

## PAY ADMINISTRATION

- 1. REASON FOR ISSUE:** To establish Department of Veterans Affairs (VA) procedures on pay retention for employees appointed under title 38 who are reduced in grade or rate of basic pay as a result of a management action.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on pay administration. A paragraph has been added to Part III, Chapter 6, “Grade and Pay Retention,” to provide for pay retention for title 38 employees who are reduced in grade or basic pay as a result of a management action not initiated for cause. This change will be incorporated into the electronic version of VA Handbook 5007 that is maintained on the [Office of Human Resources Management website](#).
- 3. RESPONSIBLE OFFICE:** The Human Resources Management Programs and Policies Service (051), Office of the Deputy Assistant Secretary for Human Resources Management.
- 4. RELATED DIRECTIVES:** VA Directive 5007, “Pay Administration.”
- 5. RESCISSIONS:** None.

**CERTIFIED BY:**

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS**

/s/John A. Gauss  
Assistant Secretary for  
Information and Technology

/s/Jacob Lozada, Ph.D.  
Assistant Secretary for Human  
Resources and Administration

DISTRIBUTION: ELECTRONIC ONLY



PAY ADMINISTRATION

PART III. PAY SETTING COINCIDENT WITH  
PERSONNEL ACTIONS/MOVEMENTS DURING EMPLOYMENT

CONTENTS

PARAGRAPH	PAGE
<b><u>CHAPTER 1. GENERAL</u></b>	
1. <u>PURPOSE</u> .....	III-1
2. <u>RESPONSIBILITIES</u> .....	III-1
<b><u>CHAPTER 2. PROMOTIONS/ADVANCEMENTS</u></b>	
1. <u>ADVANCEMENTS FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401</u> .....	III-3
2. <u>PROMOTIONS FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7405</u> .....	III-5
3. <u>PROMOTIONS FOR POSITIONS SUBJECT TO 5 U.S.C., CHAPTER 51</u> .....	III-5
4. <u>PROMOTIONS FOR EMPLOYEES IN POSITIONS UNDER THE FWS</u> .....	III-6
<b><u>CHAPTER 3. CHANGE TO LOWER GRADE</u></b>	
1. <u>CHANGE TO LOWER GRADE FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401</u> .....	III-7
2. <u>CHANGE TO LOWER GRADE FOR POSITIONS PAID FROM THE GENERAL SCHEDULE</u> .....	III-7
3. <u>CHANGES TO LOWER GRADE FOR EMPLOYEES IN POSITIONS UNDER THE FWS</u> .....	III-7
<b><u>CHAPTER 4. OTHER ASSIGNMENT CHANGES AND MOVEMENTS</u></b>	
1. <u>PERSONNEL APPOINTED UNDER 38 U.S.C. 7306 AND 7401</u> .....	III-9
2. <u>PERSONNEL IN POSITIONS SUBJECT TO 5 U.S.C., CHAPTER 51</u> .....	III-12
3. <u>PERSONNEL IN POSITIONS UNDER THE FWS</u> .....	III-13
4. <u>SETTING RATES OF PAY FOR MOVEMENTS FROM NON-GENERAL SCHEDULE POSITIONS TO GENERAL SCHEDULE POSITIONS</u> .....	III-13
5. <u>SETTING RATES OF PAY FOR MOVEMENTS BETWEEN PAY SYSTEMS, WAGE SCHEDULES AND WAGE AREAS</u> .....	III-14
6. <u>MANDATORY RESTORATION AFTER MILITARY SERVICE OR COMPENSABLE WORK INJURY (5 CFR 353)</u> .....	III-14
7. <u>SIMULTANEOUS PAY CHANGES</u> .....	III-14

