments

(a) To the extent authorized by regulation of the President, contributions and awards incident to training in non-Government facilities, and payment of travel, subsistence, and other expenses incident to attendance at meetings, may be made to and accepted by an employee, without regard to section 209 of title 18, if the contributions, awards, and payments are made by an organization determined by the Secretary of the Treasury to be an organization described by section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26.

(b) When a contribution, award, or payment, in cash or in kind, is made to an employee for travel, subsistence, or other expenses under subsection (a) of this section, an appropriate reduction, under regulations of the Director of the Bureau of the Budget, shall be made from payment by the Government to the employee for travel, subsistence, or other expenses incident to training in a non-Government facility or to attendance at a meeting.

§ 4112. Absorption of costs within funds available

(a) The Director of the Bureau of the Budget, to the extent he considers practicable, shall provide by regulation for the absorption of the costs of the training programs and plans under this chapter by the respective agencies from applicable appropriations or funds available for each fiscal year.

(b) Subsection (a) of this section may not be held or considered to require—
   (1) the separation of an individual from the service by reduction in force or other personnel action; or
   (2) the placement of an individual in a leave-without-pay status.

§ 4113. Agency review of training needs; annual program reports

(a) The head of each agency, at least once every 3 years, shall review the needs and requirements of the agency for the training of employees under its jurisdiction. The Civil Service Commission, on request of an agency, may assist the agency with the review. Information obtained or developed in a review shall be made available to the Commission at its request.

(b) Each agency shall report annually to the Commission, at such times and in such form as the Commission prescribes, on its programs and plans for the training of employees under this chapter. The report shall set forth—
   (1) such information concerning the expenditures of the agency in connection with training as the Commission considers appropriate;
   (2) the name of each employee of the agency, except a student participating in a cooperative educational program, who, during the period covered by the report, received training by, in, or through a non-Government facility for more than 120 days; the grade, title, and primary duties of the position held by the employee; the name of the non-Government facility from which the training was received; the nature, length, and cost of the training to the Government; and the relationship of the training to official duties;
   (3) the name of each employee of the agency who received a contribution or award under section 4111(a) of this title during the period covered by the report;
(4) a statement concerning the value of the training to the agency;
(5) estimates of the extent to which economies and improved operations have resulted from the training; and
(6) such other information as the agency or the Commission considers appropriate.

§ 4114. Non-Government facilities; review of training programs
The Civil Service Commission, at the times and to the extent it considers necessary, shall review the operations, activities, and related transactions of each agency in connection with each agency program, and plan thereunder, for the training of its employees by, in, and through non-Government facilities under this chapter in order to determine whether the operations, activities, and related transactions comply with the programs and plans, the provisions and purposes of this chapter, and the principles, standards, and related requirements contained in the regulations prescribed under section 4118 of this title. Each agency, on request of the Commission, shall cooperate and assist in the review. If the Commission finds that noncompliance exists in an agency, the Commission, after consultation with the agency, shall certify to the head of the agency its recommendations for change of actions and procedures. If, after a reasonable time for placing its recommendations in effect, the Commission finds that noncompliance continues to exist in the agency, the Commission shall report the finding to the President for such action as he considers appropriate.

§ 4115. Collection of training information
The Civil Service Commission, to the extent it considers appropriate in the public interest, may collect information concerning training programs, plans, and the methods inside and outside the Government. The Commission, on request, may make the information available to an agency and to Congress.

§ 4116. Training program assistance
The Civil Service Commission, on request of an agency, shall advise and assist in the establishment, operation, and maintenance of the training programs and plans of the agency under this chapter, to the extent of its facilities and personnel available for that purpose.

§ 4117. Administration
The Civil Service Commission has the responsibility and authority for effective promotion and coordination of the training programs under this chapter and training operations thereunder. The functions, duties, and responsibilities of the Commission under this chapter are subject to supervision and control by the President and review by Congress.

