

Restructuring Information Handbook Module 3

Reduction in Force

Unit A, Required Procedures (December 2002 version)

Introduction

The U.S. Office of Personnel Management developed the **Restructuring Information Handbook** to assist Federal agencies in identifying the mandatory statutory and regulatory procedures that apply to restructuring situations.

The Handbook also offers agencies options for minimizing or even eliminating the disruption that often results from restructuring.

There is no requirement for Federal agencies to use this Handbook. Also, the United States Court of Appeals for the Federal Circuit stated in **James v. Von Zemenszky**, 284 F.3D 1310 (2002), that: ". . . OPM's Restructuring Information Handbook is not a formal regulation, but merely an informal statement of agency views."

The structure of the Handbook assists the user in locating as much or as little restructuring information as the user needs. Some Modules contain only one **Unit**, while other Modules have two or more Units.

For subjects with mandatory statutory or regulatory requirements, **Unit A (Mandatory Requirements)** provides the user with a crash course on the subject in Section 1, and also with detailed information, complete with citations of requirements contained in law and regulation.

When appropriate, **Unit B (Guidance)** provides the user with useful guidance, including key appeals decisions from appellate bodies such as the Merit Systems Protection Board.

The summaries of appeals decisions are guidance prepared by individual OPM employees. The appeals summaries do not represent official summaries approved by OPM, the Board, or other appellate organizations, and are not intended to provide legal counsel or to be cited as legal authority. Instead, the appeals summaries inform and help the user locate relevant appellate precedents on a specific downsizing subject.

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002 version)

Unit F (Basic Index to Module) and **Unit G (Detailed Index to Module)** help the user readily locate information within a specific Module.

Other Modules may contain additional Units, such as **Unit C (Appeals Index)**, and **Unit D (Samples)**.

Finally, Module 1 contains **Unit H, (Detailed Index to the Restructuring Information Handbook)**.

We welcome comments on the Restructuring Information Handbook.

Send any comments and suggestions to the Center for Talent and Capacity Policy at (202) 606-0960; FAX (202) 606-2329; or e-mail Thomas A. Glennon at taglenno@opm.gov.

Contents

OPM's Restructuring Information Handbooks contain the following material:

Topic	Module	Unit(s)
Planning and Alternatives for Restructuring	1	B, F, G, H
Human Resource Responsibilities in Restructuring	2	B, F, G
Reduction in Force	3	A, B, C, D, E, F, G
Transfer of Function	4	A, B, C, F, G
Reduction in Force Furlough	5	A, B, C, F, G
Reemployment Priority List	6	A, B, C, F, G
Career Transition Assistance	7	A, F, G
Interagency Career Transition Assistance Plan	8	A, F, G
Voluntary Early Retirement	9	A, B, C, F, G
Voluntary Separation Incentive Payments	10	A, B, C, F, G

Using the Handbook

The Modules contain many cross-references to additional pertinent material. To assist in searches, each Module features a unique index system that assists the user in readily locating information in that Module or in the other Modules.

For example, a reference to "**3-A-15-3**" refers to:

- (1) Module 3 ("**Reduction in Force**"),
- (2) Unit A ("**Required Procedures**"),
- (3) Section 15 ("**Credit for Performance in Reduction in Force**"),
- (4) Paragraph 3 ("**Time Period Covered by Employees' Performance Ratings**").

For a second example, a reference to "**3-B-6-5-(b)**" refers to:

- (1) Module 3 ("**Reduction in Force**"),
- (2) Unit B ("**Guidance**"),
- (3) Section 6 ("**Reorganization and Job Erosion**"),
- (4) Paragraph 5 ("**Use of RIF Procedures in Job Erosion Situations**"),
- (5) Subparagraph (b).

All of the Modules use the same index system.

For example, a reference to "**4-A-4-3**" refers to:

- (1) Module 4 ("**Transfer of Function**"),
- (2) Unit A ("**Required Procedures**"),
- (3) Section 4 ("**Determining Whether the Transfer of Function Provisions are Applicable**"),

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002 version)

(4) Paragraph 3 ("**Basis for Transfer of Function Decisions**").

Restructuring Information Handbook Module 3

Reduction in Force

Unit A, Required Procedures (December 2002 version)

Introduction Restructuring Information Handbook Module 3 provides guidance on OPM's Reduction in Force regulations published in part 351 of title 5 of the Code of Federal Regulations (5 CFR part 351). Module 3 presently consists of seven Units: (1) Unit A, "Required Procedures," (2) Unit B, "Guidance," (3) Unit C, "Reduction in Force Appeals Index," (4) Unit D, "Sample Downsizing Notices," (5) Unit E, "Reduction in Force Service Credit," (6) Unit F, "Basic Index to Module 3," and (7) "Detailed Index to Module 3." This is the December 2002 version of Unit A.

