



REFERENCE GUIDE

814-PT14

Prepared: August 1996, by the Pay Team

For Additional Information: (703) 696-6301, team #4 or DSN 426-6301, team #4

Grade and Pay Retention

This reference guide provides basic information about the application of grade retention and pay retention to General Schedule and Federal Wage System employees and provides answers to frequently asked questions.

References

- Sections 5361 through 5366 of title 5, United States Code
- Title 5, Code of Federal Regulations, Part 536, Grade and Pay Retention
- Federal Wage System Operating Manual, Subchapter S9, Grade and Pay Retention Under the Federal Wage System
- Office of the Assistant Secretary of Defense memoranda, February 13, 1987; November 2, 1990; and June 16, 1992, Subject: Grade and Pay Retention

Eligibility

- Except when an employee is placed in a lower-graded position as a result of a reclassification process, an employee is eligible for grade retention only if he or she has served for 52 consecutive weeks or more at a grade or grades higher than that of the position in which placed.
- An employee is eligible for grade retention when his or her position has been reclassified at a lower grade only if the position which is being reduced had been classified at a higher grade(s) for a continuous period of at least one year immediately before the reduction.
- An employee whose pay would otherwise be reduced and who is not excluded by regulation is eligible for pay retention. Such employee is entitled to pay retention under the circumstances prescribed under "Actions Covered - Pay Retention" on pages 3, 4, and 5 of this guide.

Exclusions

Grade and pay retention shall not apply to an employee who:

- Moves from a position that is not in an agency as defined in 5 U.S.C. 5102;
- Is identified under 5 U.S.C. 2105(c), except prevailing rate employees included under 5 U.S.C. 5361;
- Is reduced in grade or pay for personal cause or at the employee's request;
- Does not satisfactorily complete the probationary period prescribed by 5 U.S.C. 3321(a)(2) and, as a result, is removed from a supervisory or managerial position; or
- Is entitled to receive basic pay under 5 U.S.C. 3594(c) because of removal from the Senior Executive Service and placement in a civil service position under 5 U.S.C. 3594(b)(2).
- **Grade retention under 5 CFR 536.103(a)(1) or (b) shall not apply** to a member of the Senior Executive Service or an individual in a position subject to the senior-level pay authority in 5 U.S.C. 5376 who is placed in a position in a covered pay schedule.

Actions Covered - Grade Retention

Grade retention will be granted to an eligible employee who:

- Is placed in a lower grade as a result of reduction-in-force (RIF) procedures;
- Is placed in a lower grade as a result of a reclassification process;
- Would be placed in a lower grade through reclassification but has held a higher grade(s) for at least 52 consecutive weeks although the position has not been classified at the higher grade(s) for at least one year;
- Is moved from a DoD NAF position to a DoD civil service position under 5 CFR 536.103(c), without a break in service of more than 3 days;
- Accepts a lower grade at the same or another DoD activity when the employee is placed in a situation which has been determined in advance by the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), to be comparable to a RIF;

Actions Covered - Grade Retention (continued)

- Is placed through the DoD Priority Placement Program, including those placements resulting from early registration, even though the employee does not have a specific RIF notice.
Note: If the position accepted is not a grade lower than one which has been offered by the employee's activity, grade retention will be granted. If the position is at a grade lower than one which has been offered by the activity, grade retention may be granted, provided management determines that placement in the position is in the Government's interest.
- Would not be affected personally by a realignment or reduction within his or her organization and requests a change to lower grade. If management determines that the employee's change to lower grade would result in placement in a more suitable position for that employee and in a lessening or avoidance of the impact of the RIF on other employees, grade retention will be granted.
- In other circumstances, as determined by activities, resulting from personnel actions initiated by management to further the agency's mission, to the extent that the intent of applicable law and regulation is met.

