

GRADE AND PAY RETENTION

INTRODUCTION

Grade Retention: Department of Defense (DoD) agencies must provide grade retention to a General Schedule (GS) or Federal Wage System (FWS) employee who moves from a position under a covered pay system to a lower-graded position under a covered pay system as a result of reduction in force procedures under 5 CFR 536.201(c) or a reclassification process under 5 CFR 536.201(d).

Pay Retention: DoD agencies must provide pay retention to a GS or FWS employee who moves between positions under a covered pay system or from a position not under a covered pay system to a position under a covered pay system and whose payable rate of basic pay otherwise would be reduced (after application of any applicable geographic conversion) as a result of a management action.

This reference guide provides detailed information about the mandatory grade and pay retention rules, including the situations in which DoD extends grade and pay retention. It also provides examples of how to compute rates of basic pay for employees covered by these provisions and answers to frequently asked questions.

BASIC ELIGIBILITY

Grade Retention: A GS or FWS employee is eligible for grade retention as a result of a reduction in force only if the employee has served for at least 52 consecutive weeks in one or more positions under a covered pay system at one or more grades higher than the grade of the position in which the employee is placed. An employee is eligible for grade retention based on a reclassification of his or her position only if, immediately before the reduction in grade, that position was classified at the existing grade or a higher grade for a continuous period of at least 1 year. (See 5 CFR 536.203.)

Pay Retention: A GS or FWS employee is eligible for pay retention if the employee's existing payable rate of basic pay is less than or equal to the maximum rate of the highest applicable rate range for the grade of the employee's position of record immediately after the event causing the pay retention entitlement, the employee is entitled to the lowest rate of basic pay in such rate range that equals or exceeds the employee's existing payable rate of basic pay. If an employee's payable rate of basic pay is set at or below the maximum rate of the highest applicable rate range, pay retention ceases to apply to the employee. If the employee's existing payable rate of basic pay is greater than the maximum rate of the highest applicable rate range for the grade of the employee's position immediately after the event causing the pay retention entitlement, the employee is entitled to a retained rate equal to the employee's existing payable rate of basic pay.

EMPLOYEE COVERAGE

This reference guide covers employees moving within or between the covered pay systems, i.e., GS or the FWS, who are eligible for grade and pay retention. However, employees moving from a non-covered pay system into the GS or FWS pay system may be extended pay retention, as long as the individual meets the definition of "employee" as defined in 5 CFR 536.103.

EXCLUSIONS

Grade or pay retention shall not apply to the following employees:

- Is reduced in grade or pay for personal cause or at the employee's request;
- Was employed on a temporary or term basis immediately before the action causing the reduction in grade or pay;
- Does not satisfactorily complete the probationary period prescribed by 5 U.S.C. 3321(a)(2) and, as a result, is removed from a supervisory or managerial position;
- Is entitled to receive a saved rate of basic pay under 5 U.S.C. 3594(c) because of removal from the Senior Executive Service and placement in a civil service position under 5 U.S.C. 3594(b)(2);
- Moves from an Executive Schedule position paid under 5 U.S.C. chapter 53, subchapter II, or a position whose rate of pay is fixed by law at a rate equal to a rate for the Executive Schedule;
- Moves between positions not under a covered pay system or from a position under a covered pay system to a position not under a covered pay system;
- Moves to a nonappropriated fund (NAF) position as described in 5 U.S.C. 2105(c) (except a position occupied by a prevailing rate employee);
- Moves from a NAF position as described in 5 U.S.C. 2105(c) (except a position occupied by a prevailing rate employee) to a position in a covered pay system, unless covered by 5 CFR 536.302(a);
- Is reduced in pay upon termination of a critical position pay authority under 5 CFR part 535; or
- Was temporarily promoted or temporarily reassigned.

COMPARISON RATES

- The comparison rate for GS positions is step 4 of the highest applicable rate range that applies to the position.
- The comparison rate for the FWS system is step 2 of the grade for Wage Grade (WG), Wage Leader (WL), and Wage Supervisor (WS) wage schedules, or in the case of a position with a single rate, the single rate of that position.
- When moving between the GS and FWS pay systems, comparison rates are used to determine whether the grade of a position is equal to, higher than, or lower than the grade of another position when determining:
 - eligibility for grade retention;
 - loss of or termination of grade retention when an employee is placed in a lower-graded position and the action is taken for personal cause or at the employee's request or when an employee moves to a position with an equal or higher grade;
 - loss of eligibility or termination of grade retention based on declination of a reasonable offer of a position with an equal or higher grade, or
 - loss of eligibility for pay retention or termination of a retained rate when an employee is placed in a lower-graded position for personal cause or at the employee's request. See example 1.