Contents This publication contains the following topics:

Topic	Begins at Page
Overview of OPM's Reduction in Force Regulations	1-1
Management Rights	2-1
Compliance With OPM's Reduction in Force Regulations	3-1
Reduction in Force Definitions	4-1
Coverage of OPM's Reduction in Force Regulations	5-1
Reorganization, Misclassification, and Job Erosion	6-1
Competitive Area	7-1
Request for a Competitive Area Change	8-1
Competitive Level	9-1
Establishing Retention Registers	10-1
Determining Employees' Retention Standing	11-1
Retention Tenure Groups	12-1
Veterans' Preference in Reduction in Force	13-1
Reduction in Force Service Credit	14-1

Continued on next page

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
 Restructuring Information Handbook Module 3
 Reduction in Force
 Unit A, Required Procedures (December 2002 version)

Contents (continued)

Topic	Begins at Page
Reduction in Force Service Credit for Performance	15-1
Personnel Records in Reduction in Force	16-1
Release From the Competitive Level	17-1
Actions Following Release From the Competitive Level	18-1
Determining Employees' Assignment Rights	19-1
Using Bump and Retreat in Meeting Employees' Assignment Rights	20-1
Using Vacancies in Meeting Employees' Assignment Rights	21-1
Using Vacant Temporary Positions as Placement Offers	22-1
Consideration of Grades in Meeting Employees' Assignment Rights	23-1
Consideration of Representative Rates When Determining Employees' Assignment Rights	24-1
Consideration of Qualifications When Determining Employees' Assignment Rights	25-1
Use of Trainee and Developmental Positions When Determining Employees' Assignment Rights	26-1
Consideration of Security Clearances When Determining Employees' Assignment Rights	27-1
Administrative Assignment Options	28-1
Reduction in Force Notices to Employees	29-1
Additional Notice Requirements When Employees are Separated by Reduction in Force	30-1
Requesting an Exception to the Minimum Reduction in Force Notice Period	31-1
Certification of Expected Separation	32-1
Reduction in Force Appeals	33-1
Reduction in Force Grievances	34-1

RESTRUCTURING INFORMATION HANDBOOK MODULE 3

Reduction in Force

Unit A, Required Procedures (December 2002 version)

Table of Contents

Section 1. Overview of OPM's Reduction in Force Regulations.....	1-1
1-1 Four Reduction in Force Retention Factors	
1-2 Management's Right to Make Reduction in Force Decisions	
1-3 Use of the Reduction in Force Regulations	
1-4 Competitive Area	
1-5 Competitive Level	
1-6 Retention Register	
1-7 Determining Employees' Retention Standing-Overview	
1-8 Determining Employees' Retention Standing-Tenure	
1-9 Determining Employees' Retention Standing-Veterans' Preference	
1-10 Determining Employees' Retention Standing-Total Creditable Service	
1-11 Determining Employees' Retention Standing-Performance	
1-12 Release From the Competitive Level	
1-13 Basic Right to Bump or Retreat	
1-14 Bumping Rights	
1-15 Retreating Rights	
1-16 Consideration of Grade Intervals in Assignment Rights	
1-17 Offers of Assignment to Vacant Positions	
1-18 Reduction in Force Notices	
1-19 Reduction in Force Appeals and Grievances	
Section 2. Management Rights.....	2-1
2-1 Basic Right to Organize Workforce	
2-2 Reduction in Force Decisions	
2-3 Right to Take Other Personnel Actions	
Section 3. Compliance With OPM's Reduction in Force Regulations.....	3-1
3-1 Agency Responsibility	
3-2 OPM Review of an Agency's Reduction in Force Plans	

Table of Contents (continued)

Section 4. Reduction in Force Definitions.....4-1

4-1 Definitions in this Module

Section 5. Coverage of OPM’s Reduction in Force Regulations.....5-1

5-1 Obligation of the Agency to Use OPM’s Reduction in Force Regulations

5-2 Agency Authority to Reassign

5-3 Optional Use of Reduction in Force or Reassignment

5-4 Reduction in Force Actions and Reasons for a Reduction in Force

5-5 Actions Excluded From Reduction in Force Coverage

5-6 Employees Covered by OPM’s Reduction in Force Regulations

5-7 Modifications to General Coverage Under OPM’s Reduction in Force Regulations

5-8 Employees Excluded From Coverage Under OPM’s Reduction in Force Regulations

5-9 Employees May Volunteer for Reduction in Force Only if Authorized by Statute

Section 6. Reorganization, Misclassification, and Job Erosion.....6-1

6-1 Reorganization Basics

6-2 Use of Reduction in Force Procedures in Reorganization

6-3 Misclassification Due to New Classification Standards or Classification Error

6-4 Reclassification Due to Job Erosion

6-5 Use of Reduction in Force in Job Erosion

6-6 Accretion of Duties

Section 7. Competitive Area.....7-1

7-1 General Information About Competitive Areas

7-2 Basis for the Competitive Area

7-3 Competitive Area Standard for Headquarters Activities

7-4 Competitive Area Standard for Field Activities

7-5 Inspector General Competitive Area

7-6 Separate Administrative Management Authority in Competitive Area Determinations

7-7 Size of Competitive Area

Continued on next page

Table of Contents (continued)

Section 7. Competitive Area (continued)