Actions Covered - Pay Retention

Pay Retention will be granted in the following situations:

- When the 2-year period of grade retention expires;
- When an employee who does not meet the eligibility requirement for grade retention is reduced in grade as a result of a reduction-in-force or reclassification process;
- When scheduled rates, special schedules, or special salary rates are reduced or eliminated (except for a statutory reduction in scheduled rates of pay under the General Schedule) including a reduction authorized under section 5305(c) of title 5, United States Code, or a statutory reduction in a prevailing rate schedule established under subchapter IV of chapter 53 of title 5, United States Code, and Part 532 of title 5, Code of Federal Regulations;
- When an employee is placed into a non-special rate position or into a lower special rate position from a special rate position;
- When an employee is placed in a position in a lower wage area or in a position under a different pay schedule;

Actions Covered - Pay Retention (continued)

- When an employee is placed in a formal employee development program generally utilized Governmentwide, e.g., Upward Mobility, Apprenticeship, and Career Intern Programs;
- When an employee accepts a lower graded position designated in advance by the activity as being hard-to-fill under criteria similar to those used for extending special rates under 5 CFR 530.303(a) and (b);
- When an employee is reduced in grade upon return from an overseas assignment in accordance with the terms of a preestablished agreement;
- When an employee accepts placement in a lower graded position upon return from an overseas assignment after being released from the period of service under a current transportation agreement due to a management initiated action;
- When, after fulfilling at least one year of service, an employee is released from a service agreement and placed in a lower graded position upon return from an overseas assignment because of compelling personal reasons of a humanitarian or compassionate nature. (Such compelling reasons may involve physical or mental health or circumstances beyond the employee's control.)
- When an employee is placed in a lower graded position at the losing activity or any other DoD activity after declining an offer to transfer with his or her function to a location outside the commuting area or is being identified with such function but receives no offer at the gaining activity;
- When an employee accepts a lower graded position offered by the activity for nondisciplinary reasons of ill health under criteria similar to those used in meeting the responsibilities for selective placement in lieu of disability retirement, as described in 5 CFR 831.1203(a)(4);
- When an employee accepts placement in a lower graded non-reserve technician job, without a break in service, from an Army or Air Force reserve technician position because he or she has lost or is scheduled to lose eligibility for the reserve technician position through no fault of his or her own (i.e., "status quo" employee);
- When an employee accepts placement in a lower graded competitive service position, without a break in service, from a National Guard technician position because he or she has lost military status through no fault of his or her own;

- When an employee not serving under a mobility agreement, whose job is abolished, accepts placement in a lower graded position within the commuting area, after declining an offer within the competitive area but outside the commuting area;

Actions Covered - Pay Retention (continued)

- When an employee applies through a formal recruitment program and is selected for a position at an overseas location. (In such cases, all potential applicants must be advised in writing that pay retention will be offered to selectees whose pay would otherwise be reduced if selected for the position.)
- When an employee eligible under 5 CFR 536.104(c) is moved from a DoD NAF position to a DoD civil service position without a break in service of more than 3 days;
- In other circumstances, as determined by activities, resulting from personnel actions initiated by management to further the agency's mission, to the extent that the intent of the law and regulations governing grade and pay retention is met.

Employee Entitlement Under Grade Retention

Period of Grade Retention

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

Movement Between Different Pay Schedules or Systems

- Compare the representative rates of the grades of the two positions to determine whether the grade of a position in one pay schedule or system is lower than, equal to, or higher than the grade of another position.

Determination of Applicable Rate Schedule

- To establish the employee's rate of basic pay while the employee is entitled to grade retention, use the schedule which applies, (1) to the geographical area in which the employee is actually assigned; (2) to the occupational series of the position which the employee is occupying, and (3) to the retained grade.

