

PAY ADMINISTRATION

1. REASON FOR ISSUE: To incorporate provisions of the “Federal Workforce Flexibility Act of 2004” (Public Law 108-411, dated October 30, 2004) as it relates to the Department of Veterans Affairs (VA) into pay administration policy. Interim instructions were previously provided in Human Resources Management Letter 05-05-04, dated August 18, 2005.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This handbook contains mandatory VA procedures on pay administration. The pages in this issuance replace the corresponding page numbers in VA Handbook 5007. These changes will be incorporated into the electronic version of VA Handbook 5007 that is maintained on the [Office of Human Resources Management Website](#). Significant changes include:

- a. Establishes new pay administration rules related to special rates, locality rates and retained rates.
- b. Revises the term “rate of basic pay” to include locality comparability payments, special rate supplement and retained rates of pay.
- c. Eliminates locality comparability payments on top of a retained rate of pay.
- d. Prohibits payment of a special rate when locality comparability payments are higher.

3. RESPONSIBLE OFFICE: The Compensation and Classification Service (055), Office of the Deputy Assistant Secretary for Human Resources Management.

4. RELATED DIRECTIVE: VA Directive 5007, Pay Administration.

5. RESCISSIONS: None.

CERTIFIED BY:

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**BY DIRECTION OF THE SECRETARY
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PAY ADMINISTRATION

PART I. GENERAL

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PART I. GENERAL

1. PURPOSE. This handbook provides Department of Veterans Affairs (VA) mandatory guidance and procedures for pay administration for personnel appointed or designated under certain title 38 authorities, personnel occupying positions subject to 5 U.S.C., chapter 51, and personnel subject to the Federal Wage System.

2. RESPONSIBILITIES. In general, the following officials have responsibility for making pay determinations. However, additional statements of responsibility may be included in separate parts or chapters of the handbook, as appropriate.

a. The Secretary, or designee, is the approving official for pay actions for employees occupying positions centralized to that office.

b. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries, or their designees, may approve pay actions for employees occupying VA Central Office positions in their organizations that are not centralized to the Secretary and employees occupying field positions centralized to their offices.

c. Network directors, and equivalent in VA, may approve pay determinations for employees occupying non-centralized positions in their organizations.

d. Facility directors may approve pay actions for employees in non-centralized positions under their jurisdiction.

[3. AUTHORITY. The policies on pay administration in this handbook pertaining to title 38 employees, including the extension of title 5 pay authorities to title 38 employees and title 38 hybrids, 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.]

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PART II. SETTING RATES OF PAY UPON APPOINTMENT

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PART II. SETTING RATES OF PAY UPON APPOINTMENT**CHAPTER 1. GENERAL**

1. PURPOSE. This part provides Department of Veterans Affairs (VA) mandatory guidance and procedures for determining initial rates of basic pay for personnel appointed or designated under certain title 38 authorities, personnel occupying positions subject to 5 U.S.C., chapter 51, and personnel subject to the Federal Wage System. This chapter excludes Senior Executive Service employees, members of the Board of Veterans' Appeals, [] Senior-Level and Executive Level employees.

2. RESPONSIBILITIES

a. The Secretary or designee shall approve rates of pay for employees under his jurisdiction upon their initial entry into a covered position, whether upon movement from within or outside the Department.

b. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries or their designees shall approve the salary level for initial placement for employees under their jurisdiction. They will recommend the salary level for employees in positions centralized to the Secretary.

c. Network directors, and equivalent in VA, may approve pay determinations for employees occupying non-centralized positions in their organizations.

d. Facility directors may approve the salary level for initial placement of employees under their jurisdiction.

e. Office of Human Resources Management [] staff shall provide technical assistance and guidance to management officials in the administration of the provisions of this part. In addition, they shall advise management officials on exercising their discretion to set pay.

[3. DEFINITIONS. The following definitions are used in various chapters throughout this part:

a. **Highest Applicable Rate Range.** The rate range applicable to an employee's position based on the position of record and official worksite that provides the highest rates of basic pay, excluding any retained rates. For example, if a rate range of special rates is higher than locality rates, then the special rate range is considered the highest applicable rate range. If no special rates apply, then locality rates are considered the highest applicable rate range.

b. **Underlying Rate of Basic Pay.** A GS base rate, a title 38 base rate (except for physicians, dentists and registered nurses) or a law enforcement officer base rate of pay. The underlying rate of basic pay does not include the locality pay supplement or special rate supplement.]

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(8) The initial rate of pay for employees in hybrid occupations listed under 38 U.S.C. 7401(3) who have prior VA or other Federal civilian service may be set by the approving official at any step rate of the grade which does not exceed the highest previous rate (maximum payable rate) rule (see 5 CFR [531.221]), unless a higher rate is approved under chapter 3, paragraph 3 of this part. The specific pay rate shall be based on the recommendation of the appropriate Standards Board, which is to compare the quality of service rendered during the individual's prior employment with the quality of service expected of other persons in the same grade who have attained pay rates above the minimum rate of the grade. The provisions of this subparagraph are not to be construed as precluding reappointment at a higher grade if the person is qualified.

(9) Appointments, Reappointments and Transfers from Other Agencies of Nurses and Nurse Anesthetists Under the Locality Pay System (LPS)

(a) **Employees Without Prior VA or Other Creditable Federal Civilian Service.** The initial rate of pay shall be the applicable minimum rate of the grade and level unless the approving official authorizes a higher step for a head nurse or specialized skills (see part III, chapter 8) or superior qualifications.

(b) **Prior VA Service Under the LPS.** Former employees who served under the LPS may have their step set at any step which does not exceed their highest previous step unless the approving official authorizes a higher step as described in subparagraph (a).

(c) **Current or Prior Federal Service Which Does Not Include Service Under the LPS.** The employee may be paid at any step of the grade which does not exceed the employee's relative position in the former rate range unless the approving official authorizes a higher step as described in subparagraph (a). Current employees converted to a covered position at their request are not eligible for pay retention under part III, chapter 6, paragraph 4.

(d) **Restrictions on Making Highest Previous Step Determinations.** All highest previous step determinations are subject to the following restrictions:

1. The highest previous step must have been earned in a full-time, part-time or intermittent appointment, not limited to 90 days or less, or for a period of not less than 90 days under one or more appointments without a break in service.

2. The highest previous step may not include higher rates of pay for being a head nurse, higher rates based on specialized skills or an interim geographic adjustment approved under Executive Order 12826, dated December 31, 1992.

3. The earned step on any special [] rate range approved under 38 U.S.C. 7455 is to be used for the purposes of computing the highest previous step.

b. **Retroactive Adjustment of Salary Rates.** If sufficient data concerning prior Federal employment is not available to make a salary determination concerning the highest previous rate, the rate shall be established initially at the lowest clearly appropriate dollar amount within the grade. The following statement will be placed in the “Remarks” section of the Standard Form (SF) 50-B: “Pay rate subject to retroactive adjustment upon verification of prior Federal service.” For retroactive adjustment of salary rates for physicians and dentists, see paragraph 7f of part IX, this handbook.

c. **Special Basic Pay Adjustments for Personnel Serving Under 38 U.S.C. 7306, 7401 or 7405(A)(1)(A)**

(1) In unusual circumstances that are not otherwise covered by this chapter, the appointing official may initially or subsequently adjust the salary of any person appointed under 38 U.S.C. 7306, 7401, or 7405(a)(1), except a physician or dentist to any one of the approved step rates of the grade held.

(2) Upon change in assignment without change in grade of an employee who has been granted a special basic rate adjustment authorized in accordance with subparagraph c(1) above, the appropriate appointing official may readjust the rate by fixing it at any step of the grade which is no lower than the step rate the employee otherwise would normally have earned under part III, chapter 5 of this handbook. This authority is available for use when a change in assignment is made:

(a) To a locality or type of duty where circumstances would not be considered sufficiently unusual to warrant continuation of the special basic pay rate;

(b) At the employee’s request and primarily for his or her benefit and convenience; or

(c) For personal cause.

(3) An appointing official may request a market pay review for a physician or dentist at any time in accordance with the provisions of part IX of this handbook.

d. **Rates of Pay for VHA Facility Directors and Chiefs of Staff.** See appendix II-A of this handbook for pay setting guidance for facility directors and chiefs of staff.

2. SETTING INITIAL RATES OF PAY FOR PERSONNEL SERVING IN TEMPORARY AND PART-TIME POSITIONS UNDER 38 U.S.C. 7405

a. Part-time and intermittent physicians, dentists, podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs shall receive, dependent upon the number of hours worked each week, the proportionate amount of the approved per annum rate appropriate to the tier or grade appointed. The standard VA workweek of 40 hours shall serve as the basis for computation of the salary. The Under Secretary for Health will establish a standard limitation on the number of hours of employment. The Under Secretary for Health, or designee, may make an exception to such limitation on an individual bases when required in the interest of medical need.

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b. Upon appointment or re-appointment under 38 U.S.C. 7405, the pay of part-time and intermittent physicians, dentists, podiatrists, chiropractors, optometrists, nurses, PAs and EFDAs shall be determined by the Under Secretary for Health in a manner consistent with paragraph 1 of this chapter and parts III and IX of this handbook.

c. Student nurse technicians with no prior experience will be paid the minimum rate of the appropriate grade under the General Schedule unless a higher rate is authorized under the authority in chapter 3, paragraph 3 of this part to approve an individual appointment above the minimum rate of the grade. The minimum rate should take into account any applicable special [] rate. Student nurse technicians with prior experience may be paid at a rate that does not exceed their highest previous rate, unless a higher rate is authorized under chapter 3, paragraph 3 of this part. Premium pay shall be paid under the provision of 5 U.S.C., chapter 55. Grade determinations require application of the appropriate classification standard.

d. Employees in hybrid occupations listed under 38 U.S.C. 7401(3) will be compensated as noted in paragraph 1, subparagraphs (7) and (8) of this chapter.

e. Employees that have completed a full course of training in an occupation listed under 38 U.S.C. 7401(3) and are pending licensure shall receive a basic rate of pay commensurate with the minimum rate of the grade for which they qualify, unless an above-minimum entrance rate or special [] rate range has been approved for similar licensed employees, in which case the higher rate would apply. The employee may be given a higher rate under the highest previous rate rule because of prior Federal service.

f. Medical and dental residents are authorized to receive stipends approved by the Under Secretary for Health or designee. Under criteria and procedures established by the Under Secretary for Health, these stipends will be related as closely as practicable to local conditions of remuneration for residents in the hospitals having a major impact on VA's recruitment of house staff. Irrespective of the number of hours of service rendered in a day or a week, no compensation additional to the per annum rate shall be payable to residents by reason of duty at night, on overtime, on Saturday or Sunday, or a legal holiday, or on-call. (See appendix II-E of this part.)

g. The authority to set compensation of **consultants, attendings and others employed on a fee basis** has been delegated by the Under Secretary for Health to facility directors. These fees shall conform, insofar as possible, with practices prevailing within the profession concerned. Per annum ceiling limitations shall be imposed by the Under Secretary for Health on such pay and revised from time to time as necessary in the public interest for both patient care and treatment. Except as may be specifically authorized by the Under Secretary for Health or designee, these limitations shall cover all types of services rendered in VA, and are to be applied uniformly. The foregoing requirements, however, shall not obligate VA to utilize the services of these persons to the maximum extent established by the per annum salary ceiling limitations. (See appendix II-F of this part.)

h. Each physician, dentist or nurse appointed as an **associate investigator** or Career Development Award-1 (CDA-1) recipient will receive a per annum salary rate related as closely as practicable to local conditions during the appointment. These appointees are not subject to the title 38 pay systems for physicians and dentists or nurses. The salary will be approved by the facility director on the recommendation of the Deans Committee or Medical Advisory Committee but will not under any circumstances exceed the salary level of the GS-13, step 10 (exclusive of locality pay). An appointee will be in an ungraded position for the tenure of this appointment and, as such, is not eligible for advancements, such as promotions, special advancements, longevity step increases or periodic step increases. However, with the approval of the Director, Office of Medical Research Service (121), these appointees shall receive pay comparability increases consistent with those granted employees paid under the VHA Physician and Dentist or Nurse Pay Schedules. This obviates the necessity for the Professional Standards Board to make grade and salary rate recommendations.

(1) If an associate investigator or CDA-1 recipient is to be given a regular VA appointment at the completion of training, the effective date of adjustments to the grade and step for which qualified for appointment will be the first day following completion of training.

(2) An on-duty employee serving as an associate investigator or CDA-1 recipient whose rate of pay exceeds the appropriate amount paid when converted to a training status may request a voluntary reduction, as appropriate, for the purpose of becoming a trainee. On completion of training, the grade and current equivalent of the salary rate held by such employee prior to entering training may be restored by the approving authority on recommendation of the appropriate Professional Standards Board or Physician or Dentist Compensation Panel. Likewise, the rate may be further adjusted to include market pay considerations, longevity step increases or periodic step increases which otherwise would have been earned if the individual had not become a trainee. The effective date of each such action will be the first day of the appropriate pay period following the completion of training.

i. Medical support personnel (i.e., employees other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, PAs or EFDAs who are not trainees and students) serving under 38 U.S.C. 7405(a)(1)(D), who have no prior Federal civilian service are to be paid the minimum rate of the appropriate grade established for competitive service employees performing similar duties, unless an appointment above the minimum rate of the grade has been authorized (see chapter 3, paragraph 3 of this part). The minimum rate shall also take into consideration any applicable above-minimum entrance rate or special [] rate range. For employees with prior Federal service, a higher rate may be set within the applicable range of rates for competitive service employees performing similar duties. However, such rates may not exceed the current equivalent of the employee's highest previous rate, unless a higher rate is authorized under chapter 3, paragraph 3 of this part.

j. **Non-medical consultants** in scientific and other activities allied to medicine will be paid on a per annum or lump-sum fee basis in accordance with the same administrative requirements, including limitations, provided for medical consultants, except that the annual pay limitation is \$7,500. This

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CHAPTER 2****3. SETTING INITIAL RATES OF PAY FOR EMPLOYEES IN TITLE 5 POSITIONS
(POSITIONS SUBJECT TO 5 U.S.C., CHAPTER 51)**

a. Initial rates for employees whose positions are subject to chapter 51 may be set at any rate up to the highest levels permitted by 5 CFR [531.211], subject to any limiting Office of Personnel Management regulations and Comptroller General decisions and as specifically provided in chapter 4, paragraph 2 of this part. In VA, this policy is referred to as the "[maximum payable] rate rule." The term "[maximum payable] rate" refers to an individual's highest previous rate when such rate is recognized [] for salary adjustment purposes.

b. The rationale for the [maximum payable] rate rule is that the steps within a given grade are intended to reflect differences in individual proficiency which affect quality of performance. Typically, proficiency is acquired or enhanced gradually during one's tenure in a position, and is recognized by within-grade increases. Proficiency at least equivalent to that expected of employees at any of the step rates also may be gained through successful experience in a higher position. The purpose of the policy is to recognize proficiency acquired in this latter manner, to the extent possible.

c. Health Care Administration Residents and Interns Under 5 U.S.C. 5351-5356

(1) **Policy.** The facility director will establish stipends for health care administration residents and interns on a locality basis, not to exceed the appropriate maximum permitted stipends as indicated in 5 CFR 534.203, after consultation with administrative officials of the affiliating school or university and with other hospitals in the area which utilize residents and interns in these programs. These administratively determined stipends may be effected only on a prospective basis. The only exception to this retroactive prohibition is where the facility director has executed written documentation establishing local policy as paying the maximum permitted stipends according to OPM regulations and a statutory pay adjustment becomes effective retroactively.

(2) **Maximum Stipends.** Maximum per annum stipends for health care administration residents and interns are determined in accordance with 5 CFR 534.203.

d. **Retroactive Adjustment of Salary Rates.** Except as provided in paragraph c above, pay determinations made under this paragraph are discretionary administrative determinations, which will not be made on a retroactive basis. However, as an exception to this rule, if sufficient data are not available to permit making a salary determination, the salary rate will be established initially at the lowest clearly appropriate rate of the grade. The following statement will be placed in the "Remarks" section of the SF 50-B: "Pay rate subject to retroactive adjustment upon verification of prior Federal service."

4. SETTING INITIAL RATES OF PAY FOR FEDERAL WAGE SYSTEM EMPLOYEES

a. **General.** Except as provided in chapter 3, paragraph 5 and chapter 4, paragraph 3 of this part or 5 CFR 432.403(c), a new appointment in the Federal Wage System will be made at the minimum rate of the grade.

**CHAPTER 3. AUTHORIZATION OF INDIVIDUAL APPOINTMENTS
ABOVE THE MINIMUM RATE OF THE GRADE**

1. GENERAL. This authority is a pay-setting authority; it is not an appointing authority. Therefore, consideration of an above-minimum rate appointment may occur only after it has been determined that the candidate may be properly appointed. An above-minimum rate, however, must be approved prior to the effective date of appointment.

2. RESPONSIBILITIES

a. The Secretary, or designee, is the approving official for entry at an above-minimum rate in positions centralized to that office.

b. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries or their designees, recommend entry at above-minimum rates for positions in their organizations which are centralized, to the Secretary. They, or their designees, approve entry at an above-minimum rate for positions in their Central Office organizations, which are not centralized to the Secretary and for field positions centralized to their offices.

c. For non-centralized positions, facility directors may approve entry at an above-minimum rate.

d. The Deputy Assistant Secretary for Human Resources Management [] shall advise management and operating officials on the policies contained herein. Facility Human Resources Management Officers or other appropriate officials shall advise facility officials on the policies contained herein.

**3. APPOINTMENT ABOVE THE MINIMUM RATE OF THE GRADE FOR PERSONNEL IN
OCCUPATIONS LISTED UNDER 38 U.S.C. 7401(3) AND VETERANS HEALTH
ADMINISTRATION (VHA) GENERAL SCHEDULE (GS) HEALTH-CARE PERSONNEL**

a. General

(1) Authorized officials may, after considering an individual's existing pay, higher or unique qualifications, or special needs of VA, appoint employees in hybrid occupations listed under 38 U.S.C. 7401(3) and VHA GS patient-care personnel at rates of pay above the minimum rate of the [highest applicable rate range for the] appropriate grade. Officials are cautioned against making firm salary commitments to candidates before a rate above the minimum of the grade has been approved. Criteria for approving such rates are contained in subparagraph 3b.

(2) Upon specific written request, and on a quarterly basis, the union will be provided with the names of bargaining unit employees appointed above the minimum rate of the grade and the grade and step to which appointed.

