

**Forest Service Handbook  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook  
Chapter 40 - Grade Retention and Pay Retention**

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**Digest:** Following is an explanation of the changes throughout the directive by section.

**40:** Establishes chapter, codes, captions, and sets forth direction for “Grade Retention and Pay Retention”. Recodes and revises direction formerly contained in FSM 6150, sections 6152.3 and 6152.4; FSH 6109.11, section 18, and FSH 6109.12, section 21 and incorporates direction into this new chapter 40.

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This chapter provides direction on the payment of grade and pay retention to General Schedule (GS) and Federal Wage System (FWS) employees.

#### **40.1 - Authority**

1. Title 5 U.S.C. Chapter 53, Subchapter VI prescribes the statutory requirements relating to the administration of grade and pay retention and the implementing regulations are in Title 5 CFR Part 536.
2. Title 5 U.S.C. 5334(b) prescribes the statutory requirements for the GS mandatory promotion rule (two-step promotion rule) and the implementing regulations are in Title 5 CFR Part 531.

#### **40.2 - Objective**

The objective of this chapter is to ensure that employees who are involuntarily placed in a lower-graded position or whose rate of basic pay otherwise would be reduced as a result of a management action or reclassification, are given grade retention or pay retention entitlements in accordance with laws, statutes, and regulations.

#### **40.3 - Policy**

The purpose of this policy is to:

1. Establish and clarify grade and pay retention procedures, and
2. Ensure employees comply with statutory and regulatory requirements for grade and pay retention.

#### **40.4 - Responsibility**

This section outlines the responsibilities for grade and pay retention.

##### **40.41 - Director, Human Resources Management**

The Director, Human Resources Management (HRM), has the responsibility to establish, oversee, and ensure compliance with policies and procedures. Only the Director, HRM, has the authority to approve optional grade retention or optional pay retention.

##### **40.42 - Human Resources Officer**

The Human Resources Officer or Employment Officer is responsible for setting pay for employees who are downgraded or have their pay reduced as a result of a management action or reclassification.

## 40.5 - Definitions

Covered Pay System. The covered pay systems include the GS pay system under Title 5 U.S.C. Chapter 53, Subchapter III; a prevailing rate system under Title 5 U.S.C. Chapter 53, Subchapter IV (including the FWS); or a special occupational pay system under Title 5 U.S.C. Chapter 53, Subchapter IX.

Employee. An employee as defined in Title 5 U.S.C. 5361 and 5342.

Employed on a Temporary or Term Basis. Employment under an appointment having a definite time limitation or designated as temporary or term.

Formal Development Program. A formal employee development program generally utilized Government-wide, such as upward mobility, apprenticeship, and the Pathways Program.

Geographic Conversion Rule. When an employee's official worksite is changed to a new location upon a pay-setting action where different pay schedules apply, the employee's rate of basic pay is converted to the new pay schedule for the new official worksite before any simultaneous pay actions are processed.

Grade Retention. An employee under a covered pay system who is placed in a lower-graded position under the same or different covered pay system (for example, as a result of a reduction-in-force or when the employee's position is reduced in grade as a result of a reclassification) is entitled to retain the grade held immediately before the reduction for a period of 2 years.

Highest Applicable Rate Range. The rate range applicable to an employee based on a given position of record and official worksite that provides the highest rate of basic pay, excluding any retained rates.

Management Action. An action (not for personal cause) by an Agency official not initiated or requested by an employee that may adversely affect the employee's grade or rate of basic pay.

Official Worksite. The official location of the employee's position of record as determined under the rules in Title 5 CFR 531.605 for GS employees and synonymous with the term "official duty station" as used in Title 5 U.S.C. 5363(c).

Pay Retention. Enables an employee to keep a rate of basic pay (which includes any locality payment or special salary rate), after any geographic conversion, that exceeds the maximum step of the grade of the position to which the employee is assigned.

Pay Schedule. A set of rate ranges established under a single authority (such as the GS basic rate or locality schedule, Law Enforcement Officer's special base rate or locality schedule, prevailing rate schedule, or special rate schedule based on official worksite or occupation) and applies to an employee who meets the established coverage even when a

rate under that schedule is not currently payable to the employee because of a higher pay entitlement under another pay schedule.

Payable Rate. The highest rate of basic pay to which an employee is entitled based on the employee's position of record, official worksite, and step, or, if applicable, retained rate.

Position of Record. An employee's official permanent position as documented on the employee's most recent form SF-50, Notification of Personnel Action, and the current position description, excluding any position to which an employee is temporarily detailed or assigned.