- 7-8 Local Commuting Area
- 7-9 Local Commuting Area and Competitive Area
- 7-10 Record of Competitive Area Definition
- 7-11 Restriction on Changing Competitive Area Definition Within 90 Days of Reduction in Force Effective Date

Section 8. Request for a Competitive Area Change.....8-1

- 8-1 OPM Prior Approval of Change in Competitive Area Definition Within 90 Days of Reduction in Force Effective Date
- 8-2 Information in Request to OPM
- 8-3 OPM Address to Send Request

Section 9. Competitive Level.....9-1

- 9-1 General Information About Competitive Levels
- 9-2 Position Descriptions are Basis for Competitive Levels
- 9-3 Establishing Competitive Levels
- 9-4 Interchangeable Positions are in the Same Competitive Level
- 9-5 Undue Interruption
- 9-6 Separate Competitive Levels Required
- 9-7 Separate Competitive Levels Prohibited
- 9-8 Mobility Agreements and Travel Requirements Not Considered in Competitive Levels

Section 10. Establishing Retention Registers.....10-1

- 10-1 General Information about Retention Registers
- 10-2 Employees Listed on the Retention Register
- 10-3 Employees Not Listed on the Retention Register Because of Armed Forces Restoration Rights
- 10-4 Employees Listed Apart from the Retention Register

Section 11. Determining Employee's Retention Standing.....11-1

- 11-1 General Information About Retention Standing
- 11-2 Order of Employees on the Retention Register

Table of Contents (continued)

Section 12. Retention Tenure Groups.....12-1

12-1 General Information About Tenure Groups
12-2 Competitive Service Tenure Groups
12-3 Excepted Service Tenure Groups

Section 13. Veterans' Preference in Reduction in Force.....13-1

13-1 Tenure Subgroups
13-2 Employees in Tenure Subgroups
13-3 General Eligibility for Veterans' Preference
13-4 Disabled Veteran
13-5 Eligibility for Veterans' Preference When Initial Entry Into the Armed Forces Took Place Before October 15, 1976
13-6 Eligibility for Veterans' Preference When Initial Entry Into the Armed Forces Took Place After October 15, 1976
13-7 Eligibility for Veterans' Preference Based on Derivative Preference
13-8 Eligibility for Veterans' Preference When the Employee is Retired From the Armed Forces
5-10 Eligibility for Veterans' Preference When the Employee is Retired From the Armed Forces as a Title 10 Reservist

Section 14. Reduction in Force Service Credit.....14-1

14-1 General Information on Service Credit
14-2 Responsibility of the Agency to Determine Employees' Retention Service Dates
14-3 Creditable Service for Retention
14-4 Determining the Service Date
14-5 Determining the Service Date of Retired Members of the Armed Forces
14-6 Additional Information on Creditable Service

Section 15. Reduction in Force Service Credit for Performance.....15-1

15-1 General Information About Performance
15-2 Effective Date of OPM's 1997 Regulations Covering Retention Service Credit for Performance
15-3 Time Period Covered by Employees' Ratings of Record

Continued on next page

Table of Contents (continued)

Section 15. Reduction in Force Service Credit for Performance (continued)

- 15-4 Ratings Used For Reduction in Force Purposes
- 15-5 Ratings in Other Agencies
- 15-6 Rating of Record-Employees Covered by 5 U.S.C. Chapter 43 or 5 CFR Part 430
- 15-7 Rating of Record-Employees Not Covered by 5 U.S.C. Chapter 43 or 5 CFR Part 430
- 15-8 Availability of Ratings
- 15-9 Freezing Ratings
- 15-10 Missing Ratings
- 15-11 Amount of Credit-Single Rating Pattern
- 15-12 Amount of Credit-Multiple Rating Patterns
- 15-13 Unacceptable Performance-Proposed Decision to Remove or Demote
- 15-14 Unacceptable Performance-Final Decision to Remove or Demote
- 15-15 Unacceptable Performance-Elimination of "Unacceptable Rating"

Section 16. Personnel Records in Reduction in Force.....16-1

- 16-1 Responsibility of the Agency to Maintain Personnel Records
- 16-2 Responsibility of the Agency Under Privacy Act and FOIA
- 16-3 Employee Access to Retention Records
- 16-4 Review of Retention Register With Employee's Name
- 16-5 Review of Other Retention Registers
- 16-6 Retention of Records for 1 Year

Section 17. Release From the Competitive Level.....17-1

- 17-1 Date Used to Determine an Employee's Retention Standing
- 17-2 Release of Noncompeting Employees
- 17-3 Order of Releasing Employees From the Competitive Level
- 17-4 Breaking Ties in Employees' Retention Standing
- 17-5 Mandatory Exception to the Regular Order of Release Based Upon Service In the Armed Forces
- 17-6 Mandatory Exception to the Regular Order of Release and the Use of Annual Leave to Obtain Retirement Benefits and/or to Continue Health Benefits
- 17-7 Effective Date of Reduction in Force When Using a Mandatory Exception

Continued on next page

Table of Contents (continued)

Section 17. Release From the Competitive Level (continued)