CONTENTS - CONTINUED

PARAGRAPH	PAGE
<b><u>CHAPTER 5. WITHIN GRADE INCREASES AND PERIODIC STEP INCREASES</u></b>	
1. <u>PERIODIC STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401</u> .....	III-15
2. <u>PERIODIC STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7405</u> .....	III-18
3. <u>ANNUAL STEP RATE REVIEWS</u> .....	III-18
4. <u>ADMINISTRATIVE STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7306</u> .....	III-24
5. <u>WITHIN-GRADE INCREASES FOR GENERAL SCHEDULE EMPLOYEES IN POSITIONS SUBJECT TO 5 U.S.C., CHAPTER 51 AND TITLE 38 HYBRID POSITIONS APPOINTED UNDER 38 U.S.C. 7401(3) AND 7405(a)(1)(B)</u> .....	III-25
6. <u>WITHIN-GRADE INCREASES FOR FEDERAL WAGE SYSTEM EMPLOYEES</u> .....	III-28
7. <u>REFERENCES</u> .....	III-31
<b><u>CHAPTER 6. GRADE AND PAY RETENTION</u></b>	
1. <u>GENERAL</u> .....	III-33
2. <u>GRADE RETENTION UNDER TITLE 5</u> .....	III-33
3. <u>PAY RETENTION UNDER TITLE 5</u> .....	III-34
4. <u>TERMINATION OF GRADE AND PAY RETENTION BENEFITS (TITLE 5 ONLY)</u> .....	III-35
5. <u>APPEALS (TITLE 5 ONLY)</u> .....	III-35
[6. <u>PAY RETENTION UNDER TITLE 38 (OTHER THAN NURSES)</u> .....	III-36
7.] <u>PAY RETENTION UNDER TITLE 38 FOR NURSES AND NURSE ANESTHETISTS SUBJECT TO THE LOCALITY PAY SYSTEM</u> .....	[III-37]
[8.] <u>DOCUMENTATION</u> .....	III-38
[9.] <u>REFERENCES</u> .....	[III-38]
10. <u>AUTHORITY</u> .....	III-38]
<b><u>CHAPTER 7. PAY ADMINISTRATION FOR SPECIAL SALARY RATES APPROVED UNDER 38 U.S.C. 7455</u></b>	
1. <u>ABOVE MINIMUM ENTRANCE RATES (INCLUDING ABOVE-MINIMUM ENTRANCE RATES ON A SPECIAL SALARY RATE RANGE)</u> .....	III-39
2. <u>SPECIAL SALARY RATE RANGES</u> .....	III-39
3. <u>REDUCED OR DISCONTINUED RATES</u> .....	III-40
4. <u>MOVEMENTS TO POSITIONS WITH ABOVE-MINIMUM ENTRANCE RATES OR SPECIAL SALARY RATE RANGES APPROVED UNDER THIS CHAPTER</u> .....	III-40
5. <u>MOVEMENTS FROM POSITIONS WITH ABOVE-MINIMUM ENTRANCE RATES OR SPECIAL SALARY RATE RANGES APPROVED UNDER THIS CHAPTER</u> .....	III-41

**CHAPTER 6. GRADE AND PAY RETENTION**

**1. GENERAL.** The grade and pay retention provisions of this chapter apply to employees under or moving into positions under the General Schedule and the Federal Wage System, including Non-appropriated Fund employees in the Veterans Canteen Service who are subject to the Federal Wage System. [Employees appointed under 38 U.S.C. 7306, 7401(1), and 7405 are eligible for pay retention only to the extent specified in paragraphs 6 and 7 below.] This chapter does not cover the following categories of employees:

[a.] Employees compensated under the Executive Schedule (5 U.S.C., chapter 53).

[b.] Non-appropriated Fund Veterans Canteen Service employees appointed under 38 U.S.C. 7802, except those employed in a recognized trade or craft, as indicated in above. **NOTE:** *All Non-appropriated Fund Veterans Canteen Service employees moving into positions subject to the Federal Wage System are eligible for grade and pay retention benefits provided they meet the criteria contained in this chapter.*

[c.] Purchase and hire employees appointed under Schedule A, section 213.3127(a)(1).

[d.] Employees whose appointments have definite time limitations or are designated as temporary or term.