Employee Entitlement Under Grade Retention (continued)

Determination of Retained Grade

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

Pay and Pay Administration Under Grade Retention

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

Determination of Rate of Basic Pay

- In most cases, an employee will remain in the same step and continue to receive the same rate of basic pay. However, if there is a change in the applicable rate schedule when an employee becomes entitled to grade retention, his or her rate of basic pay is determined as follows:
 - a. An employee is entitled to the greater of the following:
 - 1) Rate of basic pay held before the movement;
 - 2) Rate from the new schedule for same grade/step held before the movement (e.g., the employee moves to a higher special salary rate or wage schedule);
 - 3) Lowest rate from the new schedule for the retained grade which equals or exceeds the employee's rate of basic pay before the movement (e.g., the employee moves to a lower special salary rate or wage schedule).
 - b. If the rate of basic pay to which the employee is entitled is within the rate range of the retained grade, the employee will be placed in the step appropriate for that rate of basic pay. If it is not within the rate range, the employee will be placed in step 0.

Within-grade Increases

- During the 2-year grade retention period, an employee is entitled to step increases in the retained grade. However, if an employee is placed at step 10 or 0 because his or her rate of basic pay (determined under grade retention rules) is at or above the maximum of the rate range of the retained grade, the employee is not entitled to any further step increases.

Employee Entitlement Under Grade Retention (continued)

Annual Adjustments

- An employee who, at the time of an annual pay increase, is receiving a rate of basic pay within the rate range of the retained grade is entitled to receive the new rate for his or her grade and step on the new pay schedule. However, if an employee is receiving a retained rate of pay outside the rate range of the retained grade, see “Annual Adjustments” under “Pay Administration Under Simultaneous Grade and Pay Retention” on pages 12 and 13 of this guide.

Special Rate Increases

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

Locality Pay Entitlement

- Retaining GS grade in Federal Wage System position: A General Schedule employee under grade retention placed in a Federal Wage System position is entitled to locality pay (provided the position is located in a locality pay area) but, when grade retention terminates and the employee is under pay retention occupying a Federal Wage System position, he or she will lose the locality pay and his or her pay will be reduced by the amount of locality pay. Termination of locality pay under these circumstances is not an adverse action.
- Retaining GS grade in special salary rate position: A General Schedule employee under grade retention placed in a special salary rate position is eligible to receive locality pay only to the extent that the amount of the locality pay for the employee’s grade and step exceeds the employee’s special salary rate. If the special salary rate exceeds the GS rate plus the applicable locality pay, the employee is not eligible to receive the locality pay. If the special salary rate does not exceed the GS rate plus the applicable locality pay, the employee is eligible to receive only the difference between the GS rate plus the applicable locality pay and the special salary rate.

Effect of Temporary Promotions

- If an employee becomes entitled to grade or pay retention while under a temporary promotion, the grade and/or rate of basic pay to which the employee is entitled is not based on the grade or rate of basic pay held during the temporary promotion, but rather on the grade and/or rate of basic pay to which the employee would have been entitled had he or she not been temporarily promoted.

Employee Entitlement Under Grade Retention (continued)

Effect of Temporary Promotions (continued)

- If an employee is already entitled to grade or pay retention when he or she is temporarily promoted, the employee's entitlement to grade or pay retention is not affected in any way by the temporary action. It simply continues simultaneously as if the employee had not been temporarily promoted with the employee receiving the greater benefit.

Loss of Eligibility for, or Termination of, Grade Retention

- An employee will lose eligibility for grade retention if any of the following conditions occurs at any time after the employee receives written notice of the reduction-in-grade action, but before the commencement of the 2-year period of grade retention. Also, grade retention terminates if any of the following conditions occurs after commencement of the 2-year period of grade retention:
 - 1) The employee has a break in service of one work day or more;
 - 2) The employee is demoted for personal cause or at his/her request;
 - 3) The employee is placed in, or declines a reasonable offer of, a position the grade of which is equal to or higher than the retained grade;
 - 4) The employee elects in writing to terminate the benefits of grade retention.
Note: Any such election is irrevocable. Also, it is the Office of Personnel Management's position that once an employee waives grade retention, the employee removes management's influence over the particular action against the employee. Any ensuing loss of pay would be as a result of an employee's request and no pay retention could be granted even under the agency's authority.
- Except when the grade retention entitlement results from reduction-in-force procedures or a reclassification process, grade retention terminates if the employee fails to enroll in, or

comply with reasonable written requirements established to assure full consideration under a program providing priority consideration for placement, such as the DoD Priority Placement Program.