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(3) A pay rate approved under this paragraph [] may subsequently be used in applying the highest previous rate rule. The highest previous rate is not an entitlement, however, and should be judiciously used in situations where employees move to positions which might not qualify for an appointment above the minimum rate of the grade. In addition, the following restrictions apply when making highest previous rate determinations:

(a) The rate must be based on prior full-time, part-time or intermittent service under an appointment or contractual agreement (38 U.S.C. 513), not limited to 90 days or less, or for a period of not less than 90 days under one or more appointments or contractual agreements without a break in service.

(b) It is generally inappropriate to use above-minimum entrance rates and special [] rate ranges as the highest previous rate when an employee voluntarily moves to a position where lower rates of pay apply. This is because approval of such rates is the result of recruitment or retention problems at a particular VA health care facility and higher non-Federal pay rates in a specific labor market. [See chapter 4 of this part for additional information on applying highest previous rate when setting pay.]

(c) In view of subparagraph a(3)(b) above, above-minimum entrance rates or special [] rates may be used as the highest previous rate only with the prior approval of the facility director [and if the criteria in 5 CFR 531.222 and 531.223 are met]. A copy of this approval shall be filed on the right hand side of the employee's personnel folder and documented in the "Remarks" section of the Request for Personnel Action, or its electronic equivalent.

(4) A pay rate approved under this paragraph shall be used when determining an employee's pay upon promotion to a higher grade position.

(5) When setting rates under this paragraph, consideration shall be given to the locality comparability payment authorized for the geographic area and the fact that the employee will receive the locality comparability payment in addition to the basic rate of pay selected from the General Schedule.

b. Criteria for Pay Determinations

(1) Pay determinations under this paragraph may be made after considering a candidate's existing pay, [recent salary history or competing job offer,] higher or unique qualifications or special needs of VA. If an individual's pay rate is based on the recommendation of a professional or similar standards board, the approving official [] shall consider the recommendation of that board. [The salary rate determination must take into account the location of the candidate's earned or potential salary and should be compared to the payable rates of pay in the same location. For example, in determining a rate of pay for a candidate for a Medical Instrument Technician GS-6 in San Francisco that is currently employed in the private sector in Washington, DC, the individual's current rate of pay should be compared to the highest applicable rate range that applies to Medical Instrument Technicians in Washington, DC to determine the highest step of the grade that the individual could receive. The individual's pay could be set up to the step determined on the highest applicable rate range for Medical Instrument Technicians in Washington, DC.]

(2) Before using this [pay setting] authority, approving officials should consider such things as the number of on-duty personnel in the category under consideration and their pay rates; the number of vacancies and the availability of well-qualified candidates[;] possible employee and/or community relations problems which may result from using this authority; [and alternatives to using this authority to include the use of] recruitment incentive[s], a more comprehensive recruitment effort, job redesign, internal training, use of part-time employees, etc.

(3) This authority is intended to enhance VA's ability to meet its recruitment needs [and may be used with full-time, part-time, intermittent, permanent, or temporary appointments provided its use is consistent with the criteria contained herein. It is] typically [] used for new appointments (i.e., first appointment as an employee of the Federal Government[, however it may be used for reappointments, provided the candidate] had a break in service of at least 90 calendar days. [A 90-day break in service is not required if the candidate's civilian service immediately preceding the appointment consisted of one or more periods of employment under a time-limited or non-permanent appointment, employment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR 304, or employment under a provisional appointment under 5 CFR 316.403].

c. On-Duty Employees

(1) A higher step rate may be approved for on-duty employees in the situations shown below if the appropriate standards board or recommending official (if a standards board is not appropriate) has recommended a higher step rate than otherwise applicable. The recommendation may be based on higher or unique qualifications of an individual or special needs of VA.

(a) On-duty employees converted to occupations listed under 38 U.S.C. 7401(3); and

(b) On-duty employees reassigned to a new position or changed to a new lower grade position under 38 U.S.C. 7401(3). For the purpose of this paragraph, a new position means a position subject to different qualification standards and in a different occupational series.

(2) On-duty employees in the same occupation as an individual newly appointed under 38 U.S.C. 7401(3) are not entitled to have their pay rate adjusted.

d. **Limitations on Pay Rates.** Approving officials shall not authorize a rate above the maximum rate of the grade. In addition, pay rates approved under this paragraph are limited by the payable rate for Level V of the Executive Schedule.

e. **Retroactive Administrative Determination.** The authority contained in this paragraph is a discretionary administrative determination, which shall not be made on a retroactive basis.

f. **Superior Qualifications Appointments.** Employees covered by this paragraph may not be considered for superior qualifications appointments under 5 U.S.C. 5333 and paragraph 4 below.

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4. APPOINTMENT ABOVE THE MINIMUM RATE OF THE GRADE FOR PERSONNEL SUBJECT TO CHAPTER 51

- a. Under the provisions of 5 U.S.C. 5333(a) and 5 CFR [531.212], appointment at a rate above the minimum of a General Schedule (GS) grade may be made based on the superior qualifications of a candidate or a special VA need for the candidate's services. **NOTE:** *VHA GS employees who provide direct patient care services or services incident to direct patient services are covered by paragraph 3 above, and are not covered by this paragraph.*
- b. Appointments at above-minimum rates under this paragraph will be fully justified in accordance with criteria outlined in 5 CFR [531.212] and meet all legal and regulatory requirements.
- c. Office of Personnel Management regulations require that consideration must be given to a recruitment incentive before approval of an above-minimum rate under this authority (5 CFR, part 575). This requirement is predicated on the fact that an appointment with an above-minimum rate will be significantly more costly because it has a lasting effect on future pay entitlements and increases retirement, life insurance, and premium pay entitlements.
- d. The authority in this paragraph is to be used in individual cases of superior qualifications or special VA need. It is not to be used for occupational pay comparability or substituted for above-minimum entrance rates for an occupation or special [] rates for an occupation. Consideration is to be given to the effect approval may have on the morale of current employees and/or community relations.
- e. Above-minimum rates are [typically] authorized [] for individuals entering Federal civilian service for the first time[, however it may be used for reappointments, provided the candidate had a break in service of at least 90 calendar days. A 90-day break in service is not required if the candidate's civilian service immediately preceding the appointment consisted of one or more periods of employment under a time-limited or non-permanent appointment, employment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR 304, or employment under a provisional appointment under 5 CFR 316.403]. An above-minimum rate must be approved before the candidate enters on duty; retroactive adjustment is not permitted.
- f. An above-minimum rate may not exceed the rate for the tenth step of the grade.
- g. See appendix II-D for information on requesting above-minimum entrance rates under this paragraph.

5. APPOINTMENT ABOVE THE MINIMUM RATE OF THE GRADE FOR FEDERAL WAGE SYSTEM PERSONNEL. Appointing officials may make a new appointment at any step rate of the appropriate grade in recognition of skills and experience of an exceptional or highly specialized nature in a particular trade or craft. Such appointments, however, may be made only when it is not possible to recruit an applicant at the minimum rate and VA has a specific need for the applicant's special qualifications. When an appointment above the minimum rate is made, the following statement will be placed in the "Remarks" section of the 50-B, Notification of Personnel Action: "Salary rate approved under FWS Operating Manual, section S8-3b(1)." Reasons for the determination will be recorded on the Request for Personnel Action, or its electronic equivalent.

CHAPTER 4. HIGHEST PREVIOUS RATE DETERMINATIONS

[]

1. HIGHEST PREVIOUS RATE DETERMINATIONS FOR TITLE 38 PERSONNEL

a. A step rate above the minimum may be set as the initial rate of pay for podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs with prior VA or other Federal civilian service whose appointment or reappointment is made under 38 U.S.C. 7401(1). The rate may be set by approving authority at any step rate within the appropriate grade which does not exceed the highest step rate previously attained while rendering such service, unless a higher step rate is determined appropriate under chapter 2, paragraph 1a, subparagraphs (5), (6), or paragraph 1c of this part.

NOTE: *The step rate for physicians and dentist appointed under 38 U.S.C. 7401(1) is determined based on the individual's tenure in VHA as described in paragraph 7 of part IX, this handbook.*

b. For podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs, unless a higher step rate is authorized under chapter 2, paragraph 1a, subparagraphs (5), (6), or paragraph 1c, of this part, the specific step rate shall be based on a recommendation from the appropriate Professional Standards Board. The recommendation shall compare the quality of service rendered during such individual's prior employment with the quality of service expected of other persons in the same grade who have attained step rates above the minimum rate of the grade. This provision, however, shall not be construed as precluding reappointment of such person at a higher grade or step for which he or she is qualified. [Instructions for calculating highest previous rate for podiatrists, chiropractors, optometrists, PAs and EFDAs are contained in paragraph 2 of this chapter.]

c. The following restrictions apply in making highest previous rate determinations for personnel listed in paragraph 1a above:

(1) The rate must be based on prior full-time, part-time or intermittent service under an appointment or contractual agreement (38 U.S.C. 513), not limited to 90 days or less, or for a period of not less than 90 days under one or more appointments or contractual agreements without a break in service.

(2) It is generally inappropriate to use above-minimum entrance rates and special [] rate ranges as the highest previous rate when an employee voluntarily moves to a position where lower rates of pay apply. This is because approval of such rates is the result of recruitment or retention problems at a particular VA health-care facility and higher non-Federal pay rates in a specific labor market.

(3) In view of subparagraph c(2) above, above-minimum entrance rates or special [] rates may be used as the highest previous rate only with the prior approval of the facility director. A copy the approval shall be filed on the right hand side of the Merged Records Personnel Folder and documented in the "Remarks" section of the Request for Personnel Action, or its electronic equivalent.

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CHAPTER 4****2. HIGHEST PREVIOUS RATE FOR TITLE 5 POSITIONS**

a. Title 5, United States Codes, section 5334(b) sets forth certain minimum pay adjustment rules applicable to promotions of employees between General Schedule positions. Subject to these mandatory requirements, 5 CFR [531.222] generally provides agencies with discretion to set the pay of [an] employee who is re-employed, transferred, reassigned, promoted, re-promoted, or demoted at any rate for the employee's grade which does not exceed the highest previous rate. Once the applicable highest previous rate is determined, if it falls between two steps of the new grade, the higher step will be paid. [To determine the highest previous rate based on a GS rate or LEO rate the underlying GS rate must be used as the highest previous rate, as follows:

(1) Compare the employee's highest previous rate (underlying rate) with the GS underlying rates for the grade in which pay is currently being set using the nationwide GS pay chart in effect at the time the highest previous rate was earned;

(2) Identify the lowest step in the grade at which the nationwide GS rate was equal to or greater than the employee's highest previous rate. If the employee's highest previous rate was greater than the maximum GS rate, use the step 10 rate;

(3) Identify the rate on the current GS nationwide schedule for the employee's current position of record and grade that corresponds to the step identified in paragraph (2) above. This rate is the maximum payable GS rate that may be paid to the employee;

(4) After setting the employee's GS rate within the rate range for the grade (not to exceed the maximum payable rate), determine the employee's payable rate by adding in the appropriate amount of locality pay or special rate, as applicable.

b. To determine highest previous rate based on a GS employee's special rate under the conditions described in subparagraph f below, use the employee's former special rate in effect immediately before the reassignment as follows:

(1) If the employee's special rate schedule is being adjusted on the effective date of the employee's reassignment, determine what the employee's special rate would be on the adjusted schedule and treat the resulting special rate as the employee's former special rate.

(a) If the employee is being assigned to an official worksite within the geographic boundaries of the former special rate schedule, compare the former special rate to the rates of basic pay in the highest applicable rate range for the employee's current position of record and current official worksite;

(b) Identify the lowest step in the range that equals or exceeds the former special rate, or the maximum step rate, if the former special rate exceeds the range maximum – the step rate identified becomes the employee's maximum payable rate of pay.

(2) If the employee is assigned to an official worksite outside the geographic boundaries of the former special rate, determine the maximum payable rate as follows:

(a) Perform geographic conversion by converting the former special rate to a corresponding rate (same step) on the current highest applicable rate range for the new official worksite based on the employee's position of record immediately before the reassignment;

(b) If the rate resulting from the geographic conversion is a special rate, that converted special rate is deemed to be the employee's former special rate and highest previous rate. If the resulting rate is not a special rate use the provisions of paragraph 2a above to calculate highest previous rate based on a GS rate of pay.

c. To determine highest previous rate based on a rate under a non-GS pay system (i.e. FWS or Title 38 schedule) determine the maximum payable rate of pay that may be paid as follows:

(1) Compare the highest previous rate to the highest applicable rate range in effect at the time and place where the highest previous rate was earned. The highest applicable rate range is determined as if the employee held the current GS position of record, including the grade in which pay is being set, at that time and place;

(2) Identify the lowest step rate in the range that equals or exceeds the highest previous rate, or the maximum step rate if the highest previous rate exceeds the maximum range for the grade;

(3) Convert the step rate to the corresponding step in the current highest applicable rate range for the employee's current GS position of record. This step rate is the employee's maximum payable rate of pay.

d.] In applying the provisions of this chapter, salary rates received in non-VA positions and rates received in VA positions may be taken into account in fixing salary rates, if appropriate in the judgment of the authorizing official, but no right is vested in the employee to receive a rate based on such service.

NOTE: *Instructions regarding crediting of non-General Schedule service are contained in part III, chapter 4, paragraph 4.*

[e. The highest previous rate may not be based on the following:

(1) A rate received under an appointment as an expert or consultant under 5 U.S.C. 3109;

(2) A rate received in a position to which an employee is temporarily promoted for less than 1 year unless the employee is permanently placed in a position at the same or higher grade;

(3) A rate received by an individual while employed by the government of the District of Columbia who was first employed by the District of Columbia on or after October 1, 1987;

(4) A rate received by an individual while employed by a Department of Defense or Coast Guard nonappropriated fund instrumentality;

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(5) A rate received solely during a period of interim relief under 5 U.S.C. 7701(b)(2)(A);

(6) A rate received under a void appointment or a rate otherwise contrary to applicable law regulation; or

(7) A rate received in a position from which the employee was reassigned or reduced in grade for failure to satisfactorily complete a probationary period as a supervisor or manager.

f. A special rate may be used as the highest previous rate only when all of the following conditions apply:

(1) The employee is reassigned to another position in the same agency at the same grade level;

(2) The special rate is the employee's rate of pay immediately before the reassignment; and

(3) The authorizing official finds that the need for the services of the employee, and the employee's contribution will be greater in the position to which reassigned. Determinations to use a special rate as a highest previous rate should be made on a case-by-case basis and must be fully documented in writing.

g.] The [maximum payable] rate rule will be controlling only where the record indicates, in the authorizing official's judgment, that the experience gained in the position on which the rate is proposed to be based was of such quality and duration that the individual's total qualifications were likely thereby to have been enhanced. The following considerations will be taken into account in making this determination:

(1) A rate received by an employee in a position from which he had been removed for inefficiency or disciplinary reasons by reassignment, reduction in grade, or separation shall not be used as basis for [a highest previous] rate determination.

(2) The employee's tenure in the position on which the [highest previous] rate is based must have been sufficient to have demonstrated his ability to perform satisfactorily at such higher grade. One year's service will be considered as a reasonable minimum. Subject to the limitations of 5 CFR [531.222], however, a shorter period may be acceptable if the factors in the individual case so warrant.

(3) Where an affirmative determination cannot be made for application of the [highest previous] rate rule, in the light of the above criteria, a salary rate shall be selected at any lower level within the grade that is not below the minimum required by law or regulation. (See, however, part III, chapter 4, paragraph 2a, regarding reassignments for disciplinary reasons or for unsatisfactory service.) The rate selected in such cases shall be that which in the authorizing official's judgment best represents equity to the employee and VA, and affords reasonable internal alignment with the rates received by other groups of employees within the installation. The basis for selection of a rate lower than the normal rate under the [maximum payable] rate rule should be documented in the individual's personnel folder.

[h.] Removal from a position for failure to satisfactorily complete the managerial/supervisory probationary period will be considered as follows:

(1) An employee who, for reasons of managerial/supervisory performance, does not satisfactorily complete the managerial/supervisory probationary period will be placed, except as provided in subparagraph (2) below, in a position of no lower grade and pay than the one the employee left to accept the managerial/supervisory position.

(2) A non-supervisory or non-managerial employee who is demoted into a position in which a probationary period is required, and who, for reasons of managerial/supervisory performance, does not complete the probationary period is entitled to be placed in a position at the same grade and pay as the position in which he or she was serving during the probationary period.

[i.] When an employee is demoted at his or her request, with the prospect of re-promotion back to the former grade as soon as possible under merit promotion rules, the appointing official will select a rate in the lower grade which upon promotion back will place the employee in a rate of the higher grade which he or she would have attained if he or she had remained at that grade. **NOTE:** *If the employee is eligible for pay retention as a result of the personnel action, the change to a lower grade is not considered to be at the employee's request.*

3. HIGHEST PREVIOUS RATE FOR FEDERAL WAGE SYSTEM (FWS) EMPLOYEES

a. A rate above the minimum rate of the grade using the principle of highest previous rate will only be approved where the record indicates that the experience in the previous position, on which the higher rate is proposed to be based, was of such quality and duration that the individual's qualifications for the position in which being placed have been appreciably enhanced. The employee's tenure in the position on which the rate is based must also have been sufficient to demonstrate ability to perform satisfactorily in that grade. Thus, except as provided in part III, chapter 3, paragraph 3, on changes to lower grade or chapter 4, paragraph 3b on reassignments, an employee is to have at least 1 year of continuous service at a particular grade to have the service considered when computing the highest previous rate.

b. The rate selected shall represent equity to the employee and VA, and afford reasonable internal alignment with rates received by similar employees at the facility.

**APPENDIX C
PAY CONVERSION INSTRUCTIONS FOR TITLE 38 STATUTORY RATES**

Subject to the provisions of 38 U.S.C. 7404(a) and (b), the rates of basic pay for personnel appointed under 38 U.S.C. 7306 or 7401(1) shall be adjusted on the effective date of a general pay increase as follows:

1. Personnel receiving a rate of basic pay immediately prior to the effective date of a general increase at one of the step rates of a grade or position on the pay schedules applicable to appointees under section 7306 or 7401(1) of title 38, U.S.C. shall receive the rate of basic pay for the corresponding numerical step rate of that grade or position which is in effect on and after the effective date of the increase. For physicians and dentists, the general increase shall only apply to the base pay rate (i.e., longevity step) and not the market pay component.
2. Rates of basic pay for temporary full-time, part-time and intermittent physicians, dentists, podiatrists, chiropractors, optometrists, PAs, and EFDAs appointed under 7405(a)(1)(A) shall be adjusted in the same manner authorized for personnel in paragraph 1 above.
3. Rates of basic pay for VHA General Schedule patient care employees receiving above-minimum entrance rates or special [] rate ranges shall be adjusted in accordance with part II, chapter 3 of this handbook.
4. The salary rate of an employee receiving a retained rate of pay under part III, chapter 6, paragraph 6, shall be increased as described therein, specifically, by 50 percent of the increase in the maximum rate of the [highest applicable rate range for the] grade. In computing the new rate, fifty cents or more shall be rounded to the next higher dollar amount.