§ 4118. Regulations
(a) The Civil Service Commission, after considering the needs and requirements of each agency for training its employees and after consulting with the agencies principally concerned, shall prescribe regulations containing the principles, standards, and related requirements for the programs, and plans thereunder, for the training of employees under this chapter, including requirements for coordination of and reasonable uniformity in the agency training programs and plans. The regulations shall provide for the maintenance of necessary information concerning the general conduct of the training activities of each agency, and such other information as is necessary to enable the President and Congress to discharge effectively their respective duties.
and responsibilities for supervision, control, and review of these training programs. The regulations also shall cover—

(1) requirements concerning the determination and continuing review by each agency of its training needs and requirements;

(2) the scope and conduct of the agency training programs and plans;

(3) the selection and assignment of employees of each agency for training;

(4) the use in each agency of the services of employees who have undergone training;

(5) the evaluation of the results and effects of the training programs and plans;

(6) the interchange of training information among the agencies;

(7) the submission of reports by the agencies on results and effects of training programs and plans and economies resulting therefrom, including estimates of costs of training by, in, and through non-Government facilities;

(8) requirements and limitations necessary with respect to payments and reimbursements in accordance with section 4109 of this title; and

(9) other matters considered appropriate or necessary by the Commission to carry out the provisions of this chapter.

(b) In addition to the matters set forth by subsection (a) of this section, the regulations, concerning training of employees by, in, or through non-Government facilities, shall—

(1) prescribe general policies governing the selection of a non-Government facility to provide training;

(2) authorize training of employees only after the head of the agency concerned determines that adequate training for employees by, in, or through a Government facility is not reasonably available, and that consideration has been given to the existing or reasonably foreseeable availability and use of fully trained employees; and

(3) prohibit training an employee for the purpose of filling a position by promotion if there is in the agency concerned another employee, of equal ability and suitability, fully qualified to fill the position and available at, or within a reasonable distance from, the place where the duties of the position are to be performed.

(c) The Commission, in accordance with this chapter, may revise, supplement, or abolish regulations prescribed under this section, and prescribe additional regulations.

(d) This section does not authorize the Commission to prescribe the types and methods of intra-agency training or to regulate the details of intra-agency training programs.

CHAPTER 43—PERFORMANCE RATING

Sec.
4301. Definitions.
4302. Performance-rating plans; establishment of.
4303. Performance-rating plans; requirements for.
4304. Ratings for performance.
4305. Review of ratings.
4306. Performance-rating plans; inspection of.
4307. Other rating procedures prohibited.
4308. Regulations.
§ 4301. Definitions
For the purpose of this chapter—
(1) "agency" means—
(A) an Executive agency;
(B) the Administrative Office of the United States Courts;
(C) the Library of Congress;
(D) the Botanic Garden;
(E) the Government Printing Office; and
(F) the government of the District of Columbia;
but does not include—
(i) the Tennessee Valley Authority;
(ii) the postal field service;
(iii) the Foreign Service of the United States;
(iv) the Atomic Energy Commission;
(v) the Central Intelligence Agency;
(vi) the National Security Agency; or
(vii) a Government controlled corporation; and
(2) "employee" means an individual employed in or under an agency, but does not include—
(A) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;
(B) an employee outside the continental United States who is paid in accordance with local native prevailing wage rates for the area in which employed;
(C) a civilian officer or member of a crew of a vessel operated by the Department of the Army or the Department of the Navy;
(D) an individual employed by the government of the District of Columbia whose pay is not fixed under chapter 51 and subchapter III of chapter 53 of this title; or
(E) a hearing examiner appointed under section 3105 of this title.

§ 4302. Performance-rating plans; establishment of
For the purpose of recognizing the merits of employees and their contributions to efficiency and economy in the Federal service, each agency shall establish and use one or more performance-rating plans for evaluating the work performance of its employees.

§ 4303. Performance-rating plans; requirements for
Each performance-rating plan shall be as simple as possible and shall provide—
(1) that performance requirements be made known to all employees;
(2) that performance of the employee be fairly appraised in relation to the requirements;
(3) for use of appraisals to improve employee performance;
(4) for strengthening supervisor-employee relationships; and
(5) that each employee be kept currently advised of his performance and promptly notified of his performance rating.

§ 4304. Ratings for performance
(a) Each performance-rating plan shall provide for ratings representing at least—
(1) satisfactory performance;
(2) unsatisfactory performance; and
§ 4305. Review of ratings

(a) An agency, on request of an employee of that agency, shall provide one impartial review of the performance rating of the employee.

(b) Each agency shall establish one or more boards of review of equal jurisdiction to consider and pass on the merits of performance ratings under rating plans established under this chapter. Each board of review shall have three members, one member designated by the head of the agency, one member designated by the employees of the agency in the manner prescribed by the Civil Service Commission, and one member, who serves as chairman, designated by the Commission. Alternate members are designated in the same manner as their respective principals.