Example 1: Tim was moved from a WL-9 position (DC wage schedule, AC-0027R) to a GS-9 position in the DCB locality pay area by a reduction-in-force (RIF) in 2017. Because Tim is

moving between pay systems under a RIF action, the comparison rates of the positions are compared to determine if the action is a change to lower grade. The comparison rate (step 2) for the WL-09 position is \$29.32 per hour, which equals \$61,191 per year ($\$29.32 \times 2087 \text{ hours} = \$61,191$). The comparison rate (step 4) for the GS-9 position is \$60,470. Because the GS-9 comparison rate is lower, the action is a change to lower grade.

Note: If the new or offered position is located at a different official worksite, then the geographic conversion rule must be applied before considering the comparison rates. See example 2.

Example 2: In 2017, Jennifer, a GS-7 employee, with an official worksite in Washington, DC, was moved to a WG-5 position in the Philadelphia, PA, wage area by RIF. Because the positions are in different geographic locations where different pay schedules apply, the comparison rate for the employee's existing position at the new location is used to determine if the movement is a change to lower grade. The comparison rate (step 4) for the GS-7 position in the Philadelphia locality pay area is \$48,180 per year, which equals \$23.09 per hour ($\$48,180 / 2087 \text{ hours} = \23.09). The comparison rate (step 2) for the WG-5 position on the Philadelphia wage schedule, AC-0115R, is \$21.44. Because the comparison rate for the WG position is lower, the action is a change to lower grade.

REASONABLE OFFER CRITERIA

To determine whether grade retention eligibility is lost or grade retention terminated, an offer is reasonable if the position's grade is equal to or higher than the retained grade. To determine if pay retention eligibility is lost or a retained rate is terminated, the offer of a position is reasonable if the employee's rate of basic pay would be equal to or greater than the retained rate. To qualify as a reasonable offer, the offer must:

- Be in writing and include an official position description;
- Inform the employee that entitlement to grade or pay retention will terminate if the offer is declined and that the employee may appeal the reasonableness of the offer;
- Be for a position of tenure equal to or greater than the position creating the entitlement.
- Be full-time unless the employee's position was less than full-time;
- Be in the same commuting area, unless the employee is subject to a mobility agreement or a published agency policy that requires employee mobility.

In comparing grades or levels of work in making reasonable offer determinations when one of the positions is not covered under the GS or FWS pay systems and after applying any geographic conversion rule for positions with different official worksites, the comparison rates that must be compared are the maximum payable rates of basic pay that applies to the grade or level of work of each position. See example 3.

Example 3: Davis is a GS-7, step 00, rate (\$60,367) in the Boston, MA locality pay area. He is offered an IA-0201-02 position in Boston, MA. The offered position is a reasonable offer if the employee's rate of basic pay in the offered position would be equal to or greater than his retained rate. Because the offered position is in a noncovered pay system, Defense Civilian Intelligence Personnel System (DCIPS), the comparison rates of the positions must be compared based on the maximum payable rate of basic pay for each position. The comparison rate for GS-7, step 10, in the

Boston locality pay area for 2017 is \$58,258. The maximum payable rate of basic pay that applies to the DCIPS IA Pay Band 02 position in 2017 in Boston, MA is \$65,098. Because the comparison rate for the DCIPS IA-02 position, \$65,098, is higher than the GS-7 maximum rate of \$58,258, this is a reasonable offer. Consequently, Davis' pay retention entitlement is terminated.

MANDATORY GRADE RETENTION

Grade retention is mandatory when a GS or FWS employee moves to a lower-graded position as a result of the reduction-in-force procedures or the reclassification process.

- Movement is the result of the **reduction in force procedures** when the employee has received a specific reduction in force notice and is placed in the position offered in the notice or in another position in the same agency, provided the offer was made in writing and at the initiative of management. See example 4.

Example 4: Charlie is a GS-14 who has received a specific RIF notice offering him a GS-13 position with grade retention. During the notice period, his agency offers him a GS-13 position in another Division. Even though the offer is not part of the RIF process, Charlie is entitled to grade retention.

- Movement is the result of the **reclassification process** when the employee remains in the reclassified position or is placed in a different position in the same agency before the effective date of the reclassification action, providing the offer was made in writing and at the initiative of management after the employee had received a specific written notice that his position is being reclassified to a lower grade.