[e.] Senior-level employees, members of the Board of Contract Appeals, members of the Board of Veterans' Appeals, and fee basis appointees.

**2. GRADE RETENTION UNDER TITLE 5**

a. Grade retention is required by 5 CFR 536.103(a) if an employee is changed to a lower grade position in a covered pay schedule as a result of reclassification or reduction-in-force procedures. Employees must meet the appropriate eligibility requirements in 5 CFR 536.103(c) (1) or (2) to be eligible for grade retention under 5 CFR 536.103(a).

b. Under the provisions of 5 CFR 536.103(b), VA is extending grade retention to eligible employees who are, or who might be, reduced to a grade in a covered pay schedule as a result of a reorganization (including transfer-of-function) or a reclassification decision announced by management in writing. To be eligible for grade retention under 5 CFR 536.103(b), the position must be offered by the official having delegated appointment authority under VA Handbook 5001, General Introduction and Administration, and the employee must meet the appropriate eligibility requirements in 5 CFR 536.103(c)(3). The following documentation is required when applying grade retention under this chapter:

**PART III  
CHAPTER 6**

(1) If the employee accepts an offer under this chapter, the following information will be documented in his or her personnel folder to record the basis for grade retention: the reason for the reorganization or reclassification; the title, grade, and series of the position being abolished, downgraded, or transferred; and a description of how the demotion reduced the adverse impact of the reorganization or reclassification. An example of an appropriate use of this authority is for transfer-of-function volunteers who allow the Department to retain employees who would otherwise be separated. (Under 5 CFR 351.303(e), employees may be permitted to volunteer to transfer with a function. By offering grade retention to a volunteer who is willing to transfer if, and only if, grade retention is offered, management may be able to retain the services of both this employee and the employee who would otherwise be separated for failing to transfer with his/her function.)

(2) When an employee is offered a position with grade retention in anticipation of his or her current position being abolished or downgraded, the employee shall be informed in writing that acceptance of the offered position is not required and that the declination of the offer has no effect on the employee's entitlement to grade retention if he or she does not accept the offer and is then actually changed to a lower grade position as a result of reduction-in-force procedures or a reclassification process.

(3) When an employee is offered a position with grade retention in lieu of transferring with his or her function, the employee shall be informed in writing that acceptance of the position is not required and the declination of the offer has no effect on the employee's eligibility to transfer with his or her function.

(4) When an employee is offered a position with grade retention in anticipation of another employee being demoted or separated as a result of reduction-in-force procedures, reclassification or transfer-of-function, the offer must state that if the employee declines, he or she will remain in his or her position unless otherwise reduced under one of these procedures.

**3. PAY RETENTION UNDER TITLE 5**

a. Pay retention is required for those employees whose pay would otherwise be reduced under the circumstances described in 5 CFR 536.104(a).

b. Under the provisions of 5 CFR 536.104(b), VA is extending pay retention to employees placed in positions when the employee's pay would otherwise be reduced, when the placement is not for cause, including performance evaluation, or at the employee's request, and when the employee is not otherwise eligible for pay retention under paragraph 1 above. For example:

(1) Pay retention based on special recruitment needs must be supported by a memorandum from the selecting official documenting the KSAOs (knowledges, skills, abilities, and other characteristics) required for the position; the lack or comparable lack of possession of such KSAOs by other available candidates; and that the non-selection of the change-to-lower-grade candidates would adversely impact upon the efficiency or effectiveness of operations or programs.

(2) Pay retention based upon demotion or reassignment as a result of solicitation of an employee by the Department to fill a position requiring special KSAOs must be documented by a memorandum

which, in this case, would show the KSAOs required, the candidate's possession of them, and the unlikelihood of locating other candidates with equal possession of these KSAOs.

(3) Pay retention because of a change to lower grade or a reassignment in lieu of disability retirement.