Employee Entitlement Under Grade Retention (continued)

Criteria for a Reasonable Offer (must meet all of the following requirements)

- The offer must be in writing and must include an official job description of the offered position;
- The offer must inform the employee that an entitlement to grade or pay retention will be terminated if the offer is declined and that the employee may appeal the reasonableness of the offer as provided in 5 CFR 536.302;
- The offered position must be of tenure equal to or greater than that of the position creating the grade and pay retention entitlement;
- The offered position must be in an agency, as defined in 5 U.S.C. 5102, although not necessarily in the same agency in which the employee is serving at the time of the offer;
- The offered position must be full-time unless the employee's position immediately before the change creating the entitlement was less than full-time, in which case the offered position must have a work schedule of no less time than that of the position held before the change;
- The offered position must be in the same commuting area as the employee's position immediately before the offer, unless the employee is subject to a mobility agreement or a published agency policy which requires employee mobility.

Employee Entitlement Under Pay Retention

Determination of Rate of Basic Pay

- When an employee becomes entitled to pay retention, or moves to another position while receiving pay retention, the employee's rate of basic pay immediately prior to eligibility or movement will be compared with the range of rates of basic pay for the position to be occupied by the employee.

Employee Entitlement Under Pay Retention (continued)

Determination of Rate of Basic Pay (continued)

- The employee is entitled to the lowest rate of basic pay which equals or exceeds his or her rate of basic pay immediately prior to the eligibility or movement. If the rate of basic pay can be accommodated in the rate range of the new grade, the employee will be placed in the step appropriate for that rate, and pay retention does not apply. If there is no such rate that equals or exceeds the employee's rate of basic pay, then the employee is entitled to retain either his or her existing rate of basic pay or 150 percent of the maximum rate of basic pay payable for the new grade, whichever is less.

Annual Adjustments

- An employee who, at the time of an annual pay increase, is receiving pay retention, he or she is entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the grade of the employee's current position. In other words, the employee is entitled to receive 50 percent of the difference between the maximum rate on the previous schedule and the maximum rate on the new pay schedule. This "adjustment" is added to his or her existing retained rate of pay. Note: If the employee is occupying a special salary rate position, the previous and new special salary rate schedules will be used to calculate his or her annual increase, rather than the previous and new General Schedules.

Increase or Decrease in Wage Schedule

- When there is an increase in the wage schedule, an employee under pay retention is entitled to receive 50 percent of the amount of the increase in the maximum rate of basic pay payable for the grade of the employee's position. This pay adjustment is calculated using the same method as explained above in "Annual Adjustments".
- When there is a decrease in the wage schedule, an employee entitled to retained pay will continue to receive the rate that was in effect prior to the decrease. There is no legal authority for a reduction in pay under these circumstances. The only exception is when there is a statutory reduction in scheduled rates. See 5 CFR 536.104(a)(3)(ii). Note: New employees will receive the lower rates.

<h2>Employee Entitlement Under Pay Retention (continued)</h2>
--

Locality Pay Entitlement

- Retained pay in GS position: An employee with retained pay who is occupying a General Schedule position is entitled to receive 100 percent of the locality pay in addition to his or her retained rate, provided the position is located in a locality pay area. Note: Retained pay, that is the former rate of basic pay before any deductions and exclusive of additional

pay of any kind, does not carry with it any attributes of the position from which it accrued. A retained rate may accrue from a special salary rate position, a General Schedule position, a Federal Wage System position, etc. The type of position makes no difference; all retained rates under the General Schedule System are treated in the same way regardless the type of position held by the employee before being placed on pay retention.