Promotion. A change of an employee from a lower GS grade to a higher GS grade, or from a lower non-GS rate to a higher GS rate, while continuously employed. For FWS employees, a promotion is an increase in pay in any amount.

Rate of Basic Pay. The rate of pay fixed by law or administrative action for the position held by an employee (such as the GS basic rate or locality schedule, Law Enforcement Officer's special base rate or locality schedule, prevailing rate schedule, special rate schedule based on official worksite or occupation, or a retained rate), excluding additional pay of any other kind (such as premium payment, differentials, and allowances) and before any deductions.

Rate Range. The range of rates of basic pay for a grade within an established pay schedule, excluding any retained rate.

Rate Schedule. A specific set of rates within a pay schedule.

Reasonable Offer. An offer of a position that is equal to or higher than the retained grade, is in writing, includes an official position description, and other requirements found in Title 5 CFR 536.104.

Reassignment. A change of an employee, from one position to another without promotion or demotion, while serving continuously in the same Federal agency.

Reduced in Grade or Pay at the Employee's Request. A reduction in grade or rate of basic pay that is initiated by the employee for their benefit, convenience, or personal advantage. For example, the voluntary reduction in grade of an employee in response to a management action directly related to personal cause is considered to be at the employee's request.

Reduced in Grade or Pay for Personal Cause. A reduction in grade or rate of basic pay based on the misconduct, suitability, or unacceptable performance of an employee. In situations in which an employee is reduced in grade or pay for inability to perform the duties of their position because of a medical or physical condition beyond the employee's control, the reduction in grade or pay is not considered to be for personal cause.

Reorganization. The planned elimination, addition, or redistribution of functions or duties either entirely within the Forest Service or between agencies.

Representative Rate. When comparing grades under GS and FWS covered pay systems, the fourth step of the grade is used for a position covered under the GS pay system and the second step of the grade is used for a position covered under the FWS pay system.

Retained Rate. A rate above the maximum rate of the employee's highest applicable rate range.

Temporary Promotion. A time-limited promotion with a not-to-exceed date at the end of which the employee is expected to return to their position of record or one of like grade.

Transfer. A change of a Federal Government employee, without a break in service of one full workday, from one branch in the Federal Government to another or from one Federal agency to another.

Where Different Pay Schedules Apply. When an employee's official worksite is changed to a new location that would cause the employee to lose or gain coverage under a location-based pay schedule if the employee were to remain in the same position of record.

## **40.6 - Nondiscrimination**

The Forest Service prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. The Forest Service is an equal employment opportunity provider and employer.

## **41 - Grade Retention**

An employee is entitled to grade retention when they are reduced in grade as a result of a reclassification of duties or a reduction-in-force (RIF). An employee who is entitled to grade retention keeps their grade for 2 years, even though performing work at a lower grade level.

### **41.1 - Mandatory Grade Retention**

Grade retention is mandatory when an employee:

1. Is involuntarily changed to a lower grade as a result of a RIF or when their position is reduced in grade as a result of reclassification;
2. Is serving under a permanent appointment (not temporary or term); and
3. Is placed in a GS or FWS position. (See Title 5 CFR 536 for the mandatory grade retention rules and additional grade retention information).

#### **41.12 - Reduction-in-Force Actions**

1. An employee is entitled to grade retention as the result of a RIF when the movement is the result of the employee having received a specific RIF notice; and
  - a. The employee is placed in the position offered in the notice; or
  - b. The employee is placed in a position other than that offered in the notice but in the same agency, if the position was offered in writing and at the initiative of management.
2. The employee must have served at a grade or higher grades than the one to which reduced for at least 52 consecutive weeks. The employee's 52 consecutive weeks of service in the higher grade does not have to be served in the Forest Service.

#### **41.13 - Reclassification Actions**

1. An employee is entitled to grade retention when the employee's movement to a lower-graded position is considered to be the result of a reclassification process:
  - a. The employee remains in the reclassified position; or
  - b. The employee is placed in a different position in the same agency before the effective date of the reclassification action, but at the initiative of management, and after the employee received specific written notice that the position would be reclassified to a lower grade.
2. When an employee is downgraded to correct a classification error or to implement a new classification standard, they are entitled to grade retention if the position that is being downgraded has been classified for at least 1 continuous year immediately before the downgrade.

#### **41.2 - Determining the Retained Grade**

In most cases, the grade to be retained is relatively straightforward even when the employee is moving between GS and FWS positions; the retained grade is the grade held immediately prior to the reduction. For example, if an employee is moved from a GS position to a FWS position, they retain the GS grade; or if an employee is moved from a FWS position to a GS position, they retain the FWS grade.

