

than that of the position held before the change; and

(6) 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.

**§ 536.207 Loss of eligibility for grade retention.**

(a) Eligibility for grade retention as a result of entitlement under § 536.103(a) of this part ceases 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:

(1) The employee has a break in service of 1 workday or more; or

(2) The employee is demoted for personal cause or at the employee's request; or

(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; or

(4) The employee elects in writing to terminate the benefits of grade retention.

(b) Eligibility for grade retention as a result of entitlement under § 536.103(b) of this part ceases if any of the following conditions occurs at any time after the employee is informed by management of an impending reorganization or reclassification which will or could result in reduction in grade, but before the commencement of the 2-year period of grade retention:

(1) Any of the conditions listed in paragraph (a) of this section except that an employee's request for placement in a lower graded position, in lieu of displacing an employee at his or her grade under reduction-in-force procedures, is not a declination of a reasonable offer for grade retention purposes; or

(2) The employee fails to enroll in, or to comply with reasonable written requirements established to assure full consideration under, a program providing priority consideration for placement.

**§ 536.208 Termination of grade retention.**

(a) Grade retention terminates if any of the conditions listed in § 536.207(a) occurs after commencement of the 2-year period of grade retention.

(b) Grade retention as provided by § 536.103(b) also terminates if any of the conditions listed in § 536.207(b) occur after the commencement of the 2-year period of grade retention.

(c) The effective date of termination of grade retention benefits is:

(1) The day before placement if the termination is the result of the employee's placement in another position; or

(2) At the end of the last day of the pay period which the employee:

(i) Declines a reasonable offer; or

(ii) Elects to waive grade retention benefits; or

(iii) Fails to enroll in, or comply with reasonable written requirements established to assure full consideration under, a program providing priority consideration for placement.

(d) Grade retention terminates on the day before the first day of the first pay period beginning on or after April 23, 1991 in the case of an employee who, on that date, becomes subject to the senior-level pay system established under 5 U.S.C. 5376 and subpart E of part 534 of this chapter.

[45 FR 85656, Dec. 30, 1980, as amended at 56 FR 18663, Apr. 23, 1991]

**§ 536.209 Loss of eligibility for, or termination of, pay retention.**

(a) Eligibility for pay retention, or actual retention of pay, ceases if any of the following conditions occurs at any time after the employee had received written notification that his or her pay is to be reduced:

(1) The employee has a break in service of 1 workday or more; or

(2) The employee is entitled to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the rate to which the employee is entitled under pay retention; or

(3) The employee is demoted for personal cause or at the employee's request.