- 17-8 Mandatory Use of Annual Leave in Relocation to Obtain Retirement Benefits and/or to Continue Health Benefits
- 17-9 Permissive Continuing Exception to the Regular Order of Release
- 17-10 Effective Date of Reduction in Force When Using a Permissive Continuing Exception
- 17-11 Notice to Higher-Standing Employees When Using a Permissive Continuing Exception
- 17-12 Permissive Temporary Exception and Undue Interruption
- 17-13 Permissive Temporary Exception to Satisfy a Government Obligation
- 17-14 Permissive Temporary Exception and Use of Sick Leave
- 17-15 Permissive Temporary Exception and the Use of Annual Leave to Obtain Retirement Benefits and/or to Continue Health Benefits
- 17-16 Discretionary Temporary Exception and Other Exceptions
- 17-17 Effective Date of Reduction in Force When Using a Discretionary Temporary Exception
- 17-18 Notice to Higher-Standing Employees When Using a Discretionary Temporary Exception
- 17-19 Exceptions to the Regular Order of Release With the Liquidation Exception
- 17-20 Notice to Higher-Standing Employees When Using the Liquidation Exception

Section 18. Actions Following Release From the Competitive Level.....18-1

- 18-1 Offer of Another Position
- 18-2 Separation or Furlough

Section 19. Determining Employees' Assignment Rights.....19-1

- 19-1 Bumping and Retreating Rights
- 19-2 Employees With Assignment Rights
- 19-3 Employees With No Assignment Rights
- 19-4 Definition of Available Position
- 19-5 Positions Occupied by Temporary Employees
- 19-6 Limitations in Offering Employees Assignment to Other Positions
- 19-7 More Than One Available Position for Assignment
- 19-8 One Offer of Assignment
- 19-9 Requirement to Make an Additional Offer of Assignment
- 19-10 Alternative Offer
- 19-11 Employees' Status and Tenure After Accepting an Offer of Assignment

Continued on next page

Table of Contents (continued)

Section 19. Determining Employees' Assignment Rights (continued)

- 19-12 Promotion Potential of a Position Offered for Assignment
- 19-13 Supervisory Positions
- 19-14 Displacing Employee Must Actually Perform Position
- 19-15 Mobility Agreement and Travel Requirement Not Considered in Determining Assignment Rights

Section 20. Using Bump and Retreat in Meeting Employees' Assignment Rights...20-1

- 20-1 Bump Rights
- 20-2 Retreat Rights-General
- 20-3 Retreat Rights-Essentially Identical Position
- 20-4 Retreat Rights-Expanded Grade Limits for Disabled Veterans in Subgroup AD

Section 21. Using Vacancies in Meeting Employees' Assignment Rights.....21-1

- 21-1 Management's Decision to Fill Vacant Positions During a Reduction In Force
- 21-2 Making Reduction in Force Offers of Vacant Positions to Released Employees
- 21-3 Consideration of Retention Standing in Offering Vacant Positions
- 21-4 Consideration of Undue Interruption in Determining Qualifications for Assignment to Vacant Positions
- 21-5 Waiver of Qualifications Requirements in Offering Reduction in Force Assignment to Vacant Positions
- 21-6 Offering Vacant Positions as Offers to Place Employees In Lieu of Separation or In Lieu of Other Reduction in Force Actions
- 21-7 Modification of Qualifications Requirements in Offering Positions In Lieu of Separation or In Lieu of Other Reduction in Force Actions

Section 22. Using Temporary Positions as Placement Offers.....22-1

- 22-1 Competitive Service Temporary Positions Are Not Available Positions
- 22-2 Using a Temporary Position as a Reduction in Force Offer of Assignment
- 22-3 Using a Temporary Position for Reemployment Following Reduction in Force Separation
- 22-4 Conversion to a Temporary Position in Lieu of Reduction in Force Separation

Table of Contents (continued)

Section 23. Using Temporary Positions as Placement Offers.....23-1

- 23-1 Range of Grades and Grade-Intervals in Determining Assignment Rights
- 23-2 Employee's Position of Record Determines Grade and Grade-Interval Range
- 23-3 Distinction Between Grade and Grade-Interval
- 23-4 Determining the Grade-Interval Progression for General Schedule Positions
- 23-5 General Agency Responsibility to Determine the Grade Interval Line of Progression for Positions Not Covered by the General Schedule
- 23-6 Scope of Positions Considered by the Agency in Determining the Grade Interval Line of Progression for Positions Not Covered by the General Schedule
- 23-7 Consideration of Movement Between Positions in Determining the Grade Interval Line of Progression for Positions Not Covered by the General Schedule
- 23-8 Determining the Grade Interval Progression for Positions Not Covered by the General Schedule When No Progression Exists
- 23-9 Determining the Grade Interval Progression for Positions Not Covered by the General Schedule When No Grade Structure Exists

Section 24. Consideration of Representative Rates When Determining Employees' Assignment Rights.....24-1

- 24-1 Comparing Positions
- 24-2 Pay Schedule Definition
- 24-3 Representative Rate Definition
- 24-4 Representative Rate Explanation
- 24-5 Representative Rate Calculation
- 24-6 Representative Rate and the Rate Used to Determine Retention Rights
- 24-7 Application of Representative Rates in Determining Employees' Assignment Rights