(c) In addition to the review under subsection (a) of this section, an employee with a current performance rating of less than satisfactory, on written appeal to the chairman of the appropriate board of review established under subsection (b) of this section, is entitled to a hearing and decision on the merits of the appealed rating. If an employee with a current performance rating of satisfactory has not requested and obtained review of the rating under subsection (a) of this section, he is entitled, on written appeal to the chairman of the appropriate board of review established under subsection (b) of this section, to a hearing and decision on the merits of the appealed rating.

(d) At the hearing the appellant, or his designated representative, and representatives of the agency are entitled to submit pertinent information orally or in writing, and to hear or examine, and reply to, information submitted by others. After the hearing, the board of review shall confirm the appealed rating or make such change as it considers proper.

§ 4306. Performance-rating plans; inspection of

(a) The Civil Service Commission shall inspect the administration of performance-rating plans by each agency to determine compliance with the requirements of this chapter and the regulations prescribed thereunder.

(b) When the Commission determines that a performance-rating plan does not meet the requirements of this chapter and the regulations prescribed thereunder, the Commission, after notice to the agency giving the reasons, may revoke its approval of the plan. After revocation, the performance-rating plan and any current ratings thereunder are inoperative, and the agency thereafter shall use a performance-rating plan prescribed by the Commission.

§ 4307. Other rating procedures prohibited

An employee may not be given a performance rating, regardless of the name given to the rating, and a rating may not be used as a basis for any action, except under a performance-rating plan approved by
the Civil Service Commission as meeting the requirements of this chapter.

§ 4308. Regulations

The Civil Service Commission may prescribe regulations necessary for the administration of this chapter.

CHAPTER 45—INCENTIVE AWARDS

Sec.
4501. Definitions.
4502. General provisions.
4503. Agency awards.
4504. Presidential awards.
4505. Awards to former employees.
4506. Regulations.

§ 4501. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency;

(B) the Administrative Office of the United States Courts;

(C) the Library of Congress;

(D) the Office of the Architect of the Capitol;

(E) the Botanic Garden;

(F) the Government Printing Office; and

(G) the government of the District of Columbia;

but does not include—

(i) the Tennesse Valley Authority; or

(ii) the Central Bank for Cooperatives;

(2) "employee" means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia; and

(3) "Government" means the Government of the United States and the government of the District of Columbia.

§ 4502. General provisions

(a) Except as provided by subsection (b) of this section, a cash award under this chapter may not exceed $5,000.

(b) When the head of an agency certifies to the Civil Service Commission that the suggestion, invention, superior accomplishment, or other meritorious effort for which the award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $5,000 but not in excess of $25,000 may be granted with the approval of the Commission.

(c) A cash award under this chapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this chapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or assigns.

(d) A cash award to, and expense for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503 of this title. The President determines the amount to be paid by each activity for a Presidential award under section 4504 of this title.
§ 4503. Agency awards
The head of an agency may pay a cash award to, and incur necessary expense for the honorary recognition of, an employee who—
(1) by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations; or
(2) performs a special act or service in the public interest in connection with or related to his official employment.

§ 4504. Presidential awards
The President may pay a cash award to, and incur necessary expense for the honorary recognition of, an employee who—
(1) by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations; or
(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to his official employment.

A Presidential award may be in addition to an agency award under section 4503 of this title.

§ 4505. Awards to former employees
An agency may pay or grant an award under this chapter notwithstanding the death or separation from the service of the employee concerned, if the suggestion, invention, superior accomplishment, other personal effort, or special act or service in the public interest for which the award is proposed was made or performed while the employee was in the employ of the Government.

§ 4506. Regulations
The Civil Service Commission may prescribe regulations and instructions under which the agency awards program set forth by this chapter shall be carried out.

SUBPART D—PAY AND ALLOWANCES
CHAPTER 51—CLASSIFICATION

Sec.
5101. Purpose.
5102. Definitions; application.
5103. Determination of applicability.
5104. Basis for grading positions.
5105. Standards for classification of positions.
5106. Basis for classifying positions.
5107. Classification of positions.
5108. Classification of positions at GS-16, 17, and 18.
5109. Positions classified by statute.
5110. Review of classification of positions.
5111. Revocation and restoration of authority to classify positions.
5112. General authority of the Civil Service Commission.
5113. Classification records.
5114. Reports; positions in GS-16, 17, and 18.
5115. Regulations.

§ 5101. Purpose
It is the purpose of this chapter to provide a plan for classification of positions whereby—
(1) in determining the rate of basic pay which an employee will receive—
(A) the principle of equal pay for substantially equal work will be followed; and