OPTIONAL GRADE RETENTION

OPM's regulations allow the head of the agency to extend grade retention to employees who meet the general eligibility requirements, but do not have a specific entitlement by law or regulation. Within DoD, it has been determined that grade retention will be extended:

- To an employee who accepts a lower-graded position at the same or another DoD activity after receiving a RIF notice proposing a change to lower grade or separation. Grade retention is mandatory if the grade of the position is the same as offered in the proposed RIF notice. However, if the grade of the position is lower than the grade offered in the proposed notice, then grade retention may be granted if management determines that the placement in the position is in the interest of the Government. This provision also applies to employees who are placed in a situation which has been determined in advance by the Deputy Under Secretary of Defense (Civilian Personnel Policy), to be comparable to a RIF and accept a lower-graded position within DoD;
- To an employee placed through the DoD Priority Placement Program, including those placements resulting from early registration, even if the employee has not received a specific RIF notice;
- To an employee not personally affected by a realignment or reduction that is occurring within their organization, but requests a change to lower grade. If management determines that the

lower-graded position is a more suitable position for that employee and that the placement lessens or avoids the impact of the RIF on other employees, then grade retention will be granted;

- In other circumstances, as determined by activities, resulting from personnel actions initiated by management to further the agency's mission, to the extent that the intent of applicable law and regulation is met.

EMPLOYEE ENTITLEMENT UNDER GRADE RETENTION

- An employee entitled to grade retention retains the higher grade for 2 years beginning on the date the employee is placed in the lower-graded position.
- If, during the 2-year period of grade retention, an employee is further reduced in grade under circumstances also entitling the employee to grade retention, then the employee continues to retain the previous retained grade for the remainder of the first 2-year retention period. At the end of the first retention period, the employee is entitled to retain the grade of the position from which the further reduction in grade was made until 2 years have passed from the date of the further reduction in grade.

DETERMINATION OF RETAINED GRADE

An employee entitled to grade retention retains the grade which he or she held immediately prior to the reduction in grade, even if the employee has moved to a different pay system.

APPLICABILITY OF RETAINED GRADE

When an employee is entitled to grade retention, he or she is entitled to have the retained grade treated as his or her grade for pay and pay administration, including retirement and life insurance, and eligibility for training and promotion. It is not used, however, for purposes of applying any reduction-in-force procedures in a subsequent reduction-in-force.

DETERMINING A RATE OF BASIC PAY UNDER GRADE RETENTION

There are four rules for setting an employee's pay under grade retention:

- **Rule 1:** If there is no geographic conversion and no change in pay schedules before and after the action, then the employee is entitled to his/her existing payable rate for the current grade and step. See example 5.

Example 5: Claire is a GS-9, step 3, rate (\$53,083) in the Rest of United States (RUS) locality pay area. Her position has been downgraded in 2017 to a GS-7 non-special rate position as a result of the reclassification process. Because her position has been classified at the higher grade for at least 1 year and she meets the eligibility requirements for grade retention, Claire will retain the GS-9 for 2 years. Claire's rate of basic pay is determined as follows:

Retained grade and rate of basic pay before RIF: GS-9, step 3, RUS locality rate, \$53,083;

Retained grade and rate of basic pay after RIF: GS-9, step 3, RUS locality rate, \$53,083.

- **Rule 2:** If there is a change in pay schedules, then the employee is entitled to the corresponding grade and step (rate) from the highest applicable rate range that applies to the new position. See example 6.

Example 6: Ted, a GS-7, step 5, with an official worksite in San Diego, CA, is placed in a GS-5 non-special rate position in San Francisco, CA, as a result of a RIF conducted in 2017. Because for at least 52 consecutive weeks he held a higher grade than the grade of the position he is being moved to, Ted is entitled to grade retention. Since Ted is moving to a new official worksite where different pay schedules apply, his existing rate is converted to the pay schedule that applies to his new position by applying the geographic conversion rule. The highest applicable rate range for his new position is the San Francisco salary table. Ted's grade and rate of basic pay before RIF was GS-7, step 5, rate (\$50,887) in the San Diego locality pay area. His payable rate of basic pay after RIF is GS-7, step 5, rate (\$55,372) in the San Francisco locality pay area.

- **Rule 3:** If an employee's existing payable rate would be reduced (excluding a reduction resulting from geographic conversion), then the pay retention rules must be used to set pay. If the rate of basic pay to which the employee is entitled is within the rate range of the retained grade, then the employee will be placed in the step appropriate for that rate of basic pay. If it is not within the rate range, the employee will be placed in step 00. See examples 7 & 8.

