

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

Action Date: _____
 For Information Only

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

DPM BULLETIN NO. 536-2

DATE: MAR 3 1982

SUBJECT: Amendment to DPM Bulletin 536-1, "Entitlement to Grade and Pay Retention in RIF Situations"

DPM Bulletin 536-1, "Entitlement to Grade and Pay Retention in RIF Situations" was transmitted to you on October 20, 1981. This bulletin contained information prepared by the Office of Personnel Management (OPM) concerning grade and pay retention in reduction-in-force (RIF) situations. OPM has recently notified us of the following significant policy change:

An employee who transfers to another agency while in receipt of grade or pay retention is entitled to have the grade or pay retention continued. The hiring agency does not have the option to discontinue the grade or pay retention.

Please note that the term agency has the meaning given in section 5102 of 5 USC. Additionally, within the Department of Transportation (DOT) the term agency for grade and pay purposes was further defined in DPM Bulletin 536-1 as meaning each Operating Administration, the Office of the Inspector General, and the Office of the Secretary.

This new policy is retroactive to January 29, 1981, when the final regulations on grade and pay retention became effective. Therefore, a review must be made of all transfer actions from outside DOT and position changes within DOT since January 29, 1981. Where appropriate, corrective action is to be taken to restore grade or pay retention to any employee entitled to continue the benefits under OPM's new policy. Please be reminded that actions involving (1) demotions at the employee's request or (2) a break in service of one workday or more, would not be covered since in these instances grade and pay retention entitlements cease to apply (see 5CFR 536.207 and 536.209).

Filing Instructions: File after FPM 536 Bulletins (Note: DPM Bulletin 536-1 is cancelled by this Bulletin).

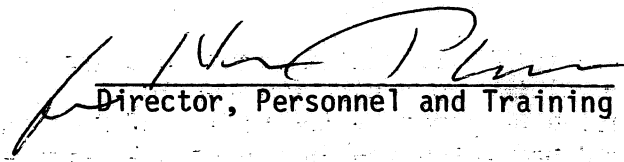
Bulletin Expires: Upon Notification

Distribution: Personnel Council (Information copy to all FPM Subscribers,
OPI: M-16 Field and Headquarters)

Attached to this bulletin is a revision of the material contained in DPM Bulletin 536-1. DPM Bulletin 536-1 is to be cancelled and removed from your files.

Questions concerning grade and pay retention may be directed to Mrs. Gail Batt, on extension 426-4140.

Attachment


Director, Personnel and Training

Entitlement to Grade and Pay Retention in RIF Situations

The following material has been prepared by the Office of Personnel Management (OPM) to respond to questions that they have received about grade and pay retention in reduction-in-force (RIF) situations. It applies to actions taken on or after January 29, 1981, when final regulations on grade and pay retention became effective. The information supplements the guidance contained in the Federal Personnel Manual (FPM) and is not intended to be used as a sole source reference on grade and pay retention. Any changes in the information provided below will be made by OPM by amending the regulations on grade and pay retention or appropriate FPM change. The term agency has the meaning given in section 5102 of 5 USC. Within the Department of Transportation, the term agency contained in this material and in Book 536 of Supplement 990-2 further means each Operating Administration, the Office of the Inspector General, and the Office of the Secretary.

A. Grade Retention

1. Basic requirement.

Under 5 U.S.C. 5362, an employee with a non-time limited appointment who meets the 52 week requirement is entitled to grade retention if he or she is reduced in grade as a result of reduction in force.

2. Placements in a pre-RIF situation.

After agency management announces a reduction in force or reorganization in writing, it may grant grade retention to an employee who moves to a position in a lower grade. If an employee declines an offer of a position at this stage of the process, the declination does not affect his or her statutory entitlement to grade retention in a resulting reduction in force. (See Book 536 of FPM Supplement 990-2, Paragraph S3-1b(1).)

3. Placement in a position other than that to which entitled under RIF procedures.

As provided in S3-1 a(1) and (3) of Book 536 of FPM Supplement 990-2, an employee is considered to have been placed as a result of reduction in force when two conditions are met. First, the offer must be in writing. Second, the employee must have received a specific RIF notice indicating that the employee will be either moved to another position at the same or lower grade or separated.

a. Different position in the same agency.

In a reduction in force, an employee may identify a position other than the one to which he or she is entitled as a preferred assignment. If the agency places the employee in the position he or she identified, the employee is entitled to grade retention if otherwise eligible. Even if the position is at a lower grade than the one to which entitled under RIF procedures, the employee is entitled to grade retention. (See Book 536 of FPM Supplement 990-2, S3-1a(1) and (3).)

b. Position in a different agency - placement agreement exists.

An employee is entitled to grade retention if he or she transfers to a position in another agency when a formal placement agreement exists between the losing and appointing agencies. As indicated above, the employee must have received a specific reduction-in-force notice before the position is offered.

c. Position in a different agency - no placement agreement.

An agency may grant grade retention under agency policy to an employee it hires from another agency when there is no placement agreement and when the employee has received a written notice of reduction in force or reorganization from his or her former agency. The granting of grade retention is at the option of the hiring agency.

4. Transfer to a different agency while in receipt of grade retention.

An employee who transfers to another agency while in receipt of grade retention is entitled to have the grade retention continued.

B. Pay Retention.

1. Statutory entitlement to pay retention.

Section 5363 of title 5, U.S. Code and 5 CFR 536.104(a) provide the conditions under which an employee is entitled to pay retention. An employee who does not meet the eligibility requirements for grade retention is entitled to pay retention if his or her rate of basic pay would otherwise be reduced as the result of a reduction in force.

2. Agency option to grant pay retention - same agency.

Section 536.104(b), 5 CFR, provides that "the head of an agency may provide pay retention to eligible employees whose rates of basic pay would otherwise be reduced as the result of a management action." Except where specifically required by statute or OPM regulation, authorization of pay retention is within agency discretion.

3. Transfer to a different agency while in receipt of pay retention.

An employee who transfers to a different agency while in receipt of pay retention is entitled to have the pay retention continued.