#### **41.3 - Exclusions to Grade Retention**

1. Grade retention may not be provided to an employee who:
  - a. Is reduced in grade for personal cause;
  - b. Is reduced in grade at their request;

- c. Does not satisfactorily complete a supervisory probationary period and is removed from that position; or
  - d. Is employed on a temporary or term basis immediately before the action causing the reduction in grade. (See Title 5 CFR 536.102(b) for additional exclusions).
2. Grade retention may not be based on the grade held by an employee during a temporary promotion or temporary reassignment. An employee's entitlement to grade retention (which is based on the permanent position of record) is not affected by a temporary assignment and a temporary assignment cannot be used to extend a 2-year period of grade retention.

#### **41.4 - Determining the Rate of Basic Pay Under Grade Retention**

1. An employee's rate of basic pay must be determined when the employee is placed on grade retention or becomes covered by a different pay schedule (due to a change in position of record, official worksite, or the establishment of a new pay schedule) during the grade retention period.
  - a. If there is no geographic conversion and no change in pay schedules before and after the action, the employee is entitled to their existing payable rate for their grade and step.
  - b. If there is a change in pay schedules, the employee is entitled to the corresponding grade and step (rate) from the highest applicable rate range that applies to the new position.
  - c. If an employee's existing payable rate would be reduced (excluding a reduction resulting from geographic conversion), pay retention rules will be used to set pay.
  - d. An employee with a retained grade also retains the pay system associated with the retained grade during the period of grade retention even though the new position is in a different pay system.
2. Representative rates for GS and FWS are used when comparing grades to determine whether the grade of a position is higher than, equal to, or lower than the new position. Such comparisons are used when determining eligibility for grade retention, whether grade retention eligibility is lost, or whether grade retention is terminated when an employee is moving to or declining a reasonable offer of a position under a different pay system.

#### **41.5 - Annual Pay Adjustment, Premium Pay, and Time-Limited Promotions**

1. Annual Pay Adjustment. During the 2-year period of grade retention, an employee is entitled to receive the full annual increase for the grade and step of the retained grade and any within-grade increases that become due.



2. Premium Pay Differentials. When determining whether an employee is entitled to premium pay differentials while on grade retention (for a GS employee; hazard pay, Sunday differential, or night pay; or for a FWS employee; environmental differential, Sunday shift differential, or night shift differential), premium pay entitlements are based upon the rules applicable to the retained grade. If the employee is retaining a GS grade then GS pay rules apply. If the employee is retaining a FWS grade then the FWS pay rules apply. Coverage under the Fair Labor Standards Act (FLSA) is determined by the requirements of the position to which assigned.

3. Effect of Time-Limited Promotions. A time-limited promotion cannot be the basis for a retained grade. If an employee on retained grade receives a time-limited promotion, their period of grade retention continues concurrently with the time-limited promotion and terminates without regard to the time-limited promotion.

#### **41.6 - Termination of Grade Retention**

1. Eligibility for grade retention is lost and grade retention is terminated when any one of the following conditions occurs:

- a. Break in service of 1 workday or more;
- b. Reduced in grade for personal cause or at the employee's request (based on the actual grade of the permanent position of record, not the retained grade);
- c. Movement to a position equal to or higher than the retained grade (temporary promotions do not impact eligibility and are excluded);
- d. Election in writing to terminate the benefits of grade retention;
- e. Movement to a position not under a covered pay system;
- f. Expiration of the 2-year grade retention period; or
- g. Declination of a reasonable offer of a position with a grade equal to or higher than the retained grade. Sample letters are provided in the HRM Toolkit. For an offer to be reasonable it must:
  - (1) Be at a grade equal to or higher than the retained grade;
  - (2) Be in writing;
  - (3) Include the position description;
  - (4) Explain the consequences of declination;
  - (5) Explain that the employee may appeal the reasonableness of the offer to the Office of Personnel Management (OPM);

- (6) Have the same or greater tenure as the employee's tenure;
- (7) Have a work schedule with at least the same number of hours as the employee's current schedule; and
- (8) Be in the same commuting area unless the employee is subject to a mobility agreement. (See 5 CFR 536.207-208 for additional rules regarding loss of eligibility or termination of grade retention).

2. If an employee loses eligibility for grade retention based on any of the conditions listed above, the employee's rate of basic pay must be set in accordance with the pay-setting rules and the pay rate applicable to the employee's position of record. Unlike an employee whose grade retention expires after 2 years, an employee whose eligibility is lost or terminated is not entitled to pay retention.