Example 7: Kim, a GS-7, step 10, Information Technology specialist in the Miami, FL, locality pay area, covered by special rate table 999C, is being placed in a GS-5 non-special rate position located in Atlanta, GA, as a result of a RIF in 2017. Kim is entitled to grade retention. Her payable rate of basic pay is determined as follows: Kim's grade and payable rate of basic pay in Miami before RIF is GS-7, step 10, under special rate table 999C, \$62,060. After geographic conversion, Kim's grade and payable rate of basic pay in Atlanta is GS-7, step 10, under special rate table 999B, \$61,140. This rate becomes the employee's payable rate of basic pay. The highest applicable rate range for her new position is the Atlanta salary table: GS-7, step 10, rate (\$55,486). Because her existing payable rate (\$61,140) exceeds the GS-7, step 10, Atlanta locality rate of \$55,486, Kim is entitled to a retained rate equal to her existing payable rate of basic pay, GS-7, step 00, rate (\$61,140).

Example 8: In 2017, Will, a WG-10, step 5, employee with an official worksite in Pensacola, FL, is placed in a WG-9 position with an official worksite in Norfolk, VA, as a result of a RIF. He is entitled to grade retention. Because Will is changing wage areas, Will's hourly rate in the WG-10 position in Pensacola must be converted to the WG-10 position in Norfolk. Will's retained grade and rate of basic pay before RIF is WG-10, step 5 (Pensacola), rate (\$30.43) on the Pensacola wage schedule AC-0034R. His retained grade and rate of basic pay after RIF is WG-10, step 5 (Norfolk), rate (\$25.98) on the Norfolk wage schedule AC-0140R. Although Will's hourly rate for the new position is less than the rate for his former position, the reduction is due to the geographic conversion; therefore, pay retention does not apply.

- **Rule 4:** An employee with a retained grade retains the pay system associated with the retained grade, even if the employee's actual position is in a different covered pay system. See example 9.

Example 9: Jerry, a WG-9, step 3, with an official worksite in Baltimore, Maryland, is placed in a GS-7 position at the same official worksite as a result of a RIF. Jerry is entitled to grade retention. Because Jerry is moving between pay systems under a RIF action in 2017, the comparison rates of

the positions are compared to determine if the action is a change to lower grade. The comparison rate (step 2) for the WG-9 position is \$25.48 per hour on the Baltimore wage schedule AC-0066R, which equals \$53,177 per year ($\$25.48 \times 2087 = \$53,177$). The comparison rate (step 4) for GS-7 on the 2017 DCB salary table is \$49,437. Because the GS-7 position is lower, the employee will retain the WG-9 grade for 2 years.

WITHIN-GRADE INCREASES

During the 2-year grade retention period, an employee is entitled to step increases in the retained grade. However, if an employee is placed at step 10 or 00 because his or her rate of basic pay (determined under grade retention rules) is at or above the maximum of the rate range of the retained grade, then the employee is not entitled to any further step increases.

ANNUAL ADJUSTMENTS

An employee who, at the time of an annual pay increase, is receiving a rate of basic pay within the rate range of the retained grade is entitled to receive the new rate for his or her grade and step on the new pay schedule. However, if an employee is receiving a retained rate of pay outside the rate range of the retained grade, then the employee is only entitled to 50% of the annual adjustment.

SPECIAL RATE INCREASES

If there is a special rate increase during the 2-year period of grade retention, then applicability of that increase will be based on the retained grade, using the applicable rate schedule.

EFFECT OF TEMPORARY PROMOTIONS

- If an employee becomes entitled to grade or pay retention while under a temporary promotion, then the grade and/or rate of basic pay to which the employee is entitled is not based on the grade or rate of basic pay held during the temporary promotion, but rather on the grade and/or rate of basic pay to which the employee would have been entitled had he or she not been temporarily promoted.
- If an employee is already entitled to grade or pay retention when he or she is temporarily promoted, then the employee's entitlement to grade or pay retention is not affected in any way by the temporary action. It simply continues simultaneously as if the employee had not been temporarily promoted.

LOSS OF ELIGIBILITY FOR OR TERMINATION OF GRADE RETENTION

An employee will lose eligibility for grade retention if any of the following conditions occurs at any time after the employee receives written notice of the reduction-in-grade action, but before the commencement of the 2-year period of grade retention. Also, grade retention terminates if any of the following conditions occurs after the 2-year period of grade retention starts:

- The employee has a break in service of one workday or more;

- The employee is reduced in grade for personal cause or at his/her request;
- The employee moves to a position under a covered pay system with a grade that is equal to or higher than the retained grade, excluding a temporary promotion;
- The employee declines a reasonable offer of a position with a grade equal to or higher than the retained grade;
- The employee elects in writing to terminate the benefits of grade retention (such employee is not eligible for pay retention); or
- The employee moves to a position not under a covered pay system.
- Except when the grade retention entitlement results from reduction-in-force procedures or a reclassification process; grade retention terminates if the employee fails to enroll in, or comply with reasonable written requirements established to assure full consideration under a program providing priority consideration for placement, such as the DoD Priority Placement Program.