APPENDIX D

AUTHORIZING INDIVIDUAL APPOINTMENTS ABOVE MINIMUM RATE OF GRADE UNDER 5 U.S.C. 5333 [] AND PART II, CHAPTER 3, PARAGRAPH 4 OF THIS HANDBOOK

1. Requests for approval of an appointment above the minimum rate under this authority must meet all of the requirements of this paragraph and must also satisfy the provisions of 5 CFR [531.212].
2. Requests for centralized positions will be forwarded through organizational channels and the Office of Human Resources Management ([OHRM]) (055) for technical review and concurrence prior to submission to the approving official.
3. For Central Office positions, requests for approval will be submitted through organizational channels to the Central Office Human Resources Service (05HRS) for technical review and concurrence prior to submission to the approving official.
4. Justification for all appointments above the minimum rate of the grade will at a minimum, include:
 - a. A description of recruitment efforts used and/or the likelihood of finding candidates from additional recruiting;
 - b. A description of the candidate's superior qualifications or the special need for the candidate's skill and a comparison of the candidate's skills to those of other available applicants (e.g., the candidate's educational attainment, specific training, extensive knowledge and experience directly related to the duties of the position which materially exceed the qualifications of other candidates or which other candidates lack);
 - c. Documentation of the candidate's existing pay or current job offers (e.g., copies of current pay voucher or written job offers);
 - d. Explanation of how the proposed rate was determined to be appropriate (e.g., whether based on candidate's unique qualifications for job, existing pay, or competing job offers);
 - e. The reasons for authorizing an advanced rate instead of, or in addition to, a recruitment incentive;
 - f. A copy of the position description[; and
 - g. Other relevant factors used to determine pay rates such as contained in 5 CFR 531.212(c).]
5. The facility HRMO or the Director, Central Office Human Resources Service (05HRS), as appropriate, shall maintain a case file for each action which will contain the information required in paragraph 4, above and a copy of the local or Central Office approval. Files will be retained for two years.
6. A copy of the approval shall be filed on the right side of the employee's personnel folder.

PAY ADMINISTRATION

PART III. PAY SETTING COINCIDENT WITH
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CHAPTER 2. PROMOTIONS/ADVANCEMENTS

1. ADVANCEMENTS FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401

a. **Promotion of Podiatrists, Chiropractors, Optometrists, Physician Assistants (PAs) and Expanded Function Dental Auxiliaries (EFDAs).** Podiatrists, chiropractors, optometrists, PAs and EFDAs appointed under 38 U.S.C. 7401(1) shall receive, upon promotion, the lowest step rate within the higher grade that exceeds his or her existing step rate by not less than two step increases of the lower grade. [The same instructions regarding geographic conversion and calculating promotions using the standard and alternate methods, which are contained in paragraph 3a of this part apply when calculating promotion actions for podiatrists, chiropractors, optometrists, physician assistants and EFDAs.]

NOTE: *Physicians and dentists appointed under 38 U.S.C. 7401(1) are not subject to promotion rules as these are single grade occupations. See paragraph 15, part IX of this handbook for changes in assignment for physicians and dentists.*

b. **Promotion of Hybrid Employees.** Employees in occupations listed under 38 U.S.C. 7401(3) who are promoted to a higher grade will have their pay set in accordance with 5 [CFR 531.214], unless they are entitled to a higher rate of pay under the provisions of part II, chapter 4, paragraph 2, or the grade and pay retention provisions of part III, chapter 6 of this handbook and 5 CFR, part 536. [See paragraph 3a of this part for instructions on geographic conversion, and the alternate and standard methods for calculating promotions.]

NOTE: *Refer to chapter 4 of this part and part IX of this handbook for assignment changes for personnel appointed under 38 U.S.C. 7306 and 7401.*

(c) **Promotion of Nurses and Nurse Anesthetists.** Except as provided in subparagraphs 1c(1),(2), and (3), nurses and nurse anesthetists promoted shall receive basic pay at the lowest rate of the higher grade which exceeds the employee's existing rate of basic pay by not less than two step increments of the grade from which promoted, unless pay retention rules apply (see par. [7] of chapter 6, this part).

(1) **Promotion Simultaneous with Reassignment or Transfer to Another VA Facility.** Nurses or nurse anesthetists promoted effective the same date they are reassigned or transferred to another VA facility shall have their promotion calculated using the pay schedule of the losing location. Once the new grade and step rate are determined, the employee's salary rate is determined under the provisions in par. 1c(2) of chapter 4, this part.

(2) **Head Nurses**

(a) A head nurse promoted to a non-head nurse assignment receives the lowest step in the higher grade that equals or exceeds his or her existing rate of basic pay (excluding head nurse pay) by not less than two steps of the grade from which promoted. For example, a head nurse at Nurse II, step 7 (which includes the two additional steps for being a head nurse) would first have the 2 steps removed, then receive a two-step promotion and be placed on the lowest step in Nurse III that equals or exceeds Nurse II, step 7.

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(b) The entitlement of head nurses promoted while remaining in a head nurse assignment will be determined as follows:

1. Remove the additional two steps for the head nurse assignment. **NOTE:** *These steps will be returned to the employee after calculating the promotion.*

grade which equals or exceeds the employee's existing rate of basic pay (including the higher rate based on specialized skills) by not less than one step increment within the grade from which promoted.

Example: An employee at Nurse I, step 5, based on possession of specialized skills receives the lowest step of Nurse II that equals or exceeds Nurse I, step 6.

(4) **Promotion Simultaneous with Placement on a Specialty Schedule.** Nurses or Nurse Anesthetists promoted effective the same date they are assigned to a specialty schedule shall have their promotion calculated using the pay schedule to which assigned immediately prior to the promotion. Once the new grade and step are determined, the employee is then placed at the same grade and step on the specialty schedule.

d. **Advancement of Nurses and Nurse Anesthetists to a Higher Level Upon Attainment of Additional Qualifications**

(1) Nurses and Nurse Anesthetists advanced to a higher level within Nurse I will receive two steps or be placed at the first step of the appropriate level, if that step is greater. However, except as noted for head nurses in chapter 8 of this part, no advancement may exceed the maximum authorized step of the grade. For example, an employee in Level 1 of Nurse I who is at step 1 would be advanced two steps upon attaining the qualifications for Nurse I, Level 2; however, the employee would be advanced to the beginning step of Level 2 if the beginning step of Level 2 is higher than step 3 of the grade.

(2) Advancement based on the attainment of a higher level in Nurse I is an equivalent increase and will cause the employee to begin a new waiting period for a PSI.

(3) Employees who are advanced to a higher level based upon attainment of additional qualifications effective the same date that they are reassigned or transferred to another VA facility shall have their advancement calculated using the pay schedule of the losing location (i.e. advanced two steps or to the first step of the next higher level, whichever is greater). Once the new grade and step rate is determined, the employee's salary rate is determined under the provisions in paragraph 1c(2) of chapter 4, this part.

2. PROMOTIONS FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7405. Upon promotion under 38 U.S.C. 7405, the pay of part-time and intermittent podiatrists, chiropractors, optometrists, nurses, PAs, and EFDAs shall be determined by the Under Secretary for Health in a manner consistent with paragraph 1 of this chapter.

NOTE: Refer to [subparagraph 3a below for information on calculating] promotions involving special rates.

3. PROMOTIONS FOR POSITIONS SUBJECT TO 5 U.S.C, CHAPTER 51

a. **Promotion.** On promotion, including transfer with promotion, an employee's salary will be set in accordance with the following mandatory provisions of 5 [CFR 531.214] or the provisions of this handbook regarding the application of the [highest previous] rate rule. [The following pay setting methods will apply:

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(1) **Geographic Conversion.** Geographic conversion ensures that an employee whose official worksite is moved to a new location receives the same rate of pay as an employee at the same grade and step who was already stationed at the new location and who undergoes the same pay actions. When an employee's official worksite is changed to a new location where different pay schedules apply, the employee's pay must be converted to the new pay schedule before processing any simultaneous pay action (other than a general pay adjustment). The employee's rate is converted to the corresponding rate on the pay schedule that would apply to the employee's existing position of record if he or she were stationed at the new official worksite. The resulting rate is then used as the existing rate of pay in effect when processing a subsequent promotion action. A reduction in an employee's payable rate of basic pay as a result of geographic conversion is not a basis for pay retention.

(2) **Standard Method.** This method of calculating a promotion is used when an employee is covered by the same pay schedule before and after promotion. The standard method will also be used when different pay schedules apply before and after promotion, if this method produces a higher result than the alternate method. The steps for the standard method are as follows:

(a) If applicable, apply geographic conversion and any simultaneous within grade increase or quality step increase. Using the rate determined by geographic conversion or the employee's current rate of pay (if geographic conversion does not apply) identify the employee's existing underlying rate in the grade and increase that rate by two within grade increase amounts for that grade (i.e. the regular 2-step promotion rule);

(b) Add any locality pay or special rate supplement based on the employee's position of record before promotion and official worksite after promotion - this determines the highest payable rate of basic pay in calculating the promotion. If the rate determined in subparagraph (2)(a) above is higher than the maximum rate of the grade, add the same locality pay percentage or special rate supplement that applies to rates within the rate range;

(c) Identify the highest applicable rate range (locality pay schedule or special rate schedule) for the employee's position of record after the promotion and find the lowest step rate in that range that equals or exceeds the rate determined in subparagraph (2)(b) above. This is the employee's payable rate of basic pay upon promotion.

NOTE: *The standard method will always apply to an employee being promoted to a higher grade in a different locality pay area when special rates are not involved. Since geographic conversion is performed before the promotion action, the same pay schedule applies before and after promotion.*

(3) **Alternate Method.** This method is used if the employee is covered by different pay schedules before and after promotion OR if the alternate method produces a higher payable rate upon promotion than the standard method. The steps for the alternate method are as follows:

(a) If applicable, apply geographic conversion and any simultaneous within grade or quality step increases. Using the rate determined by the geographic conversion or the employee's current rate (if

geographic conversion does not apply) identify the employee's existing base rate in the grade before the promotion and increase that rate by two within grade increase amounts for that grade (i.e., the regular 2-step promotion rule);

(b) Add any locality pay or special rate supplement based on the employee's position of record before promotion and the official worksite after promotion – this determines the highest payable rate of basic pay in calculating the promotion. If the rate determined in subparagraph (3)(a) above is higher than the maximum rate of the grade, add the same locality pay percentage or special rate supplement that applies to rates within the rate range;

(c) Identify the highest applicable rate range (locality pay or special rate) for the employee's grade after promotion based on any pay schedule that applied to the employee's position before promotion and find the lowest step that equals or exceeds the rate determined in subparagraph (3)(b) above. Do not consider pay schedules that apply only to the employee's new position of record. For example, if a special rate only applies to an employee's position after promotion, disregard that special rate schedule in applying this step;

(d) If the rate determined in subparagraph (3)(c) above is higher than the maximum range of the grade, use the same locality pay percentage or special rate supplement that applies to rates within the rate range;

(e) Convert the lowest step rate identified in subparagraph (3)(c) above to the corresponding step rate in the highest applicable rate range for the employee's new position of record after promotion. This step rate is the employee's alternate payable rate of basic pay upon promotion.]

b. Re-promotion. On re-promotion to a grade which an employee previously has held in VA, or to an intervening grade, his or her salary rate will be determined consistent with the provisions of subparagraph a above, or consistent with the [highest previous] rate rule, if appropriate, whichever results in the higher rate. The limitations in part II, chapter 4, paragraph 2b, on consideration of prior VA service shall not apply to these re-promotions. If application of the [highest previous] rate rule is not appropriate under the criteria specified, the salary shall be set at any lower step rate not less than the minimum required by subparagraph a above. If the re-promotion is to a grade not previously held in VA, or to an intervening grade, the salary shall be set based on the considerations specified in chapter 4, paragraph 2c of this part, applicable to transfers.

NOTE: Refer to [subparagraph 3a of this chapter] for promotions involving special rates.

[c. **Simultaneous Pay Actions.** Simultaneous pay actions will be processed in the following order:

(1) Process general pay adjustments such as an annual adjustment to the General Schedule under 5 U.S.C. 5305, any adjustment in special rates, or an adjustment of a locality pay percentage;

(2) Apply geographic conversion, if applicable;

(3) Process any within grade increase or quality step increase to which the employee is entitled;

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(4) Process any promotion action using either the standard or alternate method, as appropriate; and

(5) Except as provided above, process individual pay actions that take effect at the same time in the order that gives the employee the maximum benefit.]

4. PROMOTIONS FOR EMPLOYEES IN POSITIONS UNDER THE FWS

a. Upon promotion, an employee is entitled to the lowest scheduled rate of the grade to which promoted which exceeds his or her existing scheduled rate of basic pay (including a retained rate or a rate being received on a temporary promotion) by at least 4 percent of the representative rate of the grade from which promoted (5 CFR 532.407). **NOTE:** *Fractions of less than 1 cent may not be rounded down if it would result in an increase of less than 4 percent. Unpublished Comp. Gen. B-205372, July 23, 1982.*

b. If, upon promotion, there is no rate in the grade to which promoted which meets the above requirements, the employee shall be paid the maximum rate of the grade to which promoted or his or her existing scheduled rate of basic pay if that rate is higher.

c. When a promotion is to a different wage area, the employee's entitlement to pay will be determined as if there were two pay actions--a promotion and reassignment--and these actions will be processed in the order which gives the employee maximum benefit.

d. When promoted, an employee may be given a higher rate under the provisions of part II, chapter 4, paragraph 3 or part III, chapter 6, if it would result in a higher rate than would otherwise result from applying the provisions of this chapter.

[5. DEFINITIONS

a. **Geographic Conversion.** The process by which an employee's rate of basic pay must first be converted to a corresponding rate on the pay schedule that would apply to the employee's existing position of record if he or she were stationed at a new official worksite. No other simultaneous pay change is considered until after the geographic conversion takes place. Examples of geographic conversion may be found in Appendix III-B.

b. **Official Worksite.** The location of an employee's position of record where the employee regularly performs his or her duties, or, if the employee's work involves regular travel or the employee's work location varies on a daily basis, where his or her work activities are based, as determined by the supervisor. The official worksite must be documented on the employee's SF-50. Information on determining the official worksite for an employee on a telework agreement can be found in part III, chapter 9 of this handbook.

c. **Payable Rate of Basic Pay.** The highest rate of basic pay to which an employee is entitled based on the employee's position of record, official worksite, grade and step, or if applicable, a retained rate. Payable rate of basic pay includes a locality rate, or special rate supplement.

d. **Position of Record.** An employee's official position defined by grade, occupational series, employing agency, Law Enforcement Officer (LEO) status, and any other condition that determines coverage under a pay schedule (other than the official worksite). The position of record is documented on the employee's most recent Notification of Personnel Action, Standard Form 50, or equivalent, and current position description. This excludes any position to which the employee is temporarily detailed.

e. **Special Rate Supplement.** The portion of a special rate paid above an employee's underlying rate after applying any applicable pay limitation.]

CHAPTER 3. CHANGE TO LOWER GRADE

1. CHANGE TO LOWER GRADE FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401. In any voluntary movement to a lower grade, the employee's salary rate may be set by the approving authority at any rate within the range of rates for the new grade which does not exceed the highest previous rate ([maximum payable] rate rule). This shall be the employee's rate unless a higher rate is authorized under part II, chapter 2, subparagraphs 1a(5) and (6) or 1c of this handbook. [Podiatrists, chiropractors, optometrists, physician assistants (PAs) and expanded function dental auxiliaries (EFDAs) are subject to geographic conversion if the employee's official worksite after demotion is in a different geographic location where different pay schedules apply. See paragraph 2 of this chapter for information regarding geographic conversion.]

NOTE: *Physicians and dentists appointed under 38 U.S.C. 7401(1) are not subject to change to lower grade rules as these are single grade occupations. See paragraph 15, part IX of this handbook for changes in assignment for physicians and dentists.*

2. CHANGE TO LOWER GRADE FOR POSITIONS PAID FROM THE GENERAL SCHEDULE. The [highest previous] rate rule is for application in changes to lower grade. The [highest previous] rate rule criteria shall be considered to be met when employee is to be involuntarily changed to a lower grade for non-disciplinary reasons. This will obviate the necessity for consideration of entitlement to pay retention, except where the existing salary rate of the employee is in excess of the maximum scheduled rate of the [highest applicable rate range for the] lower grade to which he is being reduced. [When an employee's official worksite is changed to a new location upon a change to lower grade, the facility must first apply geographic conversion to determine the employee's payable rate upon demotion. See chapter 2, paragraph 3(a)(1) of this part for information on applying geographic conversion.] See chapter 6 of this part for information on grade and pay retention. [Examples of geographic conversion may be found in Appendix III-B.]

3. CHANGES TO LOWER GRADE FOR EMPLOYEES IN POSITIONS UNDER THE FWS

a. Except as provided in paragraph b below, an employee changed to a lower grade may be paid at any rate of the grade, which does not exceed his or her highest previous rate.

b. An employee changed to a lower grade following an action which conveys entitlement covered by pay retention (see chapter 6 of this part) is entitled to the lowest scheduled rate of basic pay in the employee's grade after the action is taken which equals or exceeds his or her current rate of basic pay. If there is no such rate, the employee is entitled to retain his or her existing rate of basic pay or 150 percent of the maximum rate of basic pay for the grade after the action is taken, whichever is less. See chapter 6 of this part for additional guidance on grade and pay retention.

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NOTE: *Promotion or advancement upon transfer or reassignment is considered one action and shall not be processed as simultaneous pay changes.*

(e) **Disciplinary Action.** An employee who is transferred or reassigned pursuant to a disciplinary action may be placed at the same or reduced grade, step, or level.

d. **Conversion from other Pay Systems.** Refer to part II, chapter 2 for pay setting involving initial appointment under title 38.

