

offered position in determining whether the rate of basic pay for an offered position is equal to or higher than the employee's retained rate.

(c) Termination of pay retention benefits takes effect—

(1) At the end of the day before separation from service if termination is the result of a break in service;

(2) At the end of the day before the employee becomes entitled to an equal or greater rate as described in paragraph (a)(2) of this section;

(3) At the end of the day before placement or movement if the termination is the result of the employee's placement in or movement to another position; or

(4) At the end of the last day of the pay period in which the employee declines a reasonable offer.

(d) If an employee's eligibility for pay retention ceases or entitlement to pay retention terminates under this section, the employee's rate of basic pay must be set using the pay-setting rules applicable to the employee's position of record (e.g., 5 CFR part 531, subpart B, for GS positions). However, when an employee's retained rate is terminated under paragraph (a)(2) or (3) of this section and the employee's grade is unchanged, the employee's payable rate of basic pay may not be set below the maximum rate of the highest applicable rate range.

[70 FR 31310, May 31, 2005, as amended at 73 FR 66156, Nov. 7, 2008]

§ 536.309 Converting retained rates on May 1, 2005.

(a) Consistent with section 301(d)(2) of Public Law 108–411, an agency must convert an employee's retained rate or similar rate, as described in paragraph (b) of this section, to a retained rate under this subpart on May 1, 2005. The new retained rate must equal the retained rate in effect on April 30, 2005, as adjusted to include any applicable locality payment under 5 U.S.C. 5304 or similar provision of law.

(b) This section applies to an employee under a covered pay system who, on April 30, 2005, was receiving—

(1) A retained rate under 5 U.S.C. 5363;

(2) A rate paid under the authority of 5 U.S.C. 5334(b) or 5 U.S.C. 5362 which

was greater than the maximum rate of basic pay payable for the grade of the employee's position of record; or

(3) A continued rate of pay under 5 CFR part 531, subpart C or G (as contained in the January 1, 2005, edition of title 5, Code of Federal Regulations, parts 1 to 699) which was greater than the maximum rate of basic pay payable for the grade of the employee's position.

(c) The conversion rules in this section must be applied before any simultaneous pay action that takes effect on May 1, 2005.

Subpart D—Appeals and Miscellaneous Provisions

SOURCE: 45 FR 85656, Dec. 30, 1980. Redesignated at 70 FR 31310, May 31, 2005.

§ 536.401 Placement and classification plans.

(a) Agencies which employ individuals subject to this part are required to establish in writing placement and classification plans.

(b) The placement and classification plans must commit the agency to:

(1) Identify and correct classification errors; and

(2) Correct position management problems; and

(3) Carry out specific planned efforts to place employees subject to this part; and

(4) Pursue placement efforts that do not adversely affect affirmative action goals.

[45 FR 85656, Dec. 30, 1980. Redesignated at 70 FR 31310, May 31, 2005]

§ 536.402 Appeal of termination of benefits because of reasonable offer.

(a) Except as provided for in paragraph (e) of this section, an employee whose grade or pay retention benefits are terminated on the grounds the employee declined a reasonable offer of a position the grade or pay of which is equal to or greater than his or her retained grade or pay may appeal the termination to the Office of Personnel Management.

(b) An employee who appeals under this section shall file the appeal in writing with the Office of Personnel