PAY RETENTION

Pay retention will be granted in the following situations:

- When the 2-year period of grade retention expires;
- When an employee who does not meet the eligibility requirements for grade retention is reduced in grade as a result of a reduction in force or reclassification process;
- Management action that places an employee in a non-special rate position or in a lower-paid special rate position from a special rate position;
- Management action that places an employee under a different pay schedule;
- Management action that places an employee in a formal employee development program generally utilized Governmentwide (e.g., Recent Graduates Program);
- The application of the promotion rule for GS employees under 5 U.S.C. 5334(b) and 5 CFR 531.214 when the employee's payable rate of basic pay after promotion exceeds the maximum rate of the highest applicable rate range;
- The application of the promotion rule for FWS employees under 5 CFR 532.407 when the employee's payable rate of basic pay after promotion exceeds the maximum scheduled rate of the grade, as described in 5 CFR 532.407(b);
- A reduction or elimination of scheduled rates, special schedules, or special rate schedules, excluding:
 - a statutory reduction in scheduled rates of pay under the General Schedule, including a reduction authorized under 5 U.S.C. 5303(b); or
 - a statutory reduction in a prevailing rate schedule established under 5 U.S.C. chapter 53, subchapter IV and 5 CFR part 532.

OPTIONAL PAY RETENTION

The OPM regulations allow the head of the agency to provide pay retention to eligible employees whose rates of basic pay would otherwise be reduced as a result of a management action. Under this authority, DoD has determined that it will extend pay retention to an employee who:

- Accepts a lower-graded position designated in advance as hard-to-fill;

- Is reduced in grade on return from an overseas assignment under a pre-established agreement;
- Accepts placement in a lower-graded position upon return from an overseas assignment after being released from the period of service under a current transportation agreement due to a management-initiated action;
- Is released from a service agreement, after fulfilling at least one year of service, and is placed in a lower-graded position upon return from an overseas assignment because of compelling personal reasons of a humanitarian or compassionate nature. (Such compelling reasons may involve physical or mental health or circumstances beyond the employee's control);
- Is placed in a lower-graded position at the losing activity or any other DoD activity after declining an offer to transfer with his or her function to a location outside the commuting area or is being identified with such function but receives no offer at the gaining activity;
- Accepts a lower-graded position offered by an activity to accommodate a disabling medical condition similar to the circumstances described in 5 CFR 831.1203(a)(4);
- Occupies a position under a Schedule C appointment and is placed, not for cause or at employee's request, in a lower-graded position in the competitive service or another Schedule C position, providing such action is not due to a change in agency leadership;
- Accepts placement without a break in service in a lower-graded, non-dual-status technician job, without a break in service, from an Army or Air Force dual-status technician position because he or she has lost or is scheduled to lose eligibility for the reserve technician position through no fault of his or her own (i.e., a "status quo" employee);
- Accepts placement in a lower-graded competitive service position, without a break in service, from a National Guard technician position because he or she has lost military status through no fault of his or her own;
- Is not serving on a mobility agreement and whose job is abolished, declines an offer outside the commuting area and is placed in a lower-graded position in the commuting area;
- Applies through a formal recruitment program and is selected for a position at an overseas location. (In such cases, all potential applicants must be advised in writing that pay retention will be offered to selectees whose pay would otherwise be reduced if selected for the position);
- Is eligible under 5 CFR 536.302(a) and is involuntarily moved from a DoD NAF position to a DoD civil service position without a break in service of more than 3 days;
- In other circumstances, as determined by activities, resulting from personnel actions initiated by management to further the agency's mission, to the extent that the intent of the law and regulations governing grade and pay retention are met.

DETERMINING INITIAL PAY RETENTION ENTITLEMENT

- **Rule 1:** If an employee's official worksite changes in conjunction with an action that may provide initial entitlement to pay retention, then the geographic conversion rule must be applied. The converted rate of basic pay must be treated as the employee's existing payable rate of basic pay.
- **Rule 2:** If the existing payable rate of basic pay falls within the rate range of the highest applicable rate range for the new grade, then pay is set within the rate range and pay retention terminates. See example 10.

Example 10: Jim is a GS-11, step 2, rate (\$54,073) in a non-special rate position overseas. He is exercising return rights in 2017 to a GS-9 position at Fort Hood in Killeen, TX. Jim is entitled to pay retention under DoD's mandatory policy. Since Jim is moving to a new official worksite where different pay schedules apply, his payable rate of basic pay must be converted to the applicable rate range and pay schedule for his grade and step at the new official worksite -- GS-11, step 2, on the RUS salary table, \$62,216. Because Jim's existing payable rate of \$62,216 can be set within the rate range of the grade at GS-9, step 9, rate (\$63,038) pay retention ends.