2. PERSONNEL IN POSITIONS SUBJECT TO 5 U.S.C., CHAPTER 51

a. **Reassignments.** [When an employee is moved from one General Schedule position to another General Schedule position without a change in grade, the facility must first determine the employee's payable rate of basic pay and underlying rate of basic pay based on the employee's new position of record, new official worksite, and the step (or rate) in effect before the position change. Geographic conversion is required when an employee is reassigned to a new official worksite where different pay schedules apply and the employee receives the payable rate of basic pay for the new position of record for the new official worksite. If the employee is eligible for a higher rate of pay under the maximum payable rate rule found in 5 CFR 531.221, the employee may receive a higher rate of pay. Refer to part II, chapter 4 for pay setting involving highest previous rate]. In all cases where the reassignment is for disciplinary reasons or for unsatisfactory service – whether or not salary retention is involved – the salary will be adjusted to a step within the grade, which does not exceed the employee's current salary on the day preceding the reassignment. The step rate selected shall be that which in the authorizing official's judgment is appropriate in recognition of the circumstances resulting in the reassignment[, subject to geographic conversion requirements, if applicable. Examples of reassignments, including movements to and from special rates, may be found in Appendix B].

b. **Re-employments and Reinstatements.** The [highest previous] rate rule, if appropriate under the criteria established, shall be applied in effecting re-employments in cases other than those cited in paragraph 6 below. However, the limitations of part II, chapter 4, paragraph 2b, on consideration of prior service and non-VA service shall apply. Where application of the [highest previous] rate rule is not appropriate, a lower rate within the [highest applicable rate range for the] grade shall be selected, based on consideration of the individual's pertinent employment history, the recency of experience, quality of performance, and other factors which bear on his qualifications for the position in which re-employed. This consideration shall be related to the need for reasonable organizational pay alignment.

c. **Transfers**

(1) Consistent with the limitations of non-VA service, set forth in part II, chapter 4, paragraph 2b, the [highest previous] rate rule will not routinely be applied in effecting transfer from another agency or branch of the Federal Government, whether by promotion, or change to lower grade, or otherwise. **NOTE:** *See chapter 2 of this part, however, for mandatory adjustments on promotion actions.* Rather, the rate to be selected within the grade shall be that which in the authorizing official's judgment best represents equity to the employee and to VA, taking into account the individual's qualifications as related to those possessed by

other VA employees with whom he may work. The highest previous rate, if otherwise appropriate in the judgment of the authorizing official, shall be selected only if the service in which it was received meets the length and quality criteria specified in subparagraph d above.

(2) If sufficient data are not available to permit the making of a salary determination, the salary will be established initially at the lowest clearly appropriate rate of the grade. The following statement will be placed in the "Remarks" space of SF 50-B: "Pay rate subject to retroactive adjustment upon verification of prior Federal service."

3. PERSONNEL IN POSITIONS UNDER THE FWS

a. **General.** Subject to the provisions of chapter 6 of this part on grade and pay retention and paragraph 6 of this chapter on mandatory restoration, when an employee is re-employed, transferred, or reassigned in a position under the FWS, the salary may be set at any step rate of the grade which does not exceed the highest previous rate; however, if the highest previous rate falls between two step rates, the employee may be paid at the higher step rate. If the highest previous rate was earned on a General Schedule or another pay system other than the Federal Wage System, it is the current rate for the same grade and rate of that schedule.

b. **Reassignment.** When employees are reassigned to another position, they may be paid a rate above the minimum rate of the grade under the provisions of subparagraph a above and part II, chapter 4, of this handbook. However, employees will be given the lowest step rate of the grade, which equals or exceeds their current rate of basic pay if they are involuntarily reassigned by management for reasons which are not related to discipline or performance.

c. **Transfer and Reemployment.** A rate above the minimum of the grade may be approved under the provisions of part II, chapter 3, paragraph 5 and chapter 4, paragraph 3 of this handbook. The rate selected, however, will be that which represents organizational pay alignment, taking into account the candidate's qualifications compared to those possessed by similar employees with whom he or she may work.

4. SETTING RATES OF PAY FOR MOVEMENTS FROM NON-GENERAL SCHEDULE POSITIONS TO GENERAL SCHEDULE POSITIONS

a. The provisions of 5 CFR [531.221], permitting the use of the highest previous rate (maximum payable rate) in salary adjustments, apply equally to changes to General Schedule positions from non-General Schedule positions. Because of the difficulty of equating levels of work with salary levels for the many possible types of non-General Schedule positions, however, VA policy does not vest the right in an employee to receive the highest previous rate on such movements.

b. The determination of the rate the person will receive--up to and including the highest previous rate--shall be within the discretion of the appropriate appointing official, subject to limitations imposed by statute, Office of Personnel Management regulations and decisions of the Comptroller General. The rate shall be equitable for the employee in consideration of the length and quality of his prior Federal

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employment other than in a General Schedule position. However, it shall be so fixed as to hold to a minimum inequities that might otherwise be produced in relation to rates received by other employees in the organization. Authorizing officials should be especially alert to the possibility of such inequities when considering rates attained in positions that are based on locally prevailing rates or that are otherwise administratively determined.

c. The nature of the action for changes from non-General schedule positions to General Schedule positions shall be determined in accordance with the definitions in 5 CFR [531.203]. A comparison of

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representative rates shall not be used to make such determinations. Salary adjustments or changes from FWS to General Schedule positions shall be accomplished in accordance with instructions contained in 5 CFR, parts 531 and 536, this chapter and chapter 6 of this part. **NOTE:** *When an employee moves from a position in which he or she is paid an hourly rate of basic pay to a position covered by the General Schedule salary system, it is necessary to establish an equivalent annual rate for pay administration purposes. To do this, multiply the employee's hourly rate of basic pay by 2087. The 2087 multiplier is also to be used to determine an hourly rate employee's retained rate if he or she is entitled to pay retention as a result of his or her movement to a position covered by the General Schedule salary system.*

5. SETTING RATES OF PAY FOR MOVEMENTS BETWEEN PAY SYSTEMS, WAGE SCHEDULES AND WAGE AREAS. For movements to FWS positions, between wage schedules and between different wage areas, a comparison of the representative rates will be made to determine the nature of these actions where different types of wage schedules are involved, whether in the same or different wage areas. The representative rate is also used to determine the nature of the job change when an employee moves to the FWS. To determine the nature of a personnel action, i.e., whether it is a promotion, reassignment, transfer, change to lower grade, etc., refer to the applicable definitions in 5 CFR 532.401 or the FWS Operating Manual, section S8-2.

6. MANDATORY RESTORATION AFTER MILITARY SERVICE OR COMPENSABLE WORK INJURY (5 CFR 353). Personnel entitled to restoration to duty may have their pay rate set at any rate that does not exceed their highest previous rate. However, as a minimum, they shall receive the rate to which they are entitled under 5 CFR 531.406(c). The highest previous rate rule shall also be applied in effecting mandatory restorations and re-employments of former VA employees from a VA reemployment priority list.

7. SIMULTANEOUS PAY CHANGES. [Simultaneous pay actions will be processed in the following order:

- (1) Process general pay adjustments such as an annual adjustment to the General Schedule under 5 U.S.C. 5305, any adjustment in special rates, or an adjustment of a locality pay percentage;
- (2) Apply geographic conversion, if applicable;
- (3) Process any within grade increase or quality step increase to which the employee is entitled;
- (4) Process any promotion action using either the standard or alternate method, as appropriate; and
- (5) Except as provided above, process individual pay actions that take effect at the same time in the order that gives the employee the maximum benefit.]

CHAPTER 5. WITHIN GRADE INCREASES AND PERIODIC STEP INCREASES**1. PERIODIC STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7401**

a. **General.** Periodic step increases may be granted to any optometrist, chiropractor, podiatrist, nurse, PA or EFDA who is receiving less than the maximum rate of his or her grade. That employee shall be advanced to the next higher step rate within such grade subject to meeting the eligibility requirements and waiting periods listed below. Step increases for hybrid employees in occupations listed under 38 U.S.C. 7401(3) shall be made under the provisions of the General Schedule salary system and the provisions of paragraph 5 of this chapter.

NOTE: *Longevity step increases for physicians and dentists appointed under 38 U.S.C. 7306 and 7401 shall be determined under paragraph 8, part IX of this handbook.*

b. **Conditions of Eligibility for a Periodic Step Increase (PSI).** A PSI will be granted when:

- (1) An employee's work is of an acceptable level of competence;
- (2) No "equivalent increase" in compensation was received during the period under consideration; and
- (3) The benefit of successive step increases shall be preserved for any person whose continuous service is interrupted by active military duty.

c. **Waiting Period.** The minimum time requirement of creditable service without an equivalent increase is either 52 or 104 weeks of creditable service as indicated below:

- (1) Physicians, dentists, podiatrists, chiropractors, optometrists - upon completion of a 104-week waiting period.
- (2) PAs and EFDAs at step 1 or 2 on the *regular* rate range of Junior or Associate grade-upon completion of a 52-week waiting period.
- (3) PAs and EFDAs (including *any* PA or EFDA on an above-minimum entrance rate or special [] rate range)-upon completion of a 104-week waiting period.
- (4) Nurses and Nurse Anesthetists in grade Nurse I, Level 1 at steps 1 through 3 of the grade - upon completion of 52 calendar weeks of creditable service.
- (5) Nurses and Nurse Anesthetists in grade Nurse I, Level 1 at steps 4 and higher of the grade - upon completion of 104 calendar weeks of creditable service.
- (6) Nurses and Nurse Anesthetists in grade Nurse I, Level 2 at steps 1 through 3 of the level - upon completion of 52 calendar weeks of creditable service.

(3) Leave without pay not to exceed in total 30 calendar days for podiatrists, chiropractors, and optometrists; 176 hours for PAs and EFDAs within the period required for one periodic step increase; 80 hours for nurses and nurse anesthetists when the waiting period is 52 calendar weeks and 160 hours when the waiting period is 104 weeks. The number of hours of LWOP taken by nurses on the Baylor Plan shall be multiplied by 1.667 when determining creditable service.

(4) Except as provided in subparagraph (7) below, paid employment on a full-time, part-time, or intermittent basis under the authority of 38 U.S.C. 7401(1), or 7405(a)(1)(A) rendered prior to a non-pay period (including separation), provided that such non-pay period did not exceed 52 calendar weeks.

(5) Active military duty when otherwise creditable service is interrupted.

(6) Any period of 120 calendar days or less between discharge or termination of active military service and re-employment under mandatory provisions of any statute or regulation.

(7) Actual service rendered prior to an extended absence on leave without pay, regardless of the length of such absence, which is due to injury or illness incurred as a direct result of employment.

(8) Leave of absence granted to an employee who is receiving compensation for work injuries under 5 U.S.C. chapter. 81.

f. **Equivalent Increase in Compensation.** The total of any increase or increases in basic compensation (except general increases in basic compensation provided by statute) which is equal to the smallest step increase in any grade in which the employee has served during a period under consideration constitutes an equivalent increase. Instructions regarding equivalent increase determinations, when above-minimum entrance rates or special [] rate ranges are approved, are contained in chapter 7 of this part.

g. **Effective Date.** Periodic step increases shall be made effective at the beginning of the next pay period following the completion of the required waiting period and compliance with other required conditions of eligibility. When a step increase is delayed beyond its proper effective date solely through an administrative error or oversight, the step increase shall be made retroactively effective as of the date it was properly due. When employees are promoted in grade on the date of a periodic step increase, they shall first be credited with the periodic step increase, then promoted.

h. **Effect of Special Advancements on Waiting Periods.** Special advancements for performance or achievement for personnel appointed under 38 U.S.C. 7401, except physicians and dentists, are not considered equivalent increases under paragraph 5, subparagraph f below. However, these increases and advancements may place an employee in a waiting period that requires an additional 52 calendar weeks of creditable service before the employee is entitled to receive his or her next within-grade increase. Physicians and dentists appointed under 38 U.S.C. 7401 are not covered under the provisions of special advancements for performance or achievement.

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2. PERIODIC STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7405

a. **General.** Temporary full-time, part-time and intermittent optometrists, chiropractors, podiatrists, nurses, PAs, and EFDAs shall be granted periodic step increases under the same provisions applicable to full-time employees appointed under 38 U.S.C. 7401, except as provided in subparagraphs b and c. Step increases for hybrid employees in occupations listed under 38 U.S.C. 7401(3) shall be made under the provisions of the General Schedule salary system and the provisions of paragraph 5 of this chapter.

NOTE: *Longevity step increases for physicians and dentists appointed under 38 U.S.C. 7405 shall be determined under paragraph 8, part IX of this handbook.*

b. Waiting Period Requirements for Intermittent Employees

(1) 260 days of creditable service in a pay status over a period of not less than 52 calendar weeks, for advancement of intermittent PA's and EFDAs to steps 2 and 3 on the regular range of Junior and Associate grades.

(2) 520 days of creditable service in a pay status over a period of not less than 104 calendar weeks, for advancement of intermittent podiatrists, chiropractors, and optometrists to step 2 and above for all grades, and all intermittent PAs and EFDAs, except those in subparagraph (1) above. This includes any PA or EFDA on an above-minimum entrance rate or special [] rate range.

c. **Leave Without Pay Service Credit for Part-Time Employees.** In computation of the waiting periods for part-time employees, leave without pay may be credited in an amount not to exceed 22 workdays within the period of service required for one periodic step increase.

d. **Within-Grade Increases for Medical Support Personnel Serving Under 38 U.S.C. 7405(a) (Other Than Trainees or Students).** Employees covered by this subparagraph who are appointed for a period in excess of one year are eligible for within grade increases, i.e., if they are given a 2-year or 3-year appointment. Employees given appointments of one year or less are not eligible for within-grade increases.

e. **Trainees and Students Serving Under 38 U.S.C. 7405.** These employees are paid either on a per annum training rate basis or a stipend basis and are ineligible for within-grade increases.

3. ADMINISTRATIVE STEP INCREASES FOR PERSONNEL APPOINTED UNDER 38 U.S.C. 7306

a. For positions at or below Service Director grade for which a range of rates is provided, an administrative pay increase to the next higher step rate available for use shall be granted upon completion of 104 weeks of service at the lower rate within the grade. This provision does not apply to a nurse appointed under this authority, whose pay will be set and adjusted under the provisions of the Nurse Locality Pay System and the following subparagraph.

b. Nurses appointed under 38 U.S.C. 7306 shall receive advancements within the grade in the same manner as described in paragraph 1, for nurses appointed under 38 U.S.C. 7401.

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, 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 [position subject to the Federal Wage System], as indicated [] 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 [536.201] 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 [536.203] to be eligible for grade retention [].

b. Under the provisions of 5 CFR [536.202], 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 reclassification decision announced by management in writing. To be eligible for grade retention under 5 CFR [536.202], 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 [536.203]. The following documentation is required when applying grade retention under this chapter:

(1) If the employee accepts an offer under this chapter, the following information will be documented in his/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;

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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/she will remain in his/her position unless otherwise reduced under one of these procedures.

[c. Under the provisions of 5 CFR 536.206 when an employee becomes entitled to grade retention, or becomes covered by one or more different pay schedules (due to a change in the employee's position, a change in the employee's official worksite, or the establishment of a new pay schedule) during a period of grade retention, the facility must determine the employee's rate of basic pay under grade retention as follows:

(1) Pre-existing rate within a range. If an employee is entitled to a rate of basic pay within the applicable rate range before the action which results in grade retention, the employee is entitled to the rate of basic pay in the applicable pay schedule for the employee's position of record which correspond to the employee's grade and step (or rate) immediately before the action. The employee's payable rate is the corresponding rate in the highest applicable rate range for the new position of record. If an employee's rate of basic pay otherwise would be reduced because of placement under a lower-paying pay schedule (excluding any reduction that results from geographic conversion), the employee would be eligible for pay retention.

(2) Pre-existing retained or saved rate. If an employee is entitled to a retained rate immediately before the action which results in grade retention, the facility must determine the employee's payable rate of basic pay using the pay retention provisions in subparagraph 3d below.

NOTE: *Refer to Appendix III-B for examples involving grade retention.*]

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 [536.301].

b. Under the provisions of 5 CFR [536.302], 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 [subparagraph 3a] 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/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 change to lower grade is initiated by the employee, for his or her personal advantage, 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/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.*

[d. **Pay Administration**

(1) **General**

(a) When an employee becomes entitled to pay retention or an employee changes his or her position of record while receiving a retained rate, the employee's retained rate of pay will be determined as follows:

1. Process any general pay adjustment that takes effect on the same date;
2. Apply geographic conversion to determine the employee's existing payable rate of pay if the official worksite is also changing (see subparagraph (2)(a) below);
3. 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, the employee is entitled to the lowest rate of pay that equals or exceeds the employee's existing payable rate of basic pay. (If the employee is currently on pay retention, the pay retention would be terminated).
4. 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 held, the employee is entitled to a retained rate equal to the employee's existing rate of basic pay.

(b) A retained rate may not exceed:

1. 150 percent of the maximum payable rate of basic pay for the highest applicable rate range for the grade of the employee's position of record; or
2. The rate for Level IV of the Executive Schedule.

(c) If an employee receiving a retained rate of pay changes positions or pay schedules, the pay retention entitlement must again be determined as described in the steps above. If the employee's pay system is not changing but the employee is promoted to a higher grade, the facility must first apply the applicable promotion rules to determine the employee's payable rate of basic pay. If the resulting rate is equal to or greater than the existing retained rate, pay retention is terminated. If the resulting rate is less than the existing retained rate, the employee continues to be entitled to the existing retained rate.

(2) **Determining a Retained Rate Upon Change in Worksite**

(a) When an employee is receiving a retained rate and the employee's official worksite is changed to a new location where different pay schedules apply, the facility must apply the following rules to determine the converted retained rate that will then be used as the existing retained rate, and for determining the employee's pay retention entitlement in the new position:

1. Identify the maximum rate for the highest applicable rate range for the employee's former position based on the former official worksite;

2. Identify the maximum rate for the highest applicable rate range that applies to the employee's former position of record if the employee were stationed at the official worksite for the new position of record;

3. Divide the maximum rate at the new official worksite, identified in subparagraph (a)2 above, by the maximum rate of the former worksite, identified in subparagraph (a)1 above and round the result to the fourth decimal point;

4. Multiply the factor resulting in subparagraph (a)3 by the employee's former retained rate and round to the nearest whole dollar. This becomes the employee's converted retained rate at the new location.

(b) Refer to Appendix III for examples of pay retention calculations.