- **Retained pay in special salary rate position:** An employee with retained pay who is occupying a special salary rate position is entitled to receive 100 percent of the locality pay in addition to his or her retained rate, provided the position is located in a locality pay area. When the employee's unadjusted retained rate (retained pay excluding locality pay) falls within the rate range of the special salary rate (that is, when the unadjusted retained rate is equal to or lower than step 10 of the special salary rate), the employee's pay is set at the maximum step of the special salary rate and pay retention terminates. At that point, it must be determined whether the employee is eligible to continue receiving locality pay. An employee in a special salary rate position is eligible to receive locality pay only to the extent that the amount of the locality pay for the employee's grade and step exceeds the employee's special salary rate. If the special salary rate exceeds the GS rate plus the applicable locality pay, the employee is not eligible to receive the locality pay. If the special salary rate does not exceed the GS rate plus the applicable locality pay, the employee is eligible to receive only the difference between the GS rate plus the applicable locality pay and the special salary rate.

Loss of Eligibility for, or Termination of, Pay Retention

- Eligibility for pay retention, or actual retention of pay, ceases to apply to any employee who:
 - 1) Has a break in service of one workday or more;
 - 2) Is demoted for personal cause or at the employee's request;
 - 3) Is entitled to a rate of basic pay which is equal to, or higher than, the employee's retained rate; or

Employee Entitlement Under Pay Retention (continued)

- 4) Declines a reasonable offer of a position the rate of which is equal to, or higher than, the employee's retained rate.

Pay Entitlement Upon Termination of Pay Retention

- If an employee's entitlement to pay retention is terminated as a result of a demotion for personal cause or a demotion at the employee's request, or it is terminated as a result of the employee's declination of a reasonable offer, the employee's rate of basic pay may be set at any rate of his or her grade in accordance with the maximum payable rate rules. See Subpart B of Part 531 of title 5, Code of Federal Regulations.

Pay Administration Under Simultaneous Grade & Pay Retention

Annual Adjustments - General Schedule Employees

- If a General Schedule employee is entitled to grade retention at the same time he or she is entitled to pay retention, the employee would only receive 50 percent of the annual increase granted at the maximum rate of the retained grade. However, if the employee's entitlement is greater under an authority other than the grade retention provisions, he or she is entitled to the greater increase as provided by that authority.

Example

11-15-95: An GS-343-7 employee who is receiving a retained rate of \$32,500 under 5 U.S.C. 5363 (pay retention) is placed in a GS-343-5 position and is entitled to simultaneous grade and pay retention. The employee is entitled under 5 U.S.C. 5362 (grade retention) to the GS-7 step 10 rate of \$30,119. However, since the entitlement under pay retention of \$32,500 is greater, that entitlement continues.

01-07-96: An annual increase is effective. Under grade retention, the employee is entitled to the new GS-7 step 10 rate of \$30,726. Under pay retention, the employee is entitled to 50 percent of the increase in the maximum rate of his or her grade. The maximum rate increased from \$30,119 to \$30,726, a difference of \$607. The employee under pay retention would, therefore, be entitled to an increase of \$304. Since the employee's entitlement of \$32,804 under pay retention (\$32,500 plus \$304) is greater than the employee's entitlement under grade retention (GS-7 step 10 rate of \$30,726), the employee is entitled to \$32,804.

Pay Administration Under Simultaneous Grade & Pay Retention (continued)

Annual Adjustments - Federal Wage System Employees

- If a Federal Wage System employee is entitled to grade retention at the same time he or she is entitled to pay retention, the employee is entitled to receive 100 percent of the annual wage increase granted at the maximum rate of the retained grade. If the employee's entitlement is greater under an authority other than the grade retention provisions, he or she is entitled to the greater increase as provided by that authority.