- **Rule 3:** If the existing payable rate of basic pay is greater than the maximum step of the highest applicable rate range for the new grade, then the employee is entitled to a retained rate equal to the existing payable rate of basic pay. However, a newly established retained rate may not exceed 150 % of the highest applicable rate range for the grade of the new position or the rate for level IV of the Executive Schedule. See example 11.

Example 11: Rachel, a GS-14, step 7, rate (\$134,426) with an official worksite in Washington, DC, is selected for a GS-13 position overseas in May 2017. The position is covered by the General Schedule. The vacancy announcement states that under DoD policy pay retention will be granted if an employee's rate of basic pay would otherwise be reduced if selected for the position. To set Rachel's pay, the employee's payable rate of basic pay must be established at the new worksite before determining her initial pay retention entitlement by applying the geographic conversion rule. Her payable rate of basic pay is converted to the highest applicable rate range and pay schedule for her grade and step in the overseas area -- GS-14, step 7, on the General Schedule, rate (\$105,764).

Because Rachel's payable rate of basic pay of \$105,764 exceeds the maximum rate for her position—GS-13, step 10, on the General Schedule, rate (\$96,958), Rachel is entitled to her existing rate subject to 150% of the maximum rate of the new grade or Executive Level IV. These limitations must be confirmed when a retained rate is initially established.

GS-13, step 10, rate (\$96,958) x 150% (\$96,958 x 1.50) = \$145,437

Executive Level IV is \$161,900

Rachel's retained rate is \$105,764 because it is less than the regulatory limitations.

REDETERMINING PAY RETENTION ENTITLEMENT UPON CHANGE IN POSITION OR PAY SCHEDULE

When an employee is receiving retained pay and moves to another position or pay schedule that results in coverage under a new highest applicable rate range, the employee's entitlement to pay retention must be recomputed. If the employee's official worksite changes to a new location where different pay schedules apply, then the employee's retained rate must be converted to the new location before redetermining the employee's pay retention entitlement.

- If the employee's grade and pay system are not changing and the employee's existing retained rate is less than or equal to the maximum rate of the highest applicable rate range for the employee's new position, then the employee is entitled to the maximum rate of the highest applicable rate range, and pay retention ends.

- If the employee's grade and pay system are not changing and if the employee's existing retained rate is greater than the maximum rate on the highest applicable rate range for the new position of record, then the employee continues to be entitled to the existing retained rate. See example 12.

Example 12: Don, a GS-0810-9, step 00, civil engineer with an official worksite overseas (\$78,465), is moving in 2017 to a GS-0810-9 position in the Houston, TX, locality pay area. The highest applicable rate range that applies to his position of record at the former worksite is special rate table 414. The highest applicable rate range that applies to his former position at the new worksite is the Houston salary table. Don's retained rate must be converted to the new geographic location.

GS-9, step 10, special rate table 414, rate (\$69,207)

GS-9, step 10, Houston locality, rate (\$73,643)

To determine the geographic difference between the two schedules, divide the maximum rate at the new location by the maximum rate at the old location and round the result to the fourth decimal place.

$\$73,643 / \$69,207 = 1.0641$ (factor)

Multiply the factor by the employee's retained rate and round to the nearest dollar (for an annual rate) or whole cent (for an hourly rate).

$\$78,465 \times 1.0641 = \$83,495$. This is Don's converted retained rate for determining his pay retention entitlement for his new position at the new location.

Because Don's retained rate, \$83,495, is greater than the highest applicable rate range for his new position at the new worksite (GS-9, step 10, rate (\$73,643), on the Houston locality pay table), he remains on pay retention as GS-9, step 00, rate (\$83,495). His entitlement to pay retention continues because none of the terminating events under 5 CFR 536.308 applies.

- If the employee's pay system is not changing but the employee is being promoted to a higher-graded position, then the agency must apply the applicable promotion rules to determine the employee's payable rate of basic pay (e.g., the rules in 5 CFR 531.214(d)(5) for GS positions and 5 CFR 532.407 for FWS positions). When the resulting rate is equal to or greater than the existing retained rate, pay retention ceases to apply. When the resulting rate is less than the existing retained rate, the employee continues to be entitled to the existing retained rate. See example 13.

Example 13: Todd, a GS-13, step 00, currently on a retained rate of \$134,678 in Denver, Colorado, is being promoted to an overseas GS-14 position in 2017. Neither position is covered by a special rate.