Section 25. Consideration of Qualifications When Determining Employees' Assignment Rights25-1

- 25-1 Only Qualified Employees Have Assignment Rights
- 25-2 Qualifications Standard
- 25-3 Other Qualifications Factors

Continued on next page

Table of Contents (continued)

Section 25. Consideration of Qualifications When Determining Employees' Assignment Rights (continued)

25-4 Asking Employees for a Qualifications Update

25-5 Making Qualifications Determinations-General Information

25-6 Making Qualifications Determinations-Physical Qualifications Determinations

25-7 Making Qualifications Determinations-Physical Qualifications Determinations for Certain Disabled Veterans

25-8 Waiver of Qualifications Requirements in Offering Reduction in Force Assignment to Vacant Positions

25-9 Modification of Qualifications in Offering Positions In Lieu of Separation or In Lieu of Other Reduction in Force Actions

Section 26. Using Trainee Positions as Placement Offers.....26-1

26-1 Assignment to a Trainee or Developmental Position

26-2 Definition of a Trainee or Developmental Position

26-3 Fully Trained Employees Have No Assignment Rights to a Trainee or Developmental Position

Section 27. Consideration of Security Clearances When Determining Employees' Assignment Rights.....27-1

27-1 Assignment to a Sensitive Position

27-2 Agency Must Initiate Clearance Process When It Determines Potential Right of Assignment

27-3 Work Assignments While Approval of Clearance is Pending

27-4 Assignment Rights When Clearance Is Denied

Section 28. Administrative Assignment Options.....28-1

28-1 Assignment Options

28-2 Bumping in the Same Subgroup

28-3 Bumping Rights for Employees in Tenure Group III

28-4 Assignment Rights for Excepted Service Employees

28-5 Requirement That Administrative Assignment Rights Must Be Consistent With the Reduction in Force Regulations

28-6 Restrictions on Administrative Assignment Rights

Table of Contents (continued)

Section 29. Reduction in Force Notices to Employees.....29-1

29-1 Definition of a Specific Reduction in Force Notice

29-2 Certification of Expected Separation

29-3 Informational Notices

29-4 Content of Specific Reduction in Force Notice

29-5 Requirement to Provide Employee With a Copy of OPM's Reduction
in Force Regulations

29-6 Additional Notice Requirements When 50 or More Employees Are Separated By
Reduction in Force From a Competitive Area

29-7 Notice To Bargaining Unit Representative

29-8 Minimum 60-Day Reduction in Force Notice for All Employees

29-9 Former Minimum 120-Day Reduction in Force Notice For Certain
Defense Employees

29-10 New Notice Required For More Severe Reduction in Force Action

29-11 No Maximum Reduction in Force Notice

29-12 Requesting OPM Approval For a Shorter Reduction in Force Notice Period

29-13 Same Notice Requirements When Using An Individual Exception to the
Reduction in Force Order of Release

29-14 Computing the Reduction in Force Notice Period

29-15 Amended Reduction in Force Notice-Later Effective Date

29-16 Amended Reduction in Force Notice-Earlier Effective Date

29-17 Amended Reduction in Force Notice-Better Offer of Assignment

29-18 Expiration of Reduction in Force Notice-Implementation of Action

29-19 Expiration of Reduction in Force Notice- Implementation of Less
Severe Action

29-20 Employee's Duty Status During Reduction in Force Notice Period

Section 30. Additional Notice Requirements When Employees Are Separated
By Reduction in Force.....30-1

30-1 Additional Notice Requirements

30-2 More Information for Employees

30-3 Notify Unemployment Insurance Service

30-4 Notice to Other Organizations When 50 or More Employees Receive
Reduction in Force Separation Notices-Summary

30-5 Content of Notifications to Other Organizations

30-6 Notify State Dislocated Worker Program

30-7 Notify Local Governmental Official

30-8 Notify OPM

Table of Contents (continued)

Section 31. Requesting an Exception to the Minimum Reduction in Force Notice Period.....31-1

31-1 OPM Approval for Required for Reduction in Force Notice of Less Than 60 Days

31-2 Request From Agency's Headquarters for OPM Approval of Reduction in Force Notice Less Than 60 Days

31-3 Content of Agency's Request to OPM

31-4 OPM Address For Submitting a Request

Section 32. Certification of Expected Separation.....32-1

32-1 Purpose of Certification of Expected Separation

32-2 Maximum Time Limit for Certification of Expected Separation

32-3 Conditions for Agencies to Use the Certification of Expected Separation

32-4 Content of Certification of Expected Separation

32-5 A Certification of Expected Separation Is Not a Reduction in Force Notice

32-6 No Right To Appeal a Certification of Expected Separation

32-7 Employees' Eligibility for Additional Outplacement Assistance After Receiving a Certification of Expected Separation