#### **41.7 - Period of Grade Retention and Applicability of Retained Grade**

- 1. An employee is entitled to retain the grade held immediately before the reduction in grade action for a period of 2 years beginning on the date the employee is placed in the lower-graded position, unless grade retention is terminated. The personnel action that provided the grade retention must annotate the date the grade retention entitlement terminates.
- 2. An employee's retained grade is treated as the employee's grade for almost all purposes, including pay administration, benefits, and premium pay. The retained grade may not be used as the employee's grade in certain situations, such as a RIF, to determine if the employee is exempt or nonexempt from the FLSA, and as otherwise stated in the regulations. (See Title 5 CFR 536, Subpart B for additional information).
- 3. If the employee is further reduced in grade so that a second entitlement is initiated as a result of mandatory grade retention (RIF or reclassification), the first period of grade retention continues. At the end of the first 2-year entitlement, the employee is then entitled to retain the grade of the position from which the second reduction in grade was made. The beginning date of the second period is the effective date of the second reduction in grade. Pay retention entitlement rules are to be applied following the end of both periods of grade retention entitlements.
- 4. If the employee's actual position of record is under a different pay system, the employee must be treated as being under the pay system associated with their retained grade. For example, an employee covered under the FWS pay system moving to a GS position must be treated as a FWS for almost all purposes.

#### **42 - Pay Retention**

Pay retention allows an employee to retain a rate of basic pay that is higher than the maximum rate of the grade for the position occupied. The retained rate continues until a terminating event occurs.

#### **42.1 - Mandatory Pay Retention**

1. Pay retention must be provided to an employee whose payable rate of basic pay would otherwise be reduced (after application of any applicable geographic conversion rule) as a result of:
  - a. The expiration of the 2-year period of grade retention;
  - b. A RIF or reclassification action that places an employee in a lower grade when the employee does not meet the eligibility requirements for grade retention;
  - c. A management action that places an employee from a special rate position to a lower-paid special rate position or a non-special rate position;
  - d. A management action that places an employee under a different pay schedule;
  - e. A management action that places an employee in a formal development program;  
or
  - f. A reduction or elimination of special rate schedules (excluding a statutory reduction in scheduled rates of pay).
2. Pay retention must also be provided to an employee when applications of the promotion rule for a GS or FWS employee results in a rate of basic pay that exceeds the maximum rate of the highest applicable rate range for the employee's new position. (See 5 CFR 536 for the mandatory pay retention rules and additional pay retention information).

#### **42.2 - Exclusions to Pay Retention**

1. Pay retention may not be provided to any employee who is:
  - a. Reduced in grade for personal cause;
  - b. Reduced in grade at their own request; or
  - c. Employed on a temporary or term basis immediately before the action causing the reduction in grade or pay. (See Title 5 CFR 536.102(b) for additional exclusions).
2. Pay retention may not be based on the rate of basic pay held by an employee during a temporary promotion or temporary reassignment. An employee's entitlement to pay retention (which is based on the permanent position of record) is not affected by a temporary assignment.

#### **42.3 - Geographic Conversion**

1. The reduction of a payable rate of basic pay based on the geographic conversion rule is not a basis for entitlement to pay retention.

2. If an employee's official worksite changes to a new location where different pay schedules apply (in conjunction with a pay action that may entitle an employee to pay retention) the employee's rate of basic pay must be converted to the applicable pay schedule before determining whether the employee is entitled to pay retention and before determining the employee's initial pay retention entitlement. Pay retention eligibility and the retained rate will be based on the conversion of the employee's rate of basic pay to any pay schedules in effect for their position in the new location.
3. When an employee is receiving a retained rate and the employee's official worksite changes to a new location where different pay schedules apply, the geographic conversion rule must be applied. The employee's retained rate must be converted to the new location before re-determining the employee's pay retention entitlement in the new position of record at the new official worksite.

#### **42.4 - Determining the Rate of Basic Pay Upon Initial Entitlement**

1. To determine initial pay retention entitlement, compare the existing payable rate of basic pay to the maximum rate of the highest applicable rate range for the employee's new position of record:
  - a. If the employee's existing payable rate of basic pay is less than the maximum rate of the new rate schedule, set pay at the lowest rate on that schedule that equals or exceeds the employee's existing payable rate. Pay retention then terminates.
  - b. If the employee's existing payable rate of basic pay is greater than the maximum rate of the new rate schedule, the employee is entitled to a retained rate equal to the existing payable rate of basic pay, and pay retention regulations apply.
2. A newly established retained rate may not:
  - a. Exceed 150 percent of the maximum rate of the highest applicable rate range for the employee's new position of record; or
  - b. Exceed the rate payable for Level IV of the Executive Schedule (EX-IV).
  - c. Former National Security Personnel System employees may retain a rate of pay that exceeds the normal retained rate limitations (EX-IV plus 5 percent) and is reflected by use of pay-rate determinant code "Y".