(4) Pay retention because of a change to a lower grade initiated by the Department. It is not considered to be taken at the employee's request even though the employee may have previously asked the Department to consider his or her personal situation. For example, when Department officials judge that the employee's skills could be better utilized in a position for which there are no special recruitment needs.

c. If the employee, for his or her personal advantage, initiates the change to lower grade and the Department is responsive thereto, pay retention benefits do not apply. (For example, the employee voluntarily applies for a change to lower grade under competitive merit promotion procedures and the change is not to a recognized employee development program, to a formal upward mobility program, or based on a special recruitment need, or an employee applies for a change to a lower grade for health reasons when such a change has not been initiated or requested by the Department.) If the placement action results in a change to lower grade or reassignment resulting from a solicitation by the Department to fill a position requiring special skills, it is not taken at the employee's request, even though the employee may have previously asked the Department to consider his or her personal situation. **NOTE:** *It may not be assumed that simply because management initiates recruitment by advertising a vacancy and a change to lower grade or rate of pay results, management has initiated the action. Pay retention is only appropriate for placements meeting the criteria contained in subparagraphs a and b above.*

#### 4. TERMINATION OF GRADE AND PAY RETENTION BENEFITS (TITLE 5 ONLY)

a. Eligibility for grade retention is terminated under the circumstances described in 5 CFR 536.207 and 5 CFR 536.208.

b. Eligibility for pay retention is terminated under the conditions described in 5 CFR 536.209.

#### 5. APPEALS (TITLE 5 ONLY)

a. **Declination of Reasonable Offer.** Employees who believe their grade or pay retention benefits have been improperly terminated for failure to accept a reasonable offer may appeal the termination under 5 CFR 536.302. The criteria for a reasonable offer are contained in 5 CFR 536.206.

b. **Failure to Comply.** If the employee believes his or her grade retention benefits have been improperly terminated for failure to enroll in or comply with the requirements of the Priority Placement Program, the employee may appeal such termination of benefits through the VA Grievance Procedure or through an appropriate negotiated grievance procedure, as applicable.

**PART III  
CHAPTER 6****[6. PAY RETENTION UNDER TITLE 38 (OTHER THAN NURSES)]****a. Coverage**

(1) Employees appointed under or moving into positions appointed under the provisions of title 38 U.S.C. 7306, 7401(1) and 7405(a)(1)(A), except for nurses and nurse anesthetists who are covered by paragraph 7 below, who undergo the following actions are *entitled* to retention of their basic rate of pay:

(a) Employees whose rates of basic pay would otherwise be reduced as a result of a reduction or termination of a special salary rate schedule;

(b) Employees whose rates of basic pay would be reduced because of a transfer or reassignment initiated by management for reasons other than cause. This includes employees who choose to accept reassignment to a lower graded position in lieu of separation as a result of a management action, such as reorganization or transfer of function.

(2) Pay retention *may* also be authorized for employees appointed under or moving into positions appointed under title 38 U.S.C. 7306, 7401(1) and 7405(a)(1)(A), whose rates of basic pay would otherwise be reduced, when the placement of the employee is not for cause, including performance or misconduct, or at the employee's request, and when the employee is not otherwise eligible for pay retention under subparagraph a(1) above. Placement of an employee in a position initiated or directed by management is not considered to be taken at the employee's request even though the employee may have previously asked the Department to consider his or her personal situation.

**b. Pay Administration**

(1) On the date the reduction in base pay was to have occurred, employees are to be placed in the lowest step of the grade that equals or exceeds their existing rate of basic pay immediately preceding the action. If no such rate exists, employees are placed in pay retention and retain the rate of basic pay held immediately before the action, not to exceed 150 percent of the maximum of the grade for the new position.

(2) The rate of basic pay retained by eligible employees is also limited by the provisions of 38 U.S.C. 7404(d)(1) and (d)(2) to Level IV or Level V of the Executive Schedule, as applicable.

(3) Employees placed in pay retention shall receive 50 percent of any subsequent general pay increases in the maximum rate of the grade of the new positions held. Pay retention terminates when the maximum authorized rates of the new positions equal or exceed the employees' retained rates, as adjusted herein.