Section 33. Reduction in Force Appeals.....33-1

33-1 Basic Employee Right To Appeal a Reduction in Force Action

33-2 Time Limits for Filing an Appeal

33-3 Notice of Appeal Rights

33-4 Corrective Action on Appeal-Action Reversed or Modified

33-5 Corrective Action on Appeal-Action Reversed or Modified With Interim Relief

Section 34. Reduction in Force Grievances.....34-1

34-1 Basic Employee Right To Grieve a Reduction in Force Action

34-2 Time Limits for Filing a Grievance

34-3 General Exception to the Basic Employee Right to Grieve a Reduction in Force Action

34-4 Exception to the Basic Employee Right to Grieve a Reduction in Force Action-Election of Procedure

Continued on next page

Table of Contents (continued)

Section 34. Reduction in Force Grievances (continued)

- 34-5 Exception to the Basic Employee Right to Grieve a Reduction in Force
Action-Time Limits for Election
 - 34-6 Corrective Action on Grievance
-

Section 1, Overview of OPM's Reduction in Force Regulations

Introduction This section provides an overview of OPM's reduction in force regulations. Most paragraphs in Section 1 summarize a specific reduction in force topic. For more detailed information on a reduction in force topic, a paragraph in Section 1 has a reference to the appropriate section in Module 3. The "Additional Information" paragraph below list these references.

Contents This overview section contains the following topics:

Topic	See Paragraph
Four Reduction in Force Retention Factors	3-A-1-1
Management's Right to Make Reduction in Force Decisions	3-A-1-2
Use of the Reduction in Force Regulations	3-A-1-3
Competitive Area	3-A-1-4
Competitive Level	3-A-1-5
Retention Register	3-A-1-6
Determining Employees' Retention Standing-Overview	3-A-1-7
Determining Employees' Retention Standing-Tenure	3-A-1-8
Determining Employees' Retention Standing-Veterans' Preference	3-A-1-9
Determining Employees' Retention Standing-Total Creditable Service	3-A-1-10
Determining Employees' Retention Standing-Performance	3-A-1-11
Release From the Competitive Level	3-A-1-12
Basic Right to Bump or Retreat	3-A-1-13
Bumping Rights	3-A-1-14
Retreating Rights	3-A-1-15
Consideration of Grade Intervals in Assignment Rights	3-A-1-16
Offers of Assignment to Vacant Positions	3-A-1-17

Continued on next page

Section 1, Overview of OPM's Reduction in Force Regulations

Contents (continued)

Topic	See Paragraph
Reduction in Force Notices	3-A-1-18
Reduction in Force Appeals And Grievances	3-A-1-19

Additional Information

This section in Restructuring Information Handbook Module 3, Unit A, has references to other sections in Unit 3-A for more detailed information on specific reduction in force topics.

To find additional information in this Module on the overview paragraph below in Unit 3-A,	In Unit 3-A see section, or paragraph:
3-A-1-2	3-A-2
3-A-1-3	3-A-5-4
3-A-1-3-(g)	3-A-5-2
3-A-1-4	3-A-7
3-A-1-5	3-A-9
3-A-1-6	3-A-10
3-A-1-7	3-A-11
3-A-1-8	3-A-12
3-A-1-9	3-A-13
3-A-1-10	3-A-14
3-A-1-11	3-A-15
3-A-1-12	3-A-17
3-A-1-13-(a)	3-A-18
3-A-1-13-(b)	3-A-19
3-A-1-14	3-A-20
3-A-1-15	3-A-20
3-A-1-16	3-A-23
3-A-1-17	3-A-21
3-A-1-18-(a)	3-A-29

Continued on next page

Additional Information (Continued)

To find additional information in this Module on the overview paragraph below in Unit 3-A,	In Unit 3-A see section, or paragraph:
3-A-1-18-(b)	3-A-30
3-A-1-19-(a)	3-A-33
3-A-1-19-(b)	3-A-34

A In Section 1, this symbol highlights where you can find more detailed information in Unit 3-A on a reduction in force topic.

① This symbol guides you toward more general references on the subject in other Modules.

Section 1, Overview of OPM's Reduction in Force Regulations

3-A-1-1

Four Reduction in Force Retention Factors

OPM's reduction in force regulations are derived from the Veterans' Preference Act of 1944, as the law is codified in Sections 3501-3503 of title 5, United States Code.

- (a) The law provides that OPM's reduction in force regulations give effect to four factors in releasing employees:
- (1) **Tenure** (type of appointment);
 - (2) **Veterans' preference**;
 - (3) **Length of service**; and
 - (4) **Performance ratings**.
- Although the law does not assign a specific weight to any individual factor, the relative importance of the four factors in determining employees' retention standing is the same order listed above (for example, tenure is the most important factor while performance is the least important factor).
- (b) OPM implements the law through regulations published in Part 351 of Title 5, Code of Federal Regulations (title 5 CFR Part 351).
-

3-A-1-2

Management's Right to Make Reduction in Force Decisions

The agency has the right to decide whether a reduction in force is necessary, when it will take place, and what positions are abolished.

The four retention factors, as implemented through OPM's reduction in force regulations, then determine which employee is actually reached for a reduction in force action as the result of the abolishment of a position.

A [See Section **3-A-2** for more detailed guidance.]