(3) **Adjusting a Retained Rate.** When the maximum rate of the highest applicable rate range is increased while an employee is on pay retention, the employee is entitled to 50 percent of the amount of the increase in the maximum rate in the range, not to exceed Level IV of the Executive Schedule. The 50 percent adjustment rule only applies when the maximum rate increases, such as a statutory pay increase, or when a new pay schedule that covers the employee's position of record is established or increased. If at any time the new adjusted retained rate is equal to or lower than the maximum rate of the highest applicable rate range for the grade of the employee's position, pay retention is terminated.]

4. [PAY RETENTION FOR TITLE 38 (OTHER THAN NURSES, PHYSICIANS AND DENTISTS)]

a. [Coverage

(1) Employees appointed under or moving into physician assistant, optometrist, podiatrists, chiropractor and expanded function dental auxiliaries positions appointed under the provisions of title 38 U.S.C. 7306, 7401(1) and 7405(a)(1)(A), 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 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.

(c) 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) (other than nurses, physicians and dentists), 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. 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.

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NOTE: *See part IX of this handbook regarding a change in assignment and applicability of pay retention for physicians and dentists appointed under 38 U.S.C. 7306, 7401(1) and 7405(a)(1)(A).]*

b. [**Pay Administration.** [The pay administration provisions contained in subparagraph 3d of this chapter shall also apply to employees covered under subparagraph 4(a) above and must be used when employees are entitled to pay retention, and are appointed under or moving into physician assistant, optometrist, podiatrist, chiropractor or expanded function dental auxiliaries positions.]

5. [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 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 on 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.

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(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].

6. [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 536.308].

7. [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 536.402. The criteria for a reasonable offer are contained in 5 CFR 536.104.

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 for 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].

8. DOCUMENTATION. The application of the provisions of this [handbook] 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 subparagraphs 2b and 3b of this chapter and a copy of the letter [describing the circumstances which warrant the grade or pay retention and the nature of the entitlement].

9. REFERENCES

a. [5 Code of Federal Regulations, part 536].

b. [5 U.S.C. 5361-5366].

c. 38 U.S.C. 512 and 7304.

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**CHAPTER 7. PAY ADMINISTRATION FOR SPECIAL [] RATES
APPROVED UNDER 38 U.S.C. 7455****1. ABOVE-MINIMUM ENTRANCE RATES (INCLUDING ABOVE-MINIMUM ENTRANCE RATES ON A SPECIAL [] RATE RANGE)**

- a. When above-minimum entrance rates are approved or increased at a facility, the salary rates of all affected employees in the same grade whose salaries fall below such minimum shall be adjusted to that new minimum rate. For employees who receive such adjustments, such an increase is not considered an equivalent increase in compensation.
- b. Similarly, the salary rate of employees who have the same step rate as the new minimum shall be adjusted to a next higher available step rate in the grade. In this instance, the increase shall be considered an equivalent increase in compensation for all affected employees.
- c. For instructions on establishing above-minimum entrance rates, refer to part VI, chapter 6.

2. SPECIAL [] RATE RANGES

- a. If above-minimum entrance rates are not in effect, the employee shall be placed in the step rate of the special [] rate range that corresponds to his or her existing step rate before the special [] rate range was approved. (This is consistent with 5 CFR [530.322]).
- b. If employees have been subject to above-minimum rates in their current or former positions, the special [] rate shall be based on the step rate the employees would have earned without regard to above-minimum entrance rates as determined below:
 - (1) To arrive at the appropriate step rate, reconstruct the employee's employment history, disregarding the effect of above-minimum entrance rates in the current and former grades. Appropriate credit shall be given, as applicable, for quality step increases, within-grade increases, special advancements for achievement, special advancements for performance, and any periodic step increases the employee would have earned had above-minimum entrance rates not been in effect. **NOTE:** *The reconstruction is to be completed in the sequence in which it would have occurred and as if normal pay administration procedures had been applied. This includes observing appropriate waiting periods, effective dates of within-grade/periodic step increases, delays of within-grade/periodic step increase because of excessive LWOP, withheld within-grade/periodic step increases, etc.*
 - (2) The step rate selected under subparagraph 2b(1) above shall be the appropriate step rate unless the employee is eligible for a within-grade/periodic step increase under subparagraph (3) below.
 - (3) A pay increase resulting from the approval of a special [] rate range is not considered an equivalent increase in compensation. Therefore, affected employees do not begin a new waiting period toward their next within-grade/periodic step increase. **NOTE:** *If an employee was at a step rate of the grade before the special [] rate range was approved, and the employee would be reduced to a lower*

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step rate as a result of subparagraph 2b(1) above, then the employee's eligibility for a within-grade/periodic step increase must be determined. If the employee is immediately eligible for a within-grade increase, he or she shall be advanced to the applicable step rate and, if appropriate, begin a new waiting period on the effective date the special [] rate range was approved.

(4) Notwithstanding subparagraphs 2b(1) through (3) above, employees shall not have their rates of basic pay reduced as a result of the approval of special [] rate ranges. If employees' basic rates of pay would otherwise be reduced under subparagraphs 2b(1) through (3) above, the employees shall be placed in the lowest step rates of the special [] rate range which equals or exceeds their existing basic rates of pay before special [] rates were approved.

c. For instructions on establishing special [] rate ranges, refer to part VI, chapter 6.

3. REDUCED OR DISCONTINUED RATES. Employees' rates of basic pay shall not be reduced as a result of a reduced or discontinued above-minimum entrance rate or special [] rate range. If such rates are reduced or terminated, employees shall be placed in the lowest step rates of the [highest] applicable rate range which does not result in a reduction of employees' basic rates of pay. If the rates of basic pay cannot be accommodated within the rate range, employees shall be entitled to pay retention. In other words, employees shall be entitled to the rate of basic pay they received before the above-minimum entrance rate or special [] rate ranges were reduced or terminated. Then, if the scheduled rates of basic pay for the grade are increased as the result of a general pay increase, the employees shall be entitled to 50 percent of the increase in the maximum rate of the [highest applicable rate range of the] grade. Pay retention ceases whenever:

a. An employee's increased retained rate of basic pay becomes equal to or lower than the new maximum rate of the [highest applicable rate range of the] grade.

b. The employee becomes entitled to a higher rate of basic pay under this chapter.

c. The employee has a break in service of one workday or more.

d. The employee moves to a position, at his or her request, which is not covered by the above-minimum entrance rate or special [] rate range upon which entitlement to pay retention is based.

4. MOVEMENTS TO [AND FROM] POSITIONS [COVERED BY] SPECIAL RATE[S].

Information on processing promotions involving special rates can be found in chapter 2 of this part; information on processing change to lower grade actions involving special rates can be found in chapter 3 of this part; and information on processing reassignments can be found in chapter 4 of this part.]

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LLMA, all reductions or terminations must be coordinated with those affected facilities. The reduction or termination of an authorization does not affect the basic pay of employees who were receiving higher rates of pay for specialized skills before the authorization was reduced or terminated.

(2) Higher rates for specialized skills also terminate if a facility director or a group of facility directors in a given LLMA establish a specialty pay schedule or special [] rates for these employees are approved under 38 U.S.C. 7455. For example, higher rates of pay for a specialized skill (operating room nursing) would terminate if a specialty pay schedule or special [] rates were established for operating room nurses at that facility. When placing these employees on the new pay schedule or the special [] rate range, they are to be treated as if the higher rates for specialized skills had not been approved. The individual's employment history is to be reconstructed disregarding the higher rates for specialized skills, and the employee is then to be placed on the corresponding step of the new pay/special rate schedule. The reconstruction should not result in any employee losing money when placed on a specialty schedule or special [] rates. **NOTE:** *For further information about the reconstruction process, see chapter 7 of this part.* For example, if employees with the specialized skill are appointed at step 3, and a new schedule for employees with the specialized skill is established, employees at step 3 on the old schedule are to be placed at step 1 on the new schedule.

6. DETAILS AND REASSIGNMENTS

a. Details

(1) Higher rates of pay for head nurses and for specialized skills continue while the employee is detailed to another assignment. Details of individuals receiving higher rates of pay as head nurses or because of specialized skills should only be approved in emergency situations and should be kept to a minimum duration.

(2) An individual detailed to a head nurse assignment or who serves in such an assignment in an acting capacity shall receive a two-step adjustment in pay effective the beginning of the first full pay period after serving 30 consecutive days in the assignment. The higher rate of pay remains in effect only so long as the employee serves in the head nurse assignment. Upon approval of the higher pay rate, the following statement will be placed in the "Remarks" item of Standard Form SF-50, Notification of Personnel Action: "Employee informed of conditions of temporary assignment". In addition, the employee shall sign a statement of understanding regarding the higher rate of pay (see sample in app. III-A). The statement is to be filed on the right side of the employee's personnel folder.

(3) An individual detailed to an assignment with higher rates of pay for specialized skills or who serves in such an assignment in an acting capacity is not eligible for a higher rate of pay under this chapter.

b. Reassignments

(1) **Determining Pay.** Higher rates for serving as a head nurse or for having specialized skills continue in effect with respect to the employee only so long as the employee continues to serve in such an assignment at least 75 percent of their VA appointment. If an employee is reassigned to a position

[CHAPTER 9. LOCATION BASED PAY ENTITLEMENTS

1. DETERMINING AN EMPLOYEE'S OFFICIAL WORKSITE. Certain pay entitlements (locality pay, special rate supplements, and non-foreign area cost-of-living allowances) are based on the location of the employee's official worksite for their position of record. Except as provided in paragraph 2 below, the official worksite is the location of an employee's position of record where the employee regularly performs his or her duties or, if the employee's work involves regular travel or the work location varies on a daily basis, where his or her work activities are based, as determined by the employing facility. The facility must document the official worksite on the employee's SF-50, Notification of Personnel Action form.

2. TEMPORARY WORKPLACE CHANGES

a. When an employee is in a temporary duty travel status away from the official worksite, and the employee is eligible for temporary duty travel allowances such as per diem, the employee's existing location-based entitlements are not affected.

b. If an employee is temporarily detailed to a position in a different geographic area and is eligible for temporary duty travel allowances, the employee's existing location-based entitlements are not affected.

c. If an employee is authorized to receive relocation expenses under 5 U.S.C. 5737 and 41 CFR, part 302-2, subpart E, in connection with a long-term assignment (6 – 30 months), the work location for the long-term assignment is considered the employee's official worksite for pay purposes.

d. If an employee is temporarily reassigned or promoted to a position in a different geographic area, the work location for the position to which temporarily assigned is considered the employee's official worksite for pay purposes.

3. LOCATION-BASED PAY ENTITLEMENTS FOR EMPLOYEES ON A TELEWORK AGREEMENT

a. The employing facility must designate the official worksite for an employee covered by a telework agreement who works from an alternate worksite. If the employee is scheduled to report at least once a week on a regular and recurring basis to a main or reporting office, then that office must be designated as the employee's official worksite.

b. For a telework employee whose work location varies on a daily basis, the employee need not report at least once a week to the established official worksite (where the employee's work activities are based) in order for that office to be designated as the employee's official worksite, as long as the employee is performing work within the same geographic area of the main or reporting office at least once a week on a regular and recurring basis.]

[APPENDIX B. PAY SETTING EXAMPLES

1. Geographic Conversion

Special Rate to Non-Special Rate. An employee in Washington, DC transfers to a position in Pittsburgh, PA (Rest of the US)

- GS-2210-11, step 5 in Washington, DC on special rate table 999B - \$61,772
- GS-1529-11, step 5 in Pittsburgh (no special rate applies) - \$59,578

Employee is placed at step 5 (Pittsburgh locality pay chart) at \$59,578

Non-Special Rate to Special Rate. An employee in Philadelphia transfers to New York.

- GS-682-7, step 1 in Philadelphia (no special rate applies) - \$36,839
- GS-682-7, step 1 in New York (special rate table 894) - \$38,877

Employee is placed at step 1 on the New York special rate table at \$38,877

Non-Special rate to Non-Special Rate. An employee transfers from Washington, D.C. to Hampton, VA (Rest of the US).

- GS-201-12, step 1 in Washington DC (locality pay chart) - \$65,048
- GS-201-12, step 1 in Hampton, VA (locality pay chart) - \$62,291

Employee is placed at step 1 on the Hampton locality pay chart.

2. Promotion using the Standard Method

Promotion at the Same Worksite. GS-11, step 5 Program Analyst in Washington, DC (\$61,510) is promoted to a GS-12 Program Analyst in Washington, DC. Special rates do not apply at either grade.

- Apply the two-step promotion rule by adding two WGI amounts to the underlying GS rate (GS-11/5, \$52,349 + \$3,080 (\$1540 X 2) = GS-11/7, \$55,429;

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- Determine the highest payable rate of basic pay for the GS-11, step 7, by applying any locality pay or special rate supplement. In this example, the locality amount for Washington, DC provides the highest payable rate since the position is not covered by special rates. The highest payable rate is GS-11, step 7, \$65,129;

- Identify the highest applicable rate range for the GS-12. In this example, the locality pay schedule for Washington, DC is the highest applicable rate range since the GS-12 is not covered by special rates. Find the lowest step that equals or exceeds the highest payable rate as determined above (\$65,129). This would be GS-12, step 2 on the Washington, DC locality pay chart at \$67,216. The employee is placed at GS-12, step 2, \$67,216.

Promotion to a Different Worksite. A GS-5, step 7 Nursing Assistant in Houston, TX is promoted to a GS-6 Nursing Assistant in Lexington, KY. Special rates do not apply to either position.

- Apply geographic conversion to determine the rate of basic pay for the GS-5/7 Nursing Assistant position in Lexington. In this example, geographic conversion would move the employee from the GS-5/7 in Houston (\$38,208) to the GS-5/7 in Lexington (\$34,020). The standard promotion method is used because after the geographic conversion the same pay schedules apply;

- Apply the two-step promotion rule by adding two WGI amounts to the underlying GS rate (GS-5/7, \$30,235 + \$1,680 (\$840 x 2) = GS-5/9, \$31,915;

- Determine the highest payable rate of basic pay for the GS-5 by applying either locality pay or a special rate. In this example, locality pay provides the highest payable rate (GS-5/9, \$35,911);

- Identify the highest applicable rate range for the GS-6 (this would be the locality schedule for Lexington) and find the first step that equals or exceeds the highest payable rate as determined above. This would be the GS-6, step 6 on the Lexington locality pay chart = \$36,867.

Note – in this example the employee has an overall decrease in pay even though he/she is promoted to a higher grade. The decrease in pay is a result of the geographic conversion and therefore pay retention may not be authorized.

3. Promotion Using the Alternate Method

- A Therapeutic Radiologic Tech (TRT), GS-648-5/5, \$35,378 in Indianapolis covered by special rates is being promoted to a GS-6 Diagnostic Radiologic Tech (DRT) position covered by special rates. Since different pay schedules apply before and after promotion, use the alternate method to calculate the promotion

- No geographic conversion is required since both positions are located at the same facility;

- Using the underlying GS chart, increase the GS-5, step 5 base rate by two WGI amounts ($\$28,555 + \$1,680 (\$840 \times 2) = \$30,235$;

- Determine the highest payable rate of pay for the TRT, GS-5, step 7 by applying any locality pay or special rate amount. In this example, the TRT special rate (table 743) provides the highest payable rate (GS-5, step 7, \$37,058) since the locality rate for GS-5, step 7 is \$34,140;

- Identify the highest applicable rate range for the employee's grade *after* promotion (GS-6) based on consideration of the pay schedules that applied to the employee's position of record *before* promotion (TRT). In this example, the special rate table for TRT provides the highest rate range;

- find the lowest step in the highest applicable rate range (TRT, GS-6 special rate table) that equals or exceeds the highest payable rate of pay determined above (\$37,058);

- GS-6, step 3, \$37,561 is the first step on the TRT special rate chart that exceeds \$37,058;

- Convert the GS-6, step 3 rate (\$37,561) from the TRT special rate table to the DRT special rate table. The new rate of pay will be \$39,317, which is step 3 on the DRT special rate table.

NOTE: *The standard method would have compared the TRT GS-5 step 7 rate of \$37,058 directly to the DRT GS-6 special rate range and would have produced a rate of GS-6, step 1. The facility must use the alternate method since it produces a higher rate, and thus a greater benefit to the employee.*

4. Promotion of a Retained Rate Employee

- GS-11, step 00 employee in Hampton, VA (Rest of the U.S.) is receiving a retained rate of pay of \$69,746 and is being promoted to a GS-12 position also in Hampton (no geographic conversion is required);

- Using the underlying GS chart, increase the GS-11, step 10 by two WGI amounts ($\$60,049 + \$3,080 (\$1,540 \times 2) = \$63,129$;

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- Multiply the increased rate (\$63,129) by the applicable locality pay amount to find the highest payable rate of pay associated with the \$63,129 underlying rate - $\$63,129 \times 12.52\% = \$71,033$;
- The highest applicable rate range that applies to the GS-12 position in Hampton is the locality pay chart;
- Find the lowest step in the GS-12 locality range that equals to exceeds \$71,033. This would be step 6, at \$72,671.
- The employee's pay is set at GS-12, step 6 at \$72,671 and pay retention is terminated.

5. Geographic Conversion of a Retained Rate Employee

- GS-11, step 00 employee has an official worksite in the Rest of the U.S. locality pay area and a retained rate of \$69,746 and moves to a new official worksite in the Washington, DC locality pay area. The employee's grade is not changing and the employee's former and new positions are not covered by special rates. Convert the employee's retained rate to the new geographic location as follows:
 - Identify the maximum rate for the highest applicable rate range that applies to the former position of record based on the former official worksite – this would be the GS-11, step 10 on the RUS locality pay chart, \$67,567;
 - Identify the maximum rate for the highest applicable rate range that would apply to the employee's former position of record if that position were located at the new official worksite – this would be GS-11, step 10 on the Washington, DC locality pay chart, \$70,558;
 - Divide the maximum rate at the new official worksite by the maximum rate of the former worksite - $\$70,558 \text{ divided by } \$67,567 = 1.0442$;
 - Multiply the factor (1.0442) by the employee's retained rate of pay and round to the nearest whole dollar – $1.0442 \times \$69,746 = \$72,829$ – this becomes the employee's new retained rate after geographic conversion;
 - In order to determine if the individual is still entitled to remain on pay retention, identify the highest applicable rate range for the employee's new position in the new location. This would be the GS-11, step 10 on the Washington, DC locality pay chart, \$70,558;
 - The employee remains on pay retention since his/her new retained rate of \$72,829 is higher than the maximum rate of the new highest applicable rate range (\$70,558);

NOTE: *If the employee's new retained rate had been less than or equal to the maximum rate of the new highest applicable rate range, then the employee would have been placed at the first step that equals or exceeds the new retained rate, and pay retention would be terminated.*

6. Change to Lower Grade to a Different Geographic Location

- GS-11, step 5 HR Specialist in Washington, DC (locality pay) accepts a voluntary change to lower grade to a GS-9 HR Specialist in Asheville, NC (Rest of the U.S. locality pay). Since this is a voluntary change to lower grade, grade and pay retention do not apply;

- The facility decides to use the maximum payable rate rule. The employee's highest previous rate (HPR) is the GS-11, step 5. Use the employee's underlying GS rate as the HPR in order to avoid the need for geographic conversion;

- Compare the HPR of \$52,349 (underlying rate of GS-11, step 5) to the GS-9 underlying rate range. Since there are no rates that equal or exceed the HPR, the maximum payable rate is the GS-9, step 10, \$49,632;

- The facility decides to set the employee's rate using the highest maximum payable rate, a GS-9, step 10. The employee is entitled to receive locality pay based on the new position of record, at the new official worksite, therefore the employee's highest payable rate is GS-9, step 10, \$55,846.