Locality Pay Entitlement

- Retaining GS grade in Federal Wage System position: A General Schedule employee under simultaneous grade and pay retention placed in a Federal Wage System position is entitled to receive 100 percent of the locality pay in addition to his or her retained rate, provided the position is located in a locality pay area. However, when grade retention terminates and the employee is under pay retention occupying a Federal Wage System position, he or she will lose the locality pay and his or her pay will be reduced. Termination of locality pay under these circumstances is not an adverse action.
- Retaining GS grade in special salary rate position: A General Schedule employee under simultaneous grade and pay retention placed in a special salary rate position is entitled to receive 100 percent of the locality pay in addition to his or her retained rate, provided the position is located in a locality pay area. However, when the employee's unadjusted retained rate (retained pay excluding locality pay) falls within the rate range of the special salary rate, the employee's pay is set at the maximum step of the special salary rate and pay retention terminates. At that point, it must be determined whether the employee is eligible to continue receiving locality pay. An employee in a special salary rate position is eligible to receive locality pay only to the extent that the amount of the locality pay for the employee's grade and step exceeds the employee's special salary rate. If the special salary rate exceeds the GS rate plus the applicable locality pay, the employee is not eligible to receive the locality pay. If the special salary rate does not exceed the GS rate plus the applicable

Frequently Asked Questions and Answers

locality pay, the employee is eligible to receive only the difference between the GS rate plus the applicable locality pay and the special salary rate.

1. If a General Schedule employee is placed in a Wage Grade job with grade retention, is he or she eligible to continue receiving locality pay?

Yes, an employee retaining an GS grade is entitled to locality pay, provided the position is located in a locality pay area. However, once grade retention terminates and the employee is under pay retention occupying the WG position, he or she will lose locality pay.

2. If a Wage Grade employee is placed in a General Schedule position with grade retention, is he or she eligible to receive locality pay?

No, a wage grade employee on grade retention is still a wage grade employee even though he or she may be in an GS position. Once grade retention terminates and the employee is under pay retention occupying the GS position, he or she will be entitled to locality pay because he or she will be a bona fide GS employee.

3. If a Wage Grade employee is placed in a General Schedule position with pay retention, is he or she eligible to receive locality pay?

Yes, an employee under pay retention in an GS position is entitled to locality pay, provided the position is located in a locality pay area. Retained pay, that is the former rate of basic pay before any deductions and exclusive of additional pay of any kind, does not carry with it any attributes of the position from which it accrued. A retained rate may accrue from a special salary rate position, an GS position, or a Federal Wage System position. The type of position makes no difference; all retained rates under the General Schedule System are treated in the same way regardless the type of position held by the employee before being placed on pay retention.

4. How is locality pay computed for an employee who is on pay retention?

To determine the locality rate of pay payable to an employee on pay retention, the retained rate shall be increased by the authorized percentage for the locality pay area in which the employee's official duty station is located. Example: GS-11 employee receiving a retained rate of pay (\$48,392); official duty station located in "Rest of U.S." pay area; authorized locality pay percentage of 4.13 percent.

<p>Frequently Asked Questions and Answers (continued)</p>
--

Computation: \$48,392 (1996 retained rate) x 1.0413 = \$50,391 (1996 locality rate)

5. Will an employee who is entitled to grade and pay retention lose his or her current locality rate of pay when he or she is involuntarily transferred to a different geographical area with a lower locality-based comparability payment?

Yes, an employee under grade and pay retention who is transferred (voluntarily or involuntarily) to a different locality pay area is not entitled to retain the higher locality-based comparability payment. He or she will be paid the rate for the locality pay area to which he or she was transferred.

6. When comparing the representative rates of an GS position and a Federal Wage System (FWS) position, should locality pay be considered?

No, representative rates are basic rates without augmentation for overtime, night differential, post differential, cost of living allowances, premium pay, or locality-based comparability payments. The General Schedule or the applicable special salary rate schedule should be used when comparing the representative rates of the GS and FWS positions.

7. Is an employee entitled to grade retention if he or she declines to transfer with his or her function outside the commuting area and in lieu of separation, is placed in a lower graded position?

No, there is no legal or regulatory provision under which to grant grade retention to an employee in this situation. However, the employee would be entitled to pay retention in accordance with the DoD policy memorandum dated February 13, 1987, subject: Grade and Pay Retention.