Before calculating his promotion entitlement, his pay retention entitlement must be refigured to derive his converted retained rate in the overseas area. The highest applicable rate range that applies to his position of record at the former worksite is the Denver salary table. The highest applicable rate range that applies to his former position at the new worksite is the General Schedule. Convert Todd's retained rate to the new geographic location in the overseas area.

GS-13, step 10, DEN locality, rate (\$120,858)

GS-13, step 10, GS table, rate (\$96,958)

To determine the geographic difference between the two schedules, divide the maximum rate at the new overseas location by the maximum rate at the former Denver, CO location and round the result to the fourth decimal place.

$$\$96,958 / \$120,858 = 0.8022 \text{ (factor)}$$

Multiply the factor by the employee's retained rate and round to the nearest dollar (for an annual rate) and whole cent (for an hourly rate).

$\$134,678 \times 0.8022 = \$108,039$. \$108,039 is Todd's converted retained rate at his new overseas worksite.

Promotion Steps: The value of a step increase at the GS-13 grade level is \$2,486. The underlying GS rate range is used to determine the two within-grade increase.

\$96,958 GS-13 maximum rate of pay

+4,972 two within-grade increases ($\$2,486 \times 2$)

\$101,930 this is Todd's payable rate of basic pay after promotion

The highest applicable rate range for the GS-14 position after promotion is the 2017 General Schedule. Since Todd's existing retained rate is greater than his payable rate of basic pay after promotion, his existing retained rate is used to set pay. The lowest step rate that equals or exceeds \$108,039 is step 8. Todd's rate of basic pay is set at GS-14, step 8, rate (\$108,702) and his entitlement to pay retention ends.

- If the employee is moving to a position under a different covered pay system whose grade has a higher comparison rate, then the agency must apply the applicable pay administration rules to determine the employee's payable rate of basic pay (e.g., 5 CFR 531, subpart B, for GS positions and 5 CFR 532 for Federal Wage System provisions). When the resulting rate is equal to or greater than the existing retained rate, pay retention ceases to apply to the employee. When the resulting rate is less than the existing retained rate, the employee continues to be entitled to the existing retained rate. See example 14.

Example 14: John, a WG-12, step 00, with an official worksite overseas and a retained rate of \$32.97 per hour, is returning to a GS-11 position in Jacksonville, FL in July 2017.

Since John is on pay retention and is moving to a position under a different covered pay system, you must determine if the GS-11 position is a higher grade by considering the comparison rates. Because the new position is located in different geographic area, the comparison rate of John's existing position must be determined as if he held his position of record at the new location.

The comparison rate (step 2) for the WG-12 on the Jacksonville, FL wage schedule AC-0030R is \$26.36 per hour, which equals \$55,013 per year ($\26.36×2087 hours).

The comparison rate (step 4) for the GS-11 in the RUS locality pay area is \$66,230. Because the GS-11 comparison rate is higher, you must follow the rules in 5 CFR 531 to set the employee's pay after you redetermine the employee's pay retention entitlement.

WG-12, step 5, rate (\$30.22) Overseas wage schedule, AC-0900R

WG-12, step 5, rate (\$29.53) Jacksonville, FL wage schedule, AC-0030R

To determine the geographic difference between the two schedules, divide the maximum rate at the new location by the maximum rate at the old location and round the result to the fourth decimal place.

$$\$29.53/\$30.22 = 0.9772 \text{ (factor)}$$

Multiply the factor by the employee's retained rate and round to the nearest dollar (for an annual rate) and whole cent (for an hourly rate).

$$\$32.97 \times 0.9772 = \$32.22. \text{ This is John's converted retained rate at his new official worksite.}$$

Next annualize John's retained rate, \$67,243 (\$32.22 x 2087 hours). This annual rate which becomes the employee's existing payable rate of basic pay is the employee's highest previous rate. Compare this rate to the highest applicable rate range for his new GS-11 position of record in the RUS locality pay area, GS-11, step 10, rate (\$78,270). The lowest step that equals or exceeds his HPR of \$67,243 is GS-11, step 5, rate (\$68,236). This is John's maximum payable rate of basic pay. His underlying rate of basic pay is GS-11 step 5, rate (\$59,305).

- In applying this section to a retained rate employee who receives a temporary promotion or temporary reassignment, the temporary promotion or temporary reassignment is not a basis for permanently terminating an employee's pay retention entitlement. When the temporary promotion or temporary reassignment ends, the employee's pay retention entitlement will be determined as if the employee had not received the temporary promotion or temporary reassignment.
- Notwithstanding Sec 536.308(a)(1), an agency must continue a retained rate entitlement for an employee serving under an interim appointment made under 5 CFR 772.102 if the employee's pay was retained under this subpart under the appointment immediately preceding the interim appointment.