7. Reassignments

Reassignment from a Special Rate to a Non-Special Rate (Same Geographic Location)

- Therapeutic Radiologic Tech, GS-11, step 1, \$63,129 (special rate) in Houston requests a reassignment to a Program Specialist, GS-11 position also located in Houston (no special rate);

- The employee's payable rate is set at the corresponding GS-11, step 1 rate on the Houston locality pay chart at \$58,369. The employee's underlying rate remains at \$46,189.

Reassignment from a Non-Special Rate to a Special Rate (Same Geographic Location)

- Medical Clerk, GS-4 step 5, \$28,718 in Huntington, WV is selected for a GS-4 Diagnostic Radiologic Technician position. DRTs in Huntington are covered by special rates;

- The employee's payable rate is set at the corresponding GS-4, step 5 on the DRT special rate chart at \$30,780. The employee's underlying rate remains at \$25,523.

8. Grade Retention

Placement of a Special Rate Employee in a Lower-Graded Non-Special Rate Position as a Result of RIF

Police Officer GS-9, step 3, \$53,451 (special rate in Los Angeles) is placed, as a result of RIF, in a GS-8 Program Assistant non-special rate position also in Los Angeles. Geographic conversion is not required since both positions are in the same geographic location). The employee meets the requirements for mandatory grade retention and will retain the GS-9 grade for two years. Determine the employee's rate of pay under grade retention as follows:

- Compare the rate for the former position with the rate for the new position at the same grade and step: GS-9, step 3, \$53,451 (former position) – GS-9, step 3, \$50,160 (Program Asst on LA locality pay chart);
- Since the rate for the new position is less than the rate for the former position, pay retention rules are used to set the pay;
- Compare the employee's existing payable rate of pay (\$53,451) to the maximum rate on the highest applicable rate range for the employee's new position and retained grade (Program Assistant GS-9, step 10 on the LA locality chart, \$61,137);
- Since the employee's existing payable rate of pay is less than the step 10 on the LA locality chart, the employee is entitled to the lowest step in that rate range that equals or exceeds his/her existing payable rate of pay - the lowest step that equals or exceeds \$53,451 is step 5, \$54,864;
- The employee is entitled to the GS-9, step 5, LA locality rate of \$54,864.

Placement of a Non-Special Rate Employee in a Lower-Graded Special Rate Position.

GS-5, step 4, Rehab Therapy Assistant, (\$31,185) whose official worksite is located in the Hampton, VA (Rest of the US locality pay) received written notice of a reorganization that would affect the employee's position. The employee moves to a GS-4 Rehab Therapy Asst position in New York which is covered by special rates. The employee meets the eligibility requirements for optional grade retention. Determine the employee's rate as follows:

- Since the Rehab Therapy Asst is moving to a new geographic location where different pay schedules apply, convert the employee's rate of basic pay to the new pay schedule by applying geographic conversion. Since the Rehab Therapy Asst is entitled to grade retention, the geographic conversion can be applied by simply setting the employee's rates of basic pay in the applicable pay schedule for the new position of record after the RIF action, which correspond to the employee's grade and step immediately before the action;

- Grade and rate of basic pay before RIF – GS-5, step 4, RUS locality, \$31,185;
- Retained grade and rates of basic pay after RIF – GS-5, step 4 NY locality pay, \$34,081 and GS-5, step 4 on NY Rehab Therapy Asst special rate, \$33,914;
- The employee’s payable rate under grade retention is \$33,914, since that rate is the highest rate that applies to the new position of record.

Placement of an FWS Employee in a GS Position.

A WG-9, step 2 employee with an official worksite of Baltimore, MD is placed in a GS-7 position at the same worksite as a result of a RIF. The employee meets the eligibility requirements for mandatory grade retention. Determine the employee’s rate of basic pay under grade retention as follows:

- Compare the representative rates of the WG and GS grades to determine whether the GS grade is equal to, higher than, or lower than the WG grade;
- WG-9, step 2 is \$20.06 per hour. Convert to an annual rate by multiplying the hourly rate by 2,087 - $\$20.06 \times 2,087 = \$41,865$;
- GS-7, step 4 (DC locality pay chart) is \$40,337;
- The GS-7 position is lower than the WG-9 therefore the employee is entitled to retain the WG-9, step 2 rate (\$41,865) while on grade retention.

NOTE: *The pay setting examples contained in this Appendix were calculated using the applicable 2006 pay schedules.]*

CHAPTER 2. SEVERANCE PAY

1. ENTITLEMENT

a. Eligible employees' entitlement to severance pay will be determined at the time of separation in accordance with statutory requirements, Office of Personnel Management regulations, and policy contained in this chapter.

b. The following employees involuntarily separated (but not by removal for cause) are eligible for severance pay: full- and part-time non-temporary General Schedule and SES employees; title 38 employees appointed under 38 U.S.C. 7401(1); part-time title 38 employees appointed under 38 U.S.C. 7405(a)(1)(A) without time limitation; and Federal Wage System non-temporary employees. [Presidential Management Fellows and Senior Presidential Management Fellows appointed under 5 U.S.C. 362 are excluded from receiving severance pay.]

c. For purposes of determining severance pay entitlement, the commuting area will be the same as that used for reduction-in-force and staffing adjustment actions. Except in unusual circumstances, acceptance of non-Federal employment will not affect entitlement to severance pay.

2. PROCEDURES FOR PAYMENT OF SEVERANCE PAY

a. For each entitled employee, the HRM office will compute the employee's total years of creditable civilian service and the years of age over 40. This information, identifying the employee by name, social security number, and date of separation, will be furnished to the Fiscal activity by a memorandum signed by the HRM Officer or his designee. The Fiscal activity is responsible for computing the employee's severance pay fund using the information furnished by the human resources office and the applicable rate of basic compensation.

b. The HRM office is responsible for screening each reemployment action to ascertain if the former employee is currently receiving severance pay. If it is found that severance pay would otherwise continue beyond the date of reemployment, the agency making the payments will be notified, as soon as possible, of the reemployment. The following will be placed in the "Remarks" section of the accession SF-50 B: "Severance pay discontinued. Has received (number) weeks of severance pay." The number of weeks will be manually added to the computer-printed remark on SF-50 B when received. If the reemployment is temporary, the following will be placed in the "Remarks" section of the SF-50 B: "Severance pay postponed by (agency) until the termination of this appointment." When notified that a former VA employee receiving severance pay has been re-employed by another Federal agency or another VA facility, the HRM office will inform its Fiscal activity of the effective date so that severance pay can be stopped or postponed. When an SF-50 B is received from the employing agency, a copy will be furnished to the Fiscal activity. Pending receipt of the official notification, a memorandum will be used to notify the Fiscal activity.

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6. DEFINITIONS

a. **Accumulated and Accrued Annual Leave.** Any annual leave as defined in 5 CFR 630.201, plus any annual leave credited to an employee under 5 U.S.C. 6304(c) and 5 CFR 630.301(d), leave restored under 5 U.S.C. 6304(d); and/or any annual leave earned in accordance with Department regulations under the provisions of 38 U.S.C. 7421.

b. **Lump-Sum Payment.** A final payment to an employee or beneficiary for accumulated and accrued annual leave.

c. **Mixed Tour of Duty.** Employment in which a fluctuating workload requires an employee to work full-time or part-time for a limited portion of the year and on an intermittent basis for the remainder of the year.

d. **Rate of Basic Pay.** 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 [but including a law enforcement special base rate, a special rate, a locality rate or a retained rate].

**APPENDIX B.
COMPUTING A LUMP-SUM PAYMENT FOR
ACCUMULATED AND ACCRUED ANNUAL LEAVE**

PAY TO BE INCLUDED IN A LUMP-SUM PAYMENT

1. The greatest of:
 - a. An employee's rate of basic pay, including a special [] rate, [a law enforcement special base rate,] pay under VA's nurse locality pay system (LPS), or market pay for physicians and dentists; or
 - b. A locality rate of pay under subpart F of part 531 of the CFR[.]

[]

2. Any statutory adjustments or any general system-wide increases in pay that become effective during the lump-sum leave period. This includes an adjustment to a special [] rate, [locality rate,] LPS, or Base and Longevity Pay Schedule from which the employee was paid immediately prior to separation.
3. For a prevailing rate employee, the employee's scheduled rate of pay and any applicable adjustments in rates that become effective during the lump-sum leave period.
4. A within-grade increase if the employee has met the requirements of 5 CFR 531.404 or 5 CFR 532.417, a periodic step increase if the employee has met the requirements of part III, chapter 5 this handbook, or a longevity step increase if the physician or dentist has met the requirements of paragraph 8 of part IX of this handbook prior to the date the employee becomes eligible for a lump-sum payment.
5. Additional steps paid to individuals under 38 U.S.C. 7452(a)(2) and 38 U.S.C. 7452(c), if they were in receipt of the additional payments immediately prior to the date the employee became eligible for the lump-sum payment.
6. The following types of premium pay under title 5 and title 38, to the extent such premium pay was actually payable to the employee:
 - a. Night differential under 5 U.S.C. 5343(f) at the percentage rate received by a prevailing rate employee for the last full workweek immediately prior to separation, death, or transfer;
 - b. Pay for standby duty or administratively uncontrollable work under 5 U.S.C. 5545(c) or availability pay under 5 U.S.C. 5545a, if the employee was receiving this type of premium pay for the pay period immediately prior to the date the employee became eligible for a lump-sum payment;

c. Payable Rates for Overtime Work

(1) **FLSA Exempt Positions.** Employees in positions exempt from (not covered by) the overtime pay provisions of the Fair Labor Standards Act (FLSA) receive overtime pay at the rate of one and one-half times their hourly rate of basic pay (including any applicable special [] rate or locality rate of pay). For employees whose rate of basic pay is at a rate which exceeds the GS-10, Step 1, the overtime rate is capped at the greater of:

- (a) One and one-half times the minimum hourly rate of basic pay for GS-10 (including any applicable special [] rate or locality rate of pay), or
- (b) The employee's regular hourly rate of basic pay (including any applicable special [] rate or locality rate of pay).

(2) **FLSA Non-Exempt Positions.** Employees in FLSA non-exempt positions (covered by FLSA) receive overtime at the rate of one and one-half times their hourly rate of basic pay (including any applicable special [] rate or locality rate of pay).

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c. P&H employees in FLSA exempt positions (not covered by FLSA) shall receive overtime compensation for authorized work in excess of 8 hours in any one-day or 40 hours in any one week. Such overtime will be approved at such overtime rates as are customarily paid in the locality of the facility for work of a comparable nature, but not less than a rate of 150 percent of the basic hourly day rate of compensation. Additional hourly compensation representing fringe benefit considerations and paid to the employee shall be used in computing overtime rates. All fractional rates shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

d. At the request of a FWS employee, **compensatory time off** may be authorized in lieu of payment for overtime hours. The following provisions apply:

(1) For employees covered by flexible work schedules, the overtime work need not be irregular or occasional. For other FWS employees, the overtime work must be irregular or occasional, i.e., scheduled after the beginning of the administrative workweek.

(2) The 26 pay period time limit for using compensatory time applies to FWS employees in the same manner as for other title 5 employees. A FWS employee who is exempt from the provisions of the Fair Labor Standards Act (FLSA-exempt) and fails to take compensatory time earned before the expiration of the 26 pay periods shall lose the right to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond the employee's control. If compensatory time is not used by a non-exempt FLSA FWS employee before the expiration of the 26 pay periods, the employee must be paid for overtime work at the applicable overtime rate.

(3) Managers may not require that FWS employees be compensated for overtime work via compensatory time off in lieu of overtime pay. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with such employee's right to request or not to request compensatory time off in lieu of payment for overtime hours.

6. EXCEPTION TO THE BIWEEKLY PREMIUM PAY LIMITATION FOR MISSION-CRITICAL AND EMERGENCY WORK

a. Title 5 General Schedule employees who are exempt from the Fair Labor Standards Act may not receive any combination of premium pay, including overtime pay, which, when added to their base pay, results in total pay above the higher of two rates: GS-15, step 10, or the rate payable for Level V of the Executive Schedule on a biweekly basis (see 5 CFR 550.105). The applicable rate for GS-15, step 10, includes any locality-based comparability payment or special [] rate, as applicable.

b. An exception to the biweekly limitation on overtime or other premium pay cited in paragraph a above may be made when the appropriate official determines that an emergency exists, e.g., a natural disaster, and that an employee is performing work related to that emergency, or the aftermath of that emergency, involving a direct threat to life or property. In this instance, such an employee may be paid overtime, or other premium pay, as applicable, based on an annual limitation (see 5 CFR 550.106). The annual limitation provides that in any calendar year during which an employee has been determined to

**CHAPTER 3. PREMIUM PAY ON THE SAME BASIS AS REGISTERED NURSES
FOR EMPLOYEES APPOINTED UNDER 38 U.S.C. 7401(3) OR 7405(a)(1)(B)**

1. GENERAL. This chapter applies to personnel who are appointed on a full-time, part-time or intermittent basis under 38 U.S.C. 7401(3) or 7405(a)(1)(B).

2. CRITERIA FOR APPROVAL

a. Facility directors may approve premium pay on the same basis as registered nurses for any category of personnel covered by this chapter when it is necessary to obtain or retain their services. This includes premium pay for work at night, on holidays, overtime and on-call duty. This authority is not to be delegated to a lower level by the facility director.

b. Approval of rates under this chapter requires the existence of a recruitment or retention problem. A facility with above-minimum entrance rates or special [] rate ranges in effect for an occupation has, by definition, a recruitment or retention problem for that occupation.

c. There are also other situations where such a determination may be appropriate. For a discussion of those situations, see 5 CFR, part 530.

3. ADMINISTRATION OF AUTHORITY

a. The authorized rates of premium pay shall be those prescribed by 38 U.S.C. 7454(b) unless a higher rate is authorized under chapter 4 of this part.

b. Premium pay may be approved for any category of personnel covered by this chapter, including specializations within an occupation. However, categories shall be based on recruitment/retention needs with approved rates being applied to all personnel within that category.

c. Authorizations shall be approved so affected personnel begin receiving premium pay at the beginning of a pay period.

d. Personnel receiving premium pay under this paragraph shall have those hourly rates of premium pay based on their annual basic rate of pay divided by 2080.

4. FUNDING. Rates of pay under this chapter may only be approved if local funding is available or (if local funds are not available) the appropriate network director has previously authorized use of centralized funds for this purpose based on a written request by the facility director.

**CHAPTER 4. HIGHER RATES OF ADDITIONAL PAY FOR EMPLOYEES
APPOINTED UNDER 38 U.S.C. 7401, 7405(a)(1)(A) AND 7405(a)(1)(B)**

1. GENERAL. Higher rates of additional pay for employees appointed under 38 U.S.C. 7401(1), 7401(3) or 7405(a)(1)(A) and (B) may be authorized at individual VA health-care facilities based on the recruitment or retention needs of that facility, as well as corresponding premium pay practices in the local labor market. Rates may not be approved for personnel in occupations listed under 7401(3) or 7405(a)(1), i.e., “hybrid title 38” personnel, unless the facility director has authorized premium pay on the same basis as registered nurses for such personnel. Rates of premium pay under this chapter shall be based on annual rates of basic pay divided by 2080.

2. CRITERIA FOR APPROVAL

a. Higher rates of additional pay may be approved so VA can recruit or retain well-qualified nurses, physician assistants and EFDAs, or any category of these employees, where recruitment or retention problems are caused by higher non-Federal rates of premium pay in the labor market. They may also be approved for hybrid employees in occupations listed under 38 U.S.C. 7401(3) if any of these employees have been authorized to receive premium pay on the same basis as registered nurses.

b. Approval of rates under this chapter requires the existence of a recruitment or retention problem and a determination that the problem is being caused, in whole or part, by higher rates of premium pay in the local labor market.

c. Approvals under this chapter shall be made at specific VA health-care facilities in amounts competitive with, but not exceeding, the amount of the same type of pay paid to the same category of non-Federal employees in the same labor market.

3. COMPETITIVE PREMIUM PAY PRACTICES

a. A determination that recruitment or retention problems are related to premium pay practices shall be based on a survey of pay practices in the local labor market. Such a survey may be combined with any other salary surveys to document above-minimum entrance rates or special [] rate ranges. In addition, surveys are to be a coordinated effort whenever rates are being proposed for more than one VA health care facility in the labor market.

b. Where there are a large number of establishments in the local labor market, it is only necessary to include a reasonable percentage to assure that the survey results are representative. However, the sample should contain information on non-Federal, including State or local employers, having a major affect on recruitment or retention of personnel in the survey occupation. The survey shall, to the extent practicable, include the following data on each establishment surveyed:

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(1) Ranges of regular salaries paid including minimum rates, (furnish minimum hiring rates, if different), maximum rates, increments between rates and length of time between increments. If the pay practices are not fixed, typical pay practices shall be documented. It is not necessary to re-survey regular salaries if they were surveyed as part of a request for above-minimum entrance rates or special [] rate ranges submitted to VA Central Office within the past year.

(2) Number of hours regularly worked each week for which regular (non-overtime) pay is received.

(3) A description of the premium pay(s) under consideration, for example:

(a) Type of premium pay and rate.

(b) Conditions employees must fulfill to receive such pay.

(c) Number and categories of employees receiving the premium pay.

(d) Any limits on the premium pay received.