(4) Employees on pay retention who are subsequently promoted will have their new rates of basic pay determined as if they were being promoted from the maximum rate of the grade for their positions. If the new rates upon promotion, as determined in accordance with the provisions of paragraphs 1 or 2, chapter 2 of this part, are lower than the employees' retained rates of basic pay, they will be placed in the lowest steps that equal or exceed their retained rates. If their retained rates exceed the maximum rates of the grades to which promoted, the employees will remain on pay retention.

(5) Entitlement to pay retention shall terminate if employees are reassigned or changed to a lower grade at their request or for cause.

## 7.] PAY RETENTION UNDER TITLE 38 FOR NURSES AND NURSE ANESTHETISTS SUBJECT TO THE LOCALITY PAY SYSTEM

a. **Conditions Conferring Eligibility for Pay Retention.** Employees undergoing the following actions are eligible for pay retention:

(1) Employees whose pay would otherwise be reduced as a result of a reduction or termination of a pay schedule in excess of 133 percent;

(2) Employees whose above-minimum entrance rates or special salary rates have been reduced or terminated;

(3) Employees placed at another facility for the good of VA, or by management-directed actions for reasons other than cause (see par. 1c(2)(b) of chapter 4 this part, and appendix II-B); and

(4) Employees reassigned to another facility by management-initiated action under subparagraph 1c(2)(c)1.b. of chapter 4, this part.

**NOTE:** *Employees transferred or reassigned to another location by management-initiated action are not automatically entitled to pay retention. They may be offered the rate of pay for the grade and step at the gaining facility or an intervening rate that is more than the rate for the grade and step at the gaining facility but less than pay retention (see subparagraph 1c(2)(c)1. of chapter 4 this part).*

(5) Nurse executives whose rate of basic pay would otherwise be reduced as a result of a change in the facility complexity level (see par. 2b(2) of appendix II-B);

(6) Employees whose pay would otherwise be reduced as a result of a termination of a specialty pay schedule (see par. 4 of chapter 1, part X).

### b. **Pay Administration Policies Applicable to Employees Eligible for Pay Retention**

(1) On the date of the action, employees are to be advanced to the lowest step rate of the grade, which equals or exceeds their existing rate of basic pay before the action. (If the employee is placed in a step, pay retention will not apply.) If no such rate exists, the employee is placed at the top step of the grade and retains the rate of basic pay held before the action, unless a different rate is authorized under subparagraph 1c(2)(c) of chapter 4, this part.

(2) The employee receives 50 percent of any subsequent increase in the maximum authorized rate of the grade and pay retention terminates when the maximum authorized rate of the grade equals or exceeds the employee's retained rate. When pay retention is terminated, the employee is automatically placed at the top step of the grade, regardless of the amount of pay increase.

**PART III  
CHAPTER 6**

(3) Employees on pay retention who are promoted at the same facility shall have their pay determined as if they were not on pay retention. **NOTE:** *They are considered to be at the maximum authorized step of their existing grade.* However, if the maximum authorized rate of the higher grade is lower than the retained rate, pay retention continues.

(4) Pay retention terminates if the employee is reassigned or changed to a lower grade for cause or at the employee's request.

**[8.] DOCUMENTATION.** The application of the provisions of this [chapter] shall be documented in writing as a permanent part of the employee's personnel folder. At a minimum, this will include the documentation required in paragraphs 2b and 3b of this chapter and a copy of the letter described in 5 CFR 536.304.

**[9.] REFERENCES**

- a. 5 U.S.C. 5361-5366.
- b. 5 Code of Federal Regulations, part 536.
- c. 38 U.S.C. 512 and 7304.

**[10. AUTHORITY.** The policies on grade and pay retention in this chapter pertaining to title 38 employees are authorizing regulations prescribed pursuant to the Secretary's authority under 38 U.S.C. 7421(a) and the Under Secretary for Health's authority under 38 U.S.C. 7304. Policies so promulgated under the authority of 38 U.S.C. are regulatory with no deviations, not expressly authorized herein, to be indulged.]