#### **42.41 - Re-Determining Pay Retention Entitlement**

1. When an employee on retained pay 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 refigured.
2. If the employee's official worksite changes to a new location where different pay schedules apply, the employee's retained rate must be converted to the new location before re-determining the employee's pay retention entitlement.

- a. If the employee's grade and pay system are not changing and the existing retained rate is less than the maximum rate of the highest applicable rate range for the new position, the employee is entitled to the maximum rate of the highest applicable rate range and pay retention terminates.
- b. If the employee's grade and pay system are not changing and the existing retained rate is higher than the maximum rate of the highest applicable rate range for the new position, the employee continues to be entitled to the existing retained rate.

#### **42.5 - Annual Pay Adjustment Under Pay Retention**

1. General Schedule or FWS employees on pay retention are entitled to receive 50 percent of the annual pay increase at the maximum rate of the grade of the position. This means that eventually the employee's rate will fall into the range of their grade. When that happens, pay is set within the steps of the grade, and pay retention ends.
2. An annual adjustment in pay rates must be processed before any geographic conversion or other simultaneous pay action.
3. An employee on pay retention may not receive within-grade increases or quality step increases because their pay already exceeds the maximum step of the grade.

#### **42.6 - Termination of Pay Retention**

1. Pay retention terminates when the employee experiences any one of the following conditions:
  - a. Break in service of 1 workday or more;
  - b. Entitlement to a rate of basic pay that equals or exceeds the retained rate (excluding a rate resulting from a temporary promotion or temporary reassignment);
  - c. Declination of a reasonable offer of a position, the rate of which is equal to or greater than the employee's retained rate;
  - d. Reduced in grade for personal cause or at the employee's request (based on the actual grade of the permanent position of record, not the retained grade);
  - e. Movement to a position not under a covered pay system; or
  - f. Election in writing to terminate grade retention (which also terminates eligibility for pay retention).
2. Representative rates for GS and FWS positions are used during the comparison of grades to determine whether the grade of a position is higher than, equal to, or lower than the grade of another position. Such comparisons are used when determining whether pay retention eligibility is lost or a retained rate is terminated, that is to say, when an employee is placed in a lower-graded position under a different covered pay system for personal cause or at the employee's request. (See Title 5 CFR 536.308 for additional rules regarding loss of eligibility or termination of pay retention).

## **42.7 - Treatment of a Retained Rate as Basic Pay for Other Purposes**

A retained rate is considered to be an employee's rate of basic pay for pay administration purposes to include computing or applying retirement deductions, life insurance premiums, premium pay, severance pay, and other similar provisions as described in Title 5 CFR 536.307.

## **43 - Grade and Pay Retention Eligibility**

### **43.1 - Use of Maximum Payable Rate to Set Pay**

When an employee is not eligible for retained grade or retained pay when taking a change to lower grade, the maximum payable rate rule may be used to set pay, when the conditions for highest previous rate have been met (see FSH 6109.11, ch. 50). This does not apply to an employee who is changed to a lower grade for unacceptable performance or for disciplinary reasons.

### **43.2 - Transfer from Another Agency**

An employee will continue to receive grade retention or pay retention upon transfer to the Forest Service if grade retention or pay retention was established by the losing agency prior to the transfer, unless a terminating event has taken place. This also includes reassignments within the U.S. Department of Agriculture.

The Forest Service will not establish initial entitlement to grade retention or pay retention upon transfer from another Federal agency.

### **43.3 - Documentation Requirement**

1. The OPM requires that an explanatory letter be issued to an employee with form SF-50, Notification of Personnel Action, which officially establishes the employee's entitlement to grade retention or pay retention. The letter must describe the circumstances that warrant grade retention or pay retention and the nature of that entitlement. Sample letters are provided in the HRM Toolkit. The SF-50 and the letter must be filed as a permanent part of the employee's Official Personnel Folder.
2. An employee offered optional grade retention in anticipation of a reduction in grade must otherwise be eligible, and be informed in writing, that a declination of an offer of optional grade retention will not affect their entitlement to grade retention if they are later actually moved to the lower-graded position.

### **43.4 - Appeal of Termination of Benefits**

1. An employee whose grade retention or pay retention benefits are terminated because of a declination of a reasonable offer of a position, the grade of which is equal to or higher than their retained grade, may appeal the termination to the OPM.

2. A bargaining unit employee may not appeal a termination of benefits to the OPM if the applicable grievance procedure provides for review. (See Title 5 CFR Part 536, Subpart D, for additional information).