4. ADMINISTRATION OF AUTHORITY

a. Approvals under this chapter shall be in percentage amounts that are competitive with, but not exceeding, the same type of pay paid to the same category of non-Federal employees in the labor market. If the community practice is to use specific dollar amounts rather than a percentage, the percentage rate authorized by VA should be governed by the amount an employee would receive (i.e., the percentage authorized when applied to the average covered employee's salary should not exceed the community rate).

b. Rates may be approved for any category of personnel covered by this chapter (including specializations within an occupation). However, categories are to be based on recruitment or retention needs with approved rates being applied to all personnel within that category.

c. Approvals are to be effected at the beginning of a pay period and discontinuations at the end of a pay period.

5. FUNDING. Higher rates of premium pay may only be authorized to the extent that local funding is available or (if local funds are not available) the appropriate network director has previously authorized use of centralized funds for this purpose based on a written request by the facility director.

6. DELEGATION OF AUTHORITY. Facility directors may approve higher rates of additional pay under 38 U.S.C. 7453(j), 7454 and 7455.

7. REPORT TO VA CENTRAL OFFICE. For initial submissions, officials approving or adjusting rates under this chapter shall, within 15 calendar days after approval, forward the following documents to the appropriate network director (10N_/055):

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b. Standby Duty as an Exception to On-Call Duty

(1) Exceptions to on-call duty may not be appropriate for hybrid occupations eligible for higher rates of premium pay permitted under 38 U.S.C. 7454. Where higher rates of on-call pay in the local labor market are adversely affecting the recruitment and retention of employees in hybrid occupations, an adjustment to the rate of on-call is recommended. (See chapter 4 of this part.)

(2) When it can be demonstrated that on-call duty will not assure availability of employees for essential patient care needs, standby duty may be authorized as an exception to on-call duty. If authorized, employees will be paid standby premium pay in accordance with the provisions of 5 U.S.C. 5545(c)(1) and must meet all eligibility requirements for such payment. Standby duty may be authorized under this paragraph in the following circumstances:

(a) Assured availability of employees outside regular duty hours is impossible or impractical under the on-call system, e.g., geological or geographic characteristics of an area make use of a paging system inefficient;

(b) Conversion to on-call duty pay has resulted in recruitment or retention problems directly related to higher rates of on-call pay in the local labor market area. Evidence of higher rates of on-call pay may be based on formal or informal survey data, bona fide job offers, or newspaper advertisements. **NOTE:** *Care should be exercised to distinguish between pay-related recruitment and retention problems caused by higher rates of basic pay, which should be addressed by special [] rates under part VI, chapter 6 of this handbook and those due to higher rates of non-Federal on-call or standby pay.* Examples of staffing problems which might warrant approval of standby duty as an exception to on-call duty include, but are not limited to, the following:

1. Vacancy rate of 10 percent or higher directly attributable to higher non-Federal on-call or similar pay.

2. Turnover rate of 15 percent or higher directly attributable to higher non-Federal on-call or similar pay.

(3) An exception to the on-call duty policy under this paragraph may be authorized only for occupations and work units where there is a need for on-call duty.

(4) The Human Resources Management Officer will maintain the following information when standby duty is authorized as an exception to on-call duty:

(a) The specific reason(s) why standby duty is considered preferable to on-call duty;

(b) The title, grade level and number of position(s) to be placed on a standby schedule;

(c) The tour of duty proposed (including all actual work periods and standby periods), specifying this schedule on a daily basis;

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PART VI. RECRUITMENT AND RETENTION INCENTIVES

CHAPTER 1. GENERAL

1. PURPOSE. This part provides mandatory guidance and procedures for the authorization and implementation of pay authorities, which may be used to help recruit and retain employees in difficult to fill positions. These include recruitment, relocation, and retention incentives, special [] rates, student loan repayments, and advances in pay.

2. RESPONSIBILITIES

a. An official at a higher level than the one recommending the payment must approve recruitment, relocation, and retention incentives. For recruitment and relocation incentives, this must happen before the employee enters on duty. Officials must carefully review and follow the mandatory procedures in this part before proceeding with an incentive. Recruitment and relocation incentives will not be approved retroactively after entry on duty.

b. The Secretary, or designee, is the approving official for incentives for employees occupying positions centralized to that office.

c. Administration Heads, Assistant Secretaries, Other Key Officials, and Deputy Assistant Secretaries, or their designees will recommend incentives for employees occupying positions in their organization which are centralized to the Secretary. They, or their designees, approve incentives for employees occupying VA Central Office positions in their organizations that are not centralized to the Secretary; and employees occupying field positions centralized to their offices.

d. Network directors, or their equivalents in VA, or their designees may approve incentives for employees in non-centralized positions under their jurisdiction.

e. Facility directors may approve incentives for employees in non-centralized positions under their jurisdiction. This authority may not be re-delegated.

f. Additional statements of responsibility may be included in separate chapters of this part, where appropriate.

recommendation for selection and/or overlapping incentive (see paragraph 18 for definition) is forwarded to the official authorized to act.

d. Supervisors will ensure each incentive recipient's rating of record is at least "Fully Successful" or equivalent. If a rating of record is lower than "Fully Successful" or equivalent, they will contact the approving official for immediate termination of the service agreement.

e. The Office of Financial Management will develop, in coordination with OHRM[], incentive payment, refund, and waiver procedures.

f. Employees are responsible for signing a service agreement to receive an incentive and for completing the required service in accordance with the terms of the Recruitment or Relocation Service Agreement (RSA). If they receive consideration for another position before the service obligation for an incentive has been satisfied, they must convey that fact to the recruiting office when they submit their application.

5. ELIGIBILITY REQUIREMENTS

a. **Recruitment Incentives.** Recruitment incentives may be authorized to individuals in their first appointment as a Federal employee or to a newly appointed former Federal employee with at least a 90-day break in service (except as provided in subparagraph 3b), when the approving official determines that it would be difficult to fill the position with a high quality candidate without the incentive. Recruitment incentives may be used in combination with certain other allowances and authorities, such as reimbursement of travel and transportation expenses, appointment at above-minimum rates, special [] rates, student loan repayments, and waivers of annuity offsets for retirees, to fill positions with high quality candidates. They are not, however, to be given as substitutes for payment of moving expenses.

b. Relocation Incentives

(1) Relocation incentives may be authorized to Federal employees who must change worksite and physically relocate to a different geographic area when the approving official determines that without the incentive, it would be difficult to fill the position with a high quality candidate. Relocation incentives may be authorized for permanent relocations or for temporary relocations of 120 days or more. An additional incentive may not be paid if a temporary assignment is extended beyond the initial proposed completion date. Relocation incentives may be used in combination with certain other allowances and authorities, such as reimbursement of travel and transportation expenses, special [] rates, student loan repayments, and waivers of annuity offsets for retirees, to fill positions with high quality candidates. They are not, however, to be given as substitutes for payment of moving expenses.

2) A position is considered to be in different geographic area if the worksite of the new position is 50 or more miles from the worksite of the position held immediately before the move. If the worksite of the new position is less than 50 miles from the worksite of the position held immediately before the move, but the employee must relocate to accept the position, the approving official may waive the 50-mile requirement and pay the employee a relocation incentive. Any such waiver shall be documented in the relocation incentive approval document.

CHAPTER 4. SUPERVISORY DIFFERENTIALS

1. COVERAGE. This chapter applies to first level supervisory employees occupying General Schedule (GS) positions paid under U.S.C. 5332. A supervisory differential may be paid to a GS supervisor who is regularly responsible for providing direct technical and administrative supervision of the work of one or more non-GS employees if any of the subordinates would, in the absence of a supervisory differential, be paid more than the supervisor. GS employees competitively promoted or reassigned on a temporary basis to supervisory positions with higher paid subordinates for more than 120 days are eligible for a supervisory differential.

2. CRITERIA FOR AUTHORIZING AND PAYING A SUPERVISORY DIFFERENTIAL

a. **Supervisory Differential is Not Basic Pay.** A supervisory differential is not considered part of the supervisor's rate of basic pay for any purpose. Therefore, a differential under this authority is not an equivalent increase because it does not change the rate of basic pay. For this same reason, the reduction or termination of a differential is not an adverse action; it is not used to calculate promotions; nor is it used for retirement calculation purposes.

b. Limitations on Subordinate's Pay

(1) A subordinate's retained rate of pay may not be used to calculate a differential. Only the maximum rate of basic pay [which includes locality pay or a special rate] established for the grade of the subordinate's position may be used.

(2) Market pay paid to a physician or dentist under 38 U.S.C. 7431 may not be used to calculate a differential. However, the rate of base pay will be considered in determining eligibility for and the amount of a supervisory differential.

c. **Subordinate's Basic Pay Above GS-15/10.** A supervisory differential will not be paid when the subordinate's rate of basic pay, exclusive of additional payments of any kind, exceeds the maximum rate of basic pay for grade GS-15 of the General Schedule (GS-15/10). The following criteria will be used to determine whether the subordinate's rate of basic pay exceeds the rate for GS-15/10:

(1) In areas where the supervisor is paid from the nationwide General Schedule, a differential may not be paid if the subordinate's pay exceeds the rate of basic pay GS-15/10 on the nationwide schedule.

(2) In areas where the supervisor receives GS locality payments, a differential may not be paid if the subordinate's pay exceeds the rate for GS-15/10 including locality payments. If the subordinate and supervisor are not located in the same area, the rate for GS-15/10 at the supervisor's location will be used.

(3) If there is a special [] rate range at the GS-15 level for the supervisor's position, a differential may not be paid if the subordinate's pay exceeds the rate for GS-15/10 on the special [] rate range. If the subordinate and supervisor are not located in the same area, the special [] rate for GS-15/10 at the supervisor's location will be used.

(4) Appendix VI-I provides examples of how the above provisions are to be applied.

d. Effect of Details on Eligibility for Differentials. A supervisor who is receiving a differential and is detailed to another work unit may continue to receive the differential not to exceed (NTE) 30 days from the beginning of the detail. A supervisor receiving a differential whose higher paid subordinate is detailed to another work unit may continue to receive the differential NTE 30 days from the beginning of the detail. While such differentials may be terminated earlier, they must cease 30 days from the effective date of such details because the supervisor is no longer providing day-to-day technical supervision to the higher paid subordinate as required by regulation. A supervisor detailed into a work unit with a higher paid subordinate does not become eligible for a differential.

e. Effect of Temporary Promotions on Eligibility for Supervisory Differentials

(1) A supervisor who is receiving a differential and is temporarily promoted to another position loses the differential for the period of the temporary promotion. The differential may be reinstated upon return to the former position if a pay disparity exists.

(2) A person who is temporarily promoted for more than 120 days into a position with a higher paid subordinate may be given a supervisory differential in the new organization.

(3) If a subordinate is temporarily promoted to a position outside the unit, a supervisory differential based on that employee's pay may continue for no more than 30 days.

(4) If a subordinate is temporarily promoted for more than 120 days to another position under the same supervisor, a new differential based on the subordinate's higher salary may be approved for the period of time the new supervisory/subordinate relationship lasts. Normally, the determination will be made at the time of selection of the subordinate for temporary promotion. It may, however, be made later as long as the subordinate's total service on the temporary promotion has exceeded or will exceed 120 days. In any case, the higher rate is to be paid only on a prospective basis from the date of decision.

f. Paying the Differential

(1) The differential is to be paid for hours during which the supervisor receives basic pay, exclusive of overtime hours. For full-time supervisors, the differential will be paid for not more than 80 hours per pay period; for part-time employees, the differential will be paid only for non-overtime hours in a pay status.

(2) The decision to pay a supervisory differential is discretionary; therefore, no differential may be paid until approved by the appropriate management official. In no instance may a differential be paid retroactively.

CHAPTER 6. SPECIAL [] RATES

1. GENERAL. This chapter contains mandatory procedures for approving or requesting special [] rates [] for General Schedule and title 38 positions.

a. **Exclusions.** The following personnel are excluded from the provisions of this chapter:

- (1) Physicians and dentists paid under 38 U.S.C. 7431.
- (2) Residents appointed under 38 U.S.C. 7406.
- (3) Residents and trainees appointed under 38 U.S.C. 7405(a)(1)(D).
- (3) Personnel employed on a per annum fee basis or lump-sum fee basis under 38 U.S.C. 7405(a)(2).

b. **Use of Special [] Rates.** Special [] rates may be requested or approved only to:

- (1) Provide basic pay in amounts competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market; and
- (2) Enable VA to recruit or retain well-qualified employees, or categories of employees, where recruitment or retention problems are being caused by higher non-Federal rates of pay;
- (3) Achieve adequate staffing at particular facilities; or
- (4) Recruit personnel with specialized skills, especially those skills which are difficult or demanding.

c. **Preconditions.** Submission of a special rate request or authorization presupposes all recruitment possibilities have been exhausted and full attention has been given to addressing any retention consideration such as working conditions and duty assignments. A request for special [] rates for General Schedule positions also presupposes sound and effective position management, as well as properly classified positions.

d. **Other Limitations**

(1) The authorities in this chapter are to be used as a management tool to enable VA to recruit and retain sufficient numbers of capable, well-qualified personnel. However, pay rates may not be set at levels above those necessary to meet recruitment and retention needs.

(2) The maximum rate established for a grade under this chapter (except in the case of nurse anesthetists, pharmacists and licensed physical therapists) may not exceed the minimum rate prescribed by statute for the grade by more than 90 percent. The maximum rate of basic pay for any employee so increased may not exceed the rate payable for Level V of the Executive Schedule.

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e. **Alignment.** [Special rates] must be aligned to the nationwide General Schedule or Nurse Schedule for Physician Assistants (PAs) and Expanded Functional Dental Auxiliaries (EFDAs) as appropriate. The rates are not to be aligned to locality pay schedules established under 5 U.S.C. 5304. An expanded 28-step GS and PA schedule has been provided on the OHRM&LR web page for use in setting and requesting special rates.

f. **Increases in GS and PA Pay Schedules.** Whenever there is a nationwide adjustment in the GS or PA pay schedule, instructions will be provided to field facilities on adjusting special rate authorizations to coincide with the nationwide adjustment.

2. APPROVAL OF SPECIAL [] RATES UNDER 38 U.S.C. 7455

a. **Coverage.** This paragraph contains mandatory procedures for establishing, adjusting, or canceling special [] rates for physician assistants appointed under 38 U.S.C. 7401(1) and 7405(a)(1)(A); and health-care personnel appointed to hybrid positions listed under 38 U.S.C. 7401(3) and 7405(a)(1)(B).

b. Definitions

(1) **Above-Minimum Entrance Rate (AMER).** An increase in the minimum rate of basic pay for a grade with no corresponding increase in higher intermediate rates or in the maximum rate of pay for that grade.

(2) **Benchmark Grade.** For each occupation, the first grade or grade interval beyond the entry or developmental grade.

(3) **Corresponding Position.** A non-Federal position where the basic duties and responsibilities are similar to those found in VA positions and which has the same or similar education, training, and experience requirements.

(4) **Entry Grade.** For each occupation, the grade at which new graduates without experience or those meeting minimum qualifications standards are typically employed.

(5) **General Schedule (GS) or Nurse Schedule for PAs and EFDAs.** The schedule of rates of basic pay exclusive of any geographic or locality pay.

(6) **Intergrade Differential.** The number of steps or within-grade increase equivalents between the adjusted entrance rates or first steps of grades (see appendix VI-L).

(7) **Internal Alignment.** The alignment of pay grades based on inter-grade differentials. Internal alignment is intended to provide appropriate recognition of differences in levels of responsibility while assuring that the entrance rates for all grades do not exceed the highest beginning non-Federal rates in the community for corresponding positions.

(8) **Minimum Hiring Rate.** The lowest rate of basic pay that an establishment would offer a new hire for a corresponding position. This may be a higher rate than the published minimum rate.

(9) **Salary Data.** Information about pay practices in the local non-Federal labor market for comparable levels of work.

(10) **Special [] Rate [].** An increase in the rate of basic pay through a special [] rate range or an above-minimum entrance rate.

(11) **[Special Rate] Range.** An increase in the minimum, intermediate, and maximum rates of basic pay for a grade, i.e., an increase in all step rates for the grade.

c. Responsibilities

(1) Facility directors shall establish initial [special rates], adjust existing rates (upward or downward), move from AMERs to [special rate] ranges, or cancel [special rates] when they are no longer appropriate. They are responsible for assuring that:

(a) [Special rates] are needed to recruit and retain well qualified health-care personnel;

(b) Appropriate consideration has been given to the use of recruitment, relocation, and retention incentives, and/or appointments above the minimum step of the grade, to address staffing problems in lieu of establishing or adjusting special rates;

(c) Approved special rates comply with this chapter; and

(d) Local funds are available for any increased costs before implementing special rate authorizations.

(2) Human Resources Management (HRM) Officers

(a) HRM Officers will recommend the approval of [special rates] when, in their best judgment, such rates are necessary to recruit and retain well-qualified health-care personnel.

(b) HRM Officers will recommend the use of recruitment, relocation, and retention incentives, or appointments above the minimum step of the grade, when, in their judgment, the use of these authorities would be more appropriate to address recruitment and retention problems than special rates.

(c) HRM Officers will coordinate special rate authorizations with all concerned parties by:

1. Assuring that authorizations and cancellations of [special rates] are closely coordinated with other VA facilities in the same labor market;

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2. Advising officials of other Federal medical facilities that employ personnel in the same occupation in the local labor market of impending salary surveys and notifying them of any special rate authorizations approved under this chapter. HRM Officers may release salary data to officials from other Federal medical facilities upon request to avoid duplicate surveys. These officials will be required to maintain the data in strict confidence in accordance with paragraph 5c of this chapter;

3. Reporting special rate authorizations to the Human Resources Management Compensation and Classification Service, Office of Human Resources Management [] (055) prior to effecting them; and

4. Notifying the appropriate Office of Personnel Management (OPM) Regional and Area Offices of approved authorizations.

(3) Human Resources Management Compensation & Classification Service, Office of Human Resources Management [] (055) shall conduct post-audit reviews of adjustments made under this paragraph and advise management and operating officials in VHA on special rate policy and procedures.

(4) Network directors are responsible for designating a lead facility when necessary to coordinate special [] rate authorizations when more than one facility in the same labor market would be affected by such rates.

(5) Under Secretary for Health or designee may withdraw the authority to approve [special rates] if the [special rates] authorized are not consistent with law and policy or based on documented recruitment or retention problems.

d. **[Special Rate] Ranges**

(1) [Special rate] ranges may be authorized when higher non-Federal rates of pay in the local labor market area are causing significant problems recruiting or retaining well-qualified health-care personnel. To determine the extent of recruitment and retention problems, facility officials should complete the Special Rates Evaluation Worksheet found in appendix VI-K to this part. At the same time, they should estimate the additional cost of salaries and fringe benefits associated with the authorization of special rates.

