

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

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 For Information Only

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

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SUBJECT: Severance Pay

This office has received numerous inquiries concerning the meaning of the term equivalent position as used in the severance pay regulations and guidance issued by the Office of Personnel Management (OPM). We have discussed the issues with OPM and have been informed that their policy, to be issued in writing shortly, will probably be as covered below. The following will be departmental policy until further OPM guidance is received.

Section 550.701 (b)(2) of title 5, Code of Federal Regulations states that severance payments may not be made to an employee who, at the time of separation, is offered and declines an equivalent position in his or her agency in the same commuting area. An equivalent position is one of like seniority, tenure, and pay other than a retained rate.

The first term, seniority, is obsolete and only had meaning for employees in the Old Post Office Department. It is OPM's intention to remove this term from the severance pay regulation.

The second term, tenure, is defined (5 CFR 210.102(17)) as the period of time that an employee may reasonably expect to serve under his or her current appointment. It is granted and governed by the type of appointment without regard to competitive status or whether the appointment is in a competitive or excepted position.

The third term, pay other than a retained rate, is interpreted as including a rate of pay provided by grade and/or pay retention. Therefore, an offer of a position which is equal in pay to the original position only because of a retained grade or retained pay is not an equivalent offer. However, an offer of a position to an employee who is not entitled to grade or pay retention is equivalent when the former rate of basic pay can be accommodated

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within the rate range of the offered position. The following three illustrations may be used as a guide in applying these principles:

Illustration I: An employee, as a result of reduction-in-force procedures, is offered and declines a lower graded position involving retained grade for 2 years and subsequent retained pay.

This offer is not equivalent in terms of pay and the employee is entitled to severance pay if all eligibility requirements have been met. It is important to note that in this case it is irrelevant as to whether or not the employee's former rate of basic pay could have been accommodated within the rate range of the offered position.

Illustration II: An employee, as a result of reduction-in-force procedures, is offered and declines a lower graded position involving retained pay. The employee was ineligible for retained grade. Retained pay was necessary because the employee's former rate of basic pay could not be accommodated in the rate range of the offered position.

This offer is not equivalent in terms of pay and the employee is entitled to severance pay if all eligibility requirements have been met.

Illustration III: An employee, as a result of reduction-in-force procedures, is offered and declines a lower graded position. The former rate of basic pay can be accommodated within the rate range of the offered position (highest previous rate rule). The employee was ineligible for retained grade. Pay retention was not required because the pay could be set under the highest previous rate rule.

This offer is equivalent in terms of pay and the employee would not be entitled to severance pay, so long as all other criteria for an equivalent position have also been met.

If there are any questions, please contact Gail Batt on extension 64140.


Director, Office of Person
and Training