3-A-1-3 **Use of the Reduction in Force Regulations**

An agency is required to use reduction in force procedures when an employee is faced with separation or downgrading for a specific reason, including:

- (a) Reorganization;
- (b) Lack of work;
- (c) Shortage of funds;
- (d) Insufficient personnel ceiling;
- (e) The exercise of certain reemployment or restoration rights; or
- (f) Furlough for more than 30 consecutive days, or more than 22 discontinuous workdays (see Module 5 for Furlough). (A short furlough of 30 or less consecutive days, or 22 or less discontinuous workdays, is covered under the adverse action procedures.)

A [See Section **3-A-5-4** for more detailed guidance.]

- (g) In lieu of reduction in force procedures, an agency may always reassign an employee to a vacant position at the same grade or pay, regardless of where the position is located.

A [See paragraph **3-A-5-2** for more detailed guidance.]

3-A-1-4 **Competitive Area**

The “**Competitive Area**” sets the limits within which employees compete for retention, and is always defined by the agency on the basis of:

- (a) Organization; and

(b) Geography.

A

[See Section **3-A-7** for more detailed guidance.]

- All employees within the organizational unit and geographical location are included in the competitive area.
- (c) OPM's standard for a minimum competitive area is an organization in a local commuting area that is separate from other organizations because of differences in:
- (1) Operation;
 - (2) Work function;
 - (3) Staff; and
 - (4) Personnel management authority (which is the authority to take or direct personnel actions such as establishing positions, abolishing positions, assigning duties, etc.).
- (d) An Inspector General activity covered by the Inspector General Act of 1978 (Public Law 95-452, as amended) must always be placed in its own competitive area.
- (e) The fact that the same personnel office services several activities does not, by itself, require that each be placed in the same competitive area.
- (f) An agency may establish a competitive area larger than the minimum standard.
- A "**Local Commuting Area**" is a geographic area that usually includes any population center and the surrounding communities in which people live and reasonably travel back and forth to work. There is no mileage standard to determine when two duty stations would be included in the same local commuting area.
 - An agency must obtain OPM approval before changing a competitive area definition within 90 days of a reduction in force.

- (g) Some examples of a possible competitive area include:
- (1) The entire headquarters of an agency in the same local commuting area;
 - (2) A single bureau in the headquarters in the same local commuting area;
 - (3) All components of a bureau nationwide;
 - (4) All components of a regional office in the same local commuting area; or
 - (5) A one-person duty station in a field location.
-

3-A-1-5

Competitive Level

Within each competitive area, the agency groups interchangeable positions into “**Competitive Levels**.”

A

[See Section **3-A-9** for more detailed guidance.]

- (a) A competitive level includes positions at the same:
- (1) Grade;
 - (2) Series;
 - (3) Qualifications;
 - (4) Duties; and
 - (5) Work tour (including, full-time, part-time, seasonal, intermittent, or on-call).
- Competitive and excepted service positions are never placed in the same competitive level.
- (b) The agency then establishes separate competitive levels for positions that are:

- (1) Full-time;
 - (2) Part-time;
 - (3) Intermittent;
 - (4) Seasonal;
 - (5) On-call; or
 - (6) Filled as part of a formally designated trainee or developmental program.
- The competitive level is based on each employee's position description, not on the employee's personal qualifications.
 - Two positions that are similar (for example, same grade, series, work schedule, etc.), but are not identical, may be placed in the same competitive level if the position descriptions show that each employee would need less than 90 days to perform the key tasks of the other position.
- (c) Employees with temporary time-limited appointments in the competitive service are not listed in the competitive level since these employees serve at the will of the agency. These employees are terminated before any employee covered by OPM retention regulations is reached for a reduction in force action. Excepted employees with temporary appointments are included in the competitive level after completing more than 1 year of continuous service.
- Only occupied positions are included in a competitive level.

3-A-1-6

Retention Register

After grouping interchangeable positions into competitive levels, the agency applies the four retention factors in establishing separate retention registers for each competitive level that may be involved in the reduction in force.

A [See Section **3-A-10** for more detailed guidance.]

- In practice, the terms "**Competitive Level**" and "**Retention Register**" generally have the same meaning and refer to the competitive level after an employee's retention standing is determined.
- (a) The agency lists the name of each employee on the retention register in the order of the employee's relative retention standing (for example, the employee with the highest standing is at the top of the register, and the employee with the lowest standing is at the bottom of the register).
- (b) The retention register includes the name of each employee who:
- (1) Holds a position in the competitive level;
 - (2) Holds another position because of a temporary promotion from the competitive level; or
 - (3) Is detailed from the competitive level.

3-A-1-7

Determining Employees' Retention Standing-Overview

The agency implements the four retention factors required in paragraph 5 U.S.C. 3502(a) in the following order on the retention register:

- (a) Tenure;
- (b) Veterans' Preference;
- (c) Total Creditable Civilian and Military Service; and
- (d) Performance

A [See Section **3-A-11** for more detailed guidance.]