(2) [Special rate] ranges may also be authorized when recruitment or retention problems are anticipated due to higher non-Federal rates of pay in the community. For example, special rates may be appropriate when there are higher rates within the community and facility officials are unable to recruit well-qualified candidates for anticipated vacancies in hard-to-fill occupations, expect to lose employees in such occupations who are receiving bona-fide job offers, or cannot recruit for an occupation without appointments above the minimum step of the grade. The circumstances for approving special rates based on anticipated problems should be fully explained and attached to the evaluation worksheet along with any other supporting documentation that is available.

e. Setting the First Step of the Entry and Benchmark Grades

(1) Normally, the first step of the entry and benchmark grades will be set at any step rate of the grade that is equal to or below the local average beginning salary rate for corresponding positions (the community average). Except for PT and pharmacist authorizations, the step selected may not exceed the 19th step of the GS or PA schedule. If a higher rate is needed, AMERS may be established under subparagraph g [].

(2) The first step of the entry and benchmark grades may be set at any step rate that is greater than the community average but less than the highest beginning rate for corresponding positions when doing so is necessary to recruit and retain well-qualified employees. Factors such as the rates paid by the facility's nearest major competitors and the severity of any recruitment and retention problems must be considered when determining whether to set the rate above the community average. Severe staffing problems are evidenced by a vacancy rate of 20 percent or more, positions that have been vacant for 6 months or longer, a staffing success rate of 50 percent or less, or a quit for pay rate of 25 percent or higher (see appendix VI-J to determine these rates).

(3) In Alaska and Hawaii, where OPM has approved a non-foreign cost-of-living allowance (COLA) under 5 U.S.C. 5941, facility directors are to set the beginning rate of a grade so that the sum of the beginning rate **and** the COLA meet the criteria in subparagraphs e(1) and (2) above.

(4) In no instance may the beginning rate of a special [] rate range exceed the highest beginning non-Federal pay rate for corresponding positions.

(5) The step selected under subparagraph e(1) or (2) above becomes the new minimum step rate for a 10-step range in which each step increase is equal to a step increase on the GS or PA pay schedule for that grade.

f. Internal Alignment

(1) Normally, to internally align [special rate] ranges, set the minimum rate for a grade at a step which will provide a two-step inter-grade differential. (See appendix VI-L of this part.)

(2) To prevent special rates at any grade from exceeding the highest non-Federal rate, a one- or three-step differential between grades may be used.

(a) A one-step differential may be used to set the minimum rate of a grade above the benchmark grade when necessary to prevent that rate from exceeding the highest beginning non-Federal rate.

(b) A three-step differential may be used to set the minimum rate for a grade below the benchmark grade when necessary to prevent that rate from exceeding the highest beginning non-Federal rate.

(c) A three-step differential may also be used to set the minimum rate of a grade above the benchmark grade when the average non-Federal pay for corresponding positions significantly exceeds the rate obtained using a two-step differential.

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(d) A three-step differential may not be used to set the minimum rate for a grade above the benchmark grade without survey data to support such action.

(3) In no instance shall the rate set at any grade exceed the highest beginning non-Federal rate for corresponding positions. Instead, the minimum rate for the benchmark grade will be set at a lower level so that none of the minimum rates at other grades exceed the highest beginning non-Federal rate for corresponding positions.

g. Setting AMERs in Combination with [Special Rate] Ranges

(1) Except for PT and pharmacist authorizations, the beginning rate of a [special rate] range under subparagraph e above may not exceed the equivalent of the 19th step of the grade. When the average beginning non-Federal rate for a grade exceeds the 19th step, an AMER may be established in combination with a [special rate] range. Use the following steps to establish combined AMERs and [special rate] ranges:

(a) Set the first step of the [special rate] range for the benchmark grade equivalent to the 19th step of the grade.

(b) Set the AMER for the entry and benchmark grades using the procedures in subparagraph e above.

(c) Then use the procedures in subparagraph f to set the minimum step of grades above the benchmark grade.

(2) AMERs will not be used for PT and pharmacist authorizations. If a beginning step above the 19th is needed for a PT or pharmacist authorization, that step and a full [special rate] range will be established under subparagraph e(1) above.

h. Statutory Limitation. The maximum rate of basic pay for any authorization, including those for PTs and pharmacists, may not exceed the rate payable for Level V of the Executive Schedule.

i. Effective Date of Authorizations and Cancellations

(1) The effective date of authorizations and cancellations will be the first day of the first full pay period after the approval date.

(2) Facilities must coordinate the effective date of their authorizations and cancellations with other affected VA facilities to meet the requirements of paragraph 3b(5) below.

j. Reporting Requirements. Copies of the following documents shall be faxed to the Human Resources Management Compensation and Classification Service (055) prior to the effective date of an authorization. Informational copies of these documents should also be sent to the appropriate network director.

(1) A copy of the authorization formatted in the manner shown in appendix VI-M to this handbook.

(2) For an initial authorization and increase in existing [special rate range], a copy of the evaluation worksheet shown in appendix VI-K, a summary of the salary survey results for each grade surveyed, and any supporting documentation including, when appropriate, justification for setting beginning rates above community averages and documentation of the nature and extent of anticipated staffing problems.

(3) For a cancellation, a narrative explanation of the decision, the number of employees covered by the authorization, and an estimate of the costs associated with canceling the special rates should be provided.

k. **Processing Instructions.** Processing procedures will be issued by VACO when authorizations are approved or schedules are canceled.

l. **Records Retention.** A history file shall be established for each occupation for which special [] rates are approved. The records in this file are to be disposed of in accordance with item 05-35, VHA's Records Control Schedule (RCS) 10-1.

m. **Review and Correction.** Authorizations approved under this chapter will be subject to post-audit review by Central Office officials. Network directors will direct facility directors to take appropriate corrective action if this review establishes that adjustments made are not in compliance with VA policy or the provisions of this chapter.

3. REQUESTS FOR SPECIAL [] RATES UNDER 38 U.S.C. 7455

a. **Coverage.** This paragraph contains mandatory procedures for requesting the approval of special [] rates [] by the Under Secretary for Health under 38 U.S.C 7455.

(1) This paragraph applies to:

(a) Veterans Health Administration (VHA) General Schedule (GS) employees providing direct patient care services or services incident to direct patient care; except hybrid employees in occupations listed under 38 U.S.C. 7401(3) (see paragraph 2);

(b) VHA police officers, and

(c) Health-care personnel appointed under title 38 U.S.C. for which the Under Secretary for Health has retained approval authority including registered nurses, certified registered nurse anesthetists, expanded-functional dental auxiliaries, podiatrists, chiropractors, optometrists, and board certified clinical or counseling psychologists.

(2) This subchapter does not apply to VHA GS administrative, clerical and physical plant maintenance personnel whose special [] rates are approved by the Office of Personnel Management under 5 U.S.C. 5305.

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(1) The Under Secretary for Health or designee will approve special [] rate ranges and above-minimum entrance rates for employees covered by this paragraph.

(2) For occupations covered under paragraphs 3a(1)(a) and (b), the Under Secretary for Health or designee shall, not less than 45 days prior to the proposed effective date of an increase, notify the Director of the Office of Personnel Management of the Under Secretary for Health's intention to approve such an increase. The Director of the Office of Personnel Management may disapprove such an increase under the provisions of 38 U.S.C. 7455(d)(2).

(3) Veterans Integrated Service Network (VISN) directors are responsible for:

(a) Reviewing facility requests to ensure they are consistent with the criteria contained in this chapter.

(b) Designating a lead facility when necessary to coordinate special [] rate requests when more than one facility in the same labor market would be affected by such rates.

(4) Facility directors shall submit a request to establish [special rates], adjust existing rates (upward or downward), move from above-minimum entrance rates to [special rate] ranges, or cancel [special rates] when they are no longer appropriate. They are responsible for assuring that:

(a) [Special rates] are needed to recruit and retain well qualified personnel;

(b) Full consideration has been given to the use of recruitment, relocation and, retention incentives, and/or appointments above the minimum step of the grade, to address staffing problems;

(c) Requests comply with the requirements of this chapter; and

(d) Local funds are available for any increased costs before submitting a request for special rates.

(5) Human Resources Management (HRM) Officers will:

(a) Recommend requesting [special rates] when, in their best judgment, such rates are necessary to recruit and retain well-qualified personnel.

(b) Recommend the use of recruitment, relocation and retention incentives, or appointments above the minimum step of the grade, when, in their judgment, the use of these authorities would be more appropriate to address recruitment and retention problems than special rates.

(c) Coordinate special rate requests with all concerned parties by:

1. Assuring that requests are closely coordinated with other VA facilities in the same labor market area. This includes taking the lead as appropriate to submit a consolidated request to Central Office that covers all affected VA facilities in the labor market.

2. Advising officials of other Federal agencies that employ personnel in the same occupation in the local labor market of impending salary surveys and special rate requests, including proposed salary rates. HRM Officers may release salary data to officials from other Federal medical facilities upon request to avoid duplicate surveys. These officials will be required to maintain the data in strict confidence in accordance with subparagraph 5c of this chapter.

c. **[Special Rate] Requests**

(1) [Special rates] may be requested when higher non-Federal rates of pay in the local labor market area are causing significant problems recruiting or retaining well-qualified personnel.

(2) [Special rates] may also be requested when recruitment or retention problems are anticipated due to higher non-Federal rates of pay in the community. For example, special rates may be appropriate when there are higher rates within the community and facility officials are unable to recruit well-qualified candidates for anticipated vacancies in hard-to-fill occupations, expect to lose employees in such occupations who are receiving bona-fide job offers, or cannot recruit for an occupation without appointments above the minimum step of the grade.

d. **Submission of Requests**

(1) **Where to Submit.** All requests for special [] rates are to be submitted to the Human Resources Management Compensation and Classification Service through the appropriate network director (10N__/055). Incomplete, improperly prepared or inappropriate requests will be returned by the Network Director without further action.

NOTE: *Field facilities will not submit requests for special [] rates for VHA General Schedule employees covered by this chapter under 5 U.S.C. 5305 unless specifically authorized to do so by the Under Secretary for Health or designee.*

(2) **Format of Requests.** Requests for approval or adjustment of special [] rates are to be submitted on Office of Personnel Management (OPM) Form 1397.

(3) **Contents of Requests**

(a) A request for special [] rates should contain enough information for reviewing and approving officials to clearly identify the nature and extent of any recruitment or retention problems, the effect of these problems on the provisions of patient care, and the role of non-VA Federal and non-Federal salary rates in the local labor market.

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(b) If a request is based on anticipated staffing problems, the basis for anticipating recruitment or retention problems should be fully explained in the request and any supporting documentation such as copies of bona-fide job offers employees have received should be submitted with the request.

(c) Facility officials must submit reports of contact with all Federal agencies in the local labor market that might be affected by the proposed special rates. Reports should include the reaction of the other Federal agencies to VA establishing or increasing special [] rates and what action they may take in response.

4. REQUESTS FOR SPECIAL [] RATES UNDER 5 U.S.C. 5305

a. **Coverage.** This paragraph contains mandatory procedures for requesting the approval of special [] rates by the Office of Personnel Management (OPM) under 5 U.S.C. 5305. These provisions apply to non-healthcare positions with the exception of police officers. This paragraph is to be used with 5 CFR, part 530, subpart C.

b. **[Special Rate] Requests.** Requests from field facilities may be made only where special rates are absolutely essential to VA's maintaining a competitive position in staffing the facility, and where other administrative actions are not appropriate.

c. Submission of Requests

(1) **Where to Submit.** Fully developed requests and recommendations will be sent through administrative channels to the Human Resources Management Compensation and Classification Service (055) for review and appropriate action.

(2) **Format of Requests.** Requests for approval or adjustment of special rates are to be submitted on OPM Form 1397.

(3) **Content of Requests.** Requests should be sufficiently explanatory, documented and otherwise adequate to support a request to the OPM. Documentation must be specific enough to reflect the extent to which positive actions have been taken to recruit and/or retain well-qualified personnel in accordance with current guidelines.

5. SURVEY INSTRUCTIONS. This paragraph contains mandatory procedures for conducting salary surveys for the purpose of authorizing or requesting special [] rates.

a. **Coordination.** HRM Officers of VA facilities in the same labor market areas will coordinate salary surveys including the timing of surveys, selection of establishments to be surveyed, appointment of data collectors, and collection of data. HRM Officers will also coordinate surveys with officials of other Federal agencies in the same labor market areas by advising them of VA's intent to conduct a salary survey and by sharing any data that they collect with these officials upon request.

b. Data Collection

(1) The salary survey must be conducted by a HRM Service employee or by a data collection team consisting of a HRM employee and a subject matter expert from the occupation being surveyed. **NOTE:** *Federal employees are prohibited by law from directly or indirectly influencing their own rate of pay. Therefore, employees covered by a special rate authorization may not independently collect salary data for their own grade or for a grade which would indirectly influence the rate for that grade.*

(2) The salary survey may be a formal or informal sampling of the non-Federal employers in the same labor market.

(3) The survey should include establishments which are representative of the local labor market and which have a significant impact on VA's recruitment and retention of employees in the affected occupation. Data should be obtained from at least three survey establishments.

(4) The data collected must reflect the beginning rates of pay for corresponding positions, i.e., positions where the basic duties and responsibilities are similar to VA's positions and where the education, training, and experience requirements for the positions are equivalent or similar to those found in VA. Published data such as negotiated agreements, recruiting literature, and published surveys should be used whenever available. Minimum hiring rates (i.e., the lowest rates establishments would offer new hires) may be used when such data can be obtained.

(5) At a minimum, data should be collected for the entry grade and for the first grade above the entry grade of the occupation.

c. Confidentiality of Survey Data

(1) Access to survey data is to be restricted to data collectors and management officials responsible for authorizing or requesting [special rates] and to those responsible for reviewing [special rate] authorizations or requests. All individuals having access to the data are required to retain it in strict confidence. Federal employees will be subject to disciplinary action for violating the confidentiality of data obtained from a non-Federal employer.

(2) If a request is made under the Freedom of Information Act (FOIA) for salary information from non-Federal employers, such information may be withheld under 5 U.S.C. section 552 (b)(4), which exempts from mandatory disclosure trade secrets and commercial or financial information which is privileged or confidential.

(3) Data summarizing the results of a survey (e.g., community averages and ranges of salaries paid in the community) may be released to non-Federal facilities providing the information does not permit the reader to associate specific employers with specific rates of pay.

d. Conversion of Hourly Rates of Pay

(1) Hourly rates of pay must be converted to annual rates of pay before being used in the survey. To convert the hourly rate to an annual rate, multiply the hourly rate of pay times the number of hours in the

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employee's workweek times 52 weeks. For example, if an employee makes \$10.50 per hour and works 37.5 hours a week, the person's annual salary would be \$20,475 ($\$10.50 \times 37.5 \times 52$).

(2) For employees working a 40-hour workweek, multiply the hourly rate of pay by 2,080 for employees covered by paragraphs 2 and 3 of this handbook, and 2,087 for employees covered by paragraph 4.

e. Differences in Workweeks as they Apply to Special Rates Under 38 U.S.C. 7455

(1) Normally, minor disparities between VA and non-Federal employers concerning the length of a workweek will not have an adverse impact on VA's ability to recruit and retain employees. Therefore, these differences will not usually be considered when collecting and evaluating salary data. However, in some areas of the country, it is the normal practice for full-time employees to work less than 40 hours a week, and this practice may add to VA's staffing difficulties. When this happens, differences in workweeks may be factored into the rates of pay. To factor in differences in workweeks, the following conditions must be met:

(a) The workweek for the majority of the establishments surveyed differs from the Federal workweek for the same occupation, and

(b) There is evidence indicating that the workweek difference is, in addition to pay disparity, contributing to the staffing difficulty for the occupation.

(2) Where the above conditions are met, salary data (except for the highest beginning hourly rate) may be converted to the equivalent of a 40-hour workweek, i.e., hourly rates of pay may be multiplied by 2,080. The converted rates of pay may then be used to determine community averages for the purpose of setting [special rates].

(3) The minimum rate of a [special rate] range may not exceed the highest beginning rate actually paid in the community. For this reason, the highest beginning hourly rate can be converted to an annual rate of pay only. It cannot be converted to the equivalent of a 40 hour workweek. Facility directors approving [special rates] under paragraph 2 will not set beginning rates of pay that exceed the highest beginning annual rate actually paid in the community for comparable positions. For special rate requests submitted under paragraph 3, the highest beginning annual rate actually paid must be clearly reported on the data collection sheet.

f. Use of Retail Survey Data for Pharmacist [Special Rates] Under Paragraph 2

(1) If a facility's major competition for pharmacists in the local labor market area is with retail drug stores, facility officials should survey the rates of pay for pharmacists employed by the retail stores.

(2) When surveying retail stores, data collectors must be careful to make proper job matches. Some retail pharmacists serve as store managers and are compensated for this additional responsibility. These positions are not considered to correspond to VA pharmacists and, therefore, are not considered appropriate job matches. However, data for staff pharmacists may be used in the salary survey.

(3) Data collectors should determine what, if any, premium pay the retail pharmacists receive to work their basic tour of duty. Retail pharmacists who work nights or weekends may not receive additional pay for these tours as VA pharmacists do. Differences in tour differentials should be taken into consideration when evaluating salary data and setting [special rates].

g. **Contract Data.** Organizations which provide health-care services on a contract basis will not be surveyed for the purpose of setting [special rates].

[6. **TERMINATION OF SPECIAL RATES.** Facilities are required to monitor their special rates and to take the appropriate action to terminate special rates in the following situations:

a. **Locality Rates Exceed all Steps of a Grade on a Special Rate Table.** Facilities must terminate a special rate table when all steps within a grade are exceeded by the applicable locality rates. In this situation, employees are placed at the corresponding grade and step on the locality pay chart.

b. **Locality Rates Exceed Some Steps of a Grade on a Special Rate Table.** In some cases, locality rates will exceed only some of the steps within a grade on a special rate table. These special rate tables are referred to as “combination special rate” tables. Facilities must monitor an employee’s movement within these special rates. If an employee moves from a step that is covered by a special rate, to a step that is no longer considered a special rate because the special rate is exceeded by locality pay, the facility must process an action to take the employee off the special rate and move the employee to the locality pay chart. Although unlikely, if an employee moves from a step that is covered by locality pay to a step where higher special rates apply, the facility must process an action to take the employee off the locality pay chart and move the employee to the special rate.]