ANNUAL ADJUSTMENTS

When a GS or FWS employee is on pay retention, the employee is entitled to receive 50 percent of the annual pay increase at the maximum rate of the grade of the position. Any annual adjustment in pay rates must be processed before any geographic conversion or other simultaneous pay action. When an annual adjustment causes the employee's retained rate to become equal to or lower than the maximum rate of the highest applicable rate range for the grade of the employee's position, the employee is entitled to the maximum rate and pay retention ends. See example 15.

Example 15: Andy was a GS-11, step 00, with a retained rate of \$81,333 in 2016 and had an official worksite in the Indianapolis, IN locality pay area. When the 2017 annual increase became effective in January, Andy's pay was adjusted as shown below.

(2017) GS-11, step 10, rate (\$78,807)

(2016) GS-11, step 10, rate (\$77,403)

Difference \$ 1,404

50% Entitlement \$ 702

Andy's pay was increased to \$82,035 (\$81,333 + \$702). His entitlement to pay retention continued in 2017 because the pay increase exceeded the GS-11, step 10, rate (\$78,807) on the 2017 IND salary table.

LOSS OF ELIGIBILITY FOR OR TERMINATION OF PAY RETENTION

Eligibility for pay retention, or actual retention of pay, ceases to apply to any employee who:

- Has a break in service of one workday or more;
- Is entitled to a rate of basic pay equal to, or higher than, the employee's retained rate;
- Declines a reasonable offer of a position the rate of which is equal to, or higher than the employee's retained rate;
- Is demoted for personal cause or at the employee's request; or
- Moves to a position not under a covered pay system.

PAY ENTITLEMENT UPON TERMINATION OF PAY RETENTION

If an employee's eligibility for pay retention ceases or entitlement to pay retention terminates, then the employee's rate of basic pay must be set using the pay-setting rules applicable to the employee's position of record (e.g., 5 CFR part 531, subpart B, for GS positions). However, when an employee's retained rate is terminated under the second or third condition above and the employee's grade is unchanged, the employee's payable rate of basic pay may not be set below the maximum rate of the highest applicable rate range.

FREQUENTLY ASKED QUESTIONS AND ANSWERS

1. Is a former DoD employee (GS-11), who was separated on March 10, 2017, due to reduction in force procedures, and reinstated on March 26, 2017, in a GS-7 position via the DoD Priority Placement Program entitled to grade or pay retention?

No, because the employee has had a break in service of one workday or more, the employee is not entitled to grade or pay retention. Under subpart B of part 531 of title 5, Code of Federal Regulations, using the maximum payable rate rules and local pay-setting directives, the individual's pay may be set no higher than the lowest step of the GS-7 which is equal to or greater than the employee's highest previous rate.

2. A General Schedule employee is occupying a Federal Wage System position with grade retention and is performing duties involving physical hardship (e.g., cold work) for which the FWS employees are receiving an environmental differential under 5 CFR 532.511. However, there is no comparable provision for the physical hardship in 5 CFR 550.904 which authorizes a hazard pay differential for GS employees. During the 2-year period of grade retention, is the employee entitled to the environmental differential authorized for FWS employees?

No, a General Schedule employee on grade retention is still a GS employee even though occupying an FWS position. In this situation, the employee has two options.

Option #1: The employee may waive entitlement to grade and pay retention, thereby becoming a bona fide FWS employee, which will render the employee eligible for the environmental differential but ineligible for locality pay.

Option #2: The employee may complete the 2-year period of grade retention as an GS employee and continue to receive locality pay, within-grade increases (if applicable), and the annual pay increase approved for GS employees, but would not be entitled to the environmental differential until grade retention terminated.

3. A Federal Wage System employee works the night shift and is placed in another lower graded FWS job with grade retention. Is the employee entitled to keep the night differential even though the employee will no longer be working the night shift?

No, an employee is entitled to retain a rate of basic pay as determined under the grade retention rules in 5 CFR 536.206(b). The “rate of basic pay” is defined in 5 CFR 536.103 as the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind such as night or environmental differentials in the case of a prevailing rate employee. However, if the employee’s new job involved regularly scheduled night work, then the employee would be entitled to receive a night differential in addition to the retained rate of basic pay.

REFERENCES

- Sections 5361 through 5366 of title 5, United States Code (U.S.C.)
- Title 5, Code of Federal Regulations (CFR), Part 536, Grade and Pay Retention
- DoD Instruction Number 1400.25, Volume 536, Grade and Pay Retention
- Office of Personnel Management (OPM) Fact Sheet: Grade Retention
- OPM Fact Sheet: Pay Retention
- OPM Fact Sheet: Grade and Pay Retention Examples
- OPM Fact Sheet: Simultaneous Pay Actions

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