8. Is a former DoD employee (GS-11), who was separated on March 8, 1996, due to reduction-in-force procedures, and reinstated on March 25, 1996, in a GS-7 position via the DoD Priority Placement Program, entitled to grade or pay retention?

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

Frequently Asked Questions and Answers (continued)

9. If an employee who is scheduled to be separated due to reduction-in-force procedures, is offered a vacancy which is below the 3-grade limit that is allowed through bumping, is he or she entitled to grade retention?

An employee who is not excluded by regulation and who meets the 52-week requirement discussed in 5 CFR 536.103(c)(1), is entitled to grade retention if he or she is placed in a lower graded position as a result of RIF procedures. The position to which the employee is demoted may be at any grade level. However, when the 2 year period of grade retention expires and the employee becomes entitled to pay retention, he or she will retain either his or her current rate of basic pay or 150 percent of the maximum rate of basic pay for the employee's new grade, whichever is less.

10. If an GM-14 employee is placed in an GS-13 position and provided grade retention, does he or she lose the GM status immediately?

Yes, an GM-14 employee who is placed in an GS-13 position and is entitled to grade retention, retains the grade of GS-14 but is no longer covered under the merit pay system.

11. SITUATION: A General Schedule employee is occupying a Federal Wage System position with grade retention and he or she is performing duties involving physical hardship (e.g., cold work) for which the FWS employees are receiving an

environmental differential under 5 CFR 532.511. However, there is no comparable provision for the physical hardship in 5 CFR 550.904 which authorizes a hazard pay differential for GS employees. QUESTION: During the 2-year period of grade retention, is the employee entitled to the environmental differential authorized for FWS employees?

No, a General Schedule employee on grade retention is still an GS employee even though he or she may be occupying an FWS position. In this situation, the employee has two options. Option #1: He or she may waive his or her entitlement to grade and pay retention, thereby becoming a bona fide FWS employee, which will render the employee eligible for the environmental differential but ineligible for locality pay. Option #2: The employee may complete the 2-year period of grade retention as an GS employee and continue to receive locality pay, within-grade increases (if applicable), and the annual pay increase approved for GS employees, but he or she would not be entitled to the environmental differential until grade retention terminated.

Frequently Asked Questions and Answers (continued)

12. How are annual pay adjustments calculated for an employee on simultaneous grade and pay retention when his or her basic pay exceeds the maximum rate of the retained grade?

If a Federal Wage System employee is entitled to grade retention at the same time he or she is entitled to pay retention, the employee receives the full increase granted at the maximum rate of the retained grade. This differs from the entitlement of a General Schedule employee who is entitled to grade retention at the same time he or she is entitled to pay retention and would only receive 50 percent of the increase granted at the maximum rate of the retained grade. However, if an GS or an FWS employee's entitlement is greater under an authority other than the grade retention provisions, the employee is entitled to the greater increase as provided by that authority. (See example on page 12 of this guide.)

13. If a Federal Wage System employee who works the night shift is placed in another lower graded FWS job with grade retention, is he or she entitled to keep the night differential even though the employee will no longer be working the night shift?

No, an employee is entitled to retain a rate of basic pay as determined under the grade retention rules in 5 CFR 536.205(a). The "rate of basic pay" is defined in 5 CFR 536.102 as the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind such as night or environmental differentials in the case of a prevailing rate employee. However, if the employee's new job involved regularly scheduled night work, he or she would be entitled to receive a night differential in addition to his or her retained rate of basic pay.

14. If an employee is receiving a retained rate of pay from an GS-13 non-special salary rate position while occupying a special salary rate GS-12 position, is the employee eligible to receive locality pay?

Yes, an employee with retained pay who is occupying a special salary rate position is entitled to receive 100 percent of the locality pay in addition to his or her retained rate. For further explanation, see “Locality Pay Entitlement” on page 11 of this guide.