3-A-1-8

Determining Employees' Retention Standing-Tenure

- (a) The agency ranks **Competitive Service** employees on a retention register in three groups according to their types of appointment:
- (1) **Group I-** Includes career employees who are not serving on probation. (A new supervisor or manager who is serving a probationary period that is required on initial appointment to that type of position is not considered to be serving on probation if the employee previously completed a probationary period.)
 - (2) **Group II-** Includes career employees who are serving a probationary period, and career-conditional employees.
 - (3) **Group III-** Includes employees serving under term and similar non-status appointments.
 - An employee serving under a temporary appointment in the competitive service is not a competing employee under OPM's reduction in force regulations and is not listed on the retention register.

A [See Section **3-A-12** for more detailed guidance.]

- (b) Retention registers for **Excepted Positions** use similar tenure groups:
- (1) **Group I-** Includes permanent positions not subject to a time limitation.
 - (2) **Group II-** Includes employees serving a trial period.
 - (3) **Group III-** Includes employees serving on time limited appointments of more than 1 year, or who hold a temporary appointment limited to 1 year and have completed more than 1 year of continuous service on similar temporary appointments.

A [See Section **3-A-12** for more detailed guidance.]

3-A-1-9

Determining Employees' Retention Standing-Veterans' Preference

Each of the three tenure groups is divided into three subgroups reflecting employees' entitlement to veterans' preference for retention purposes:

- (a) **Subgroup AD-** Includes veterans with a compensable service-connected disability of 30% or more.
- (b) **Subgroup A-** Includes veterans not eligible for subgroup AD.
- (c) **Subgroup B-** Includes nonveterans and others not eligible for subgroups AD and A.

A

[See Section **3-A-13** for more detailed guidance.]

- (d) **Note-**By law (the Dual Compensation Act of 1964, as presently codified in Section 3501(a) of title 5, United States Code), a retired member of the Armed Forces is considered to be a veteran for reduction in force purposes only if the employee meets one of the following conditions:
 - (1) The Armed Forces retirement (not benefits from the Department of Veterans Affairs) is directly based upon a combat-incurred disability or injury;
 - (2) The Armed Forces retirement is based upon less than 20 years of active duty; or
 - (3) The employee has been working for the Government since November 30, 1964, without a break in service of more than 30 days.
 - However, if an employee meets condition (3), but retired at the rank of major or higher (or equivalent), the employee must also meet the general definition of disabled veteran in paragraph 2108(2) of Title 5, United States Code, in order to be a veteran for reduction in force purposes.

3-A-1-10 **Determining Employees' Retention Standing-Total Creditable Service**

The agency ranks employees by service dates within each subgroup (for example, the agency places the employee with the most service at the top of the subgroup, and places the employee with the least service at the bottom of the subgroup).

- The service includes all creditable Federal civilian and military service.

A [See Section **3-A-14** for more detailed guidance.]

- ①** • Section **3-A-1-11** explains how the agency provides some employees with additional retention service credit based on their performance ratings of record.

3-A-1-11 **Determining Employees' Retention Standing-Performance**

(a) Employees receive extra retention service credit for performance based upon the average of their last three annual performance ratings of record received during the 4-year period prior to the date the agency:

- (1) Issues specific reduction in force notices; or
- (2) Freezes ratings before issuing reduction in force notices.

[See Section **3-A-15** for more detailed guidance.]

A (b) **Single Rating Pattern.** The amount of extra retention service credit if all employees in a competitive area have received ratings under a single pattern of summary levels (for example, all of the employees in the competitive area have ratings only under a five-level pattern, or only under a two-level pattern, or under the same three level pattern, etc.) is:

- (1) **20** additional years for each performance rating of "**Outstanding**" or equivalent (i.e., Level V);
- (2) **16** additional years for each performance rating of "**Exceeds Fully Successful**" or equivalent (i.e., Level

IV); and,

- (3) **12 additional years** for each performance rating of "**Fully Successful**" or equivalent (i.e., Level III).
- The agency does not give any additional service credit for performance ratings below "**Fully Successful**" or equivalent (i.e., Level III)
 - For example, an employee with 3 years of Federal service has one "**Outstanding**" rating of record, (20), and two "**Exceeds Fully Successful**" (16) ratings of record. The employee would receive additional reduction in force service credit based upon the three actual ratings of record: $20 + 20 + 16 = 56$, divided by $3 = 18.7$, rounded up to 19 years of additional retention credit for performance.
- (c) **Multiple Rating Patterns.** If an agency has employees in a competitive area who have performance ratings under more than one pattern of summary levels, the agency must consider the mix of patterns and may provide different amounts of additional retention service credit for employees who have the same summary level, but are under different patterns. The range of additional service credit is still limited from 12 to 20 years.
- For example, the agency may elect to provide employees who have a Level III "**Fully Successful**" rating under a two-level "**Pass/Fail**" pattern with 18 years of additional retention service credit, while electing to continue providing employees who have a Level IV "Exceeds Fully Successful" under a five-level pattern with 16 years of additional retention service credit.
- (d) Regardless of the basis that the agency computes the additional service credit for retention, the agency gives the employee additional retention service credit based on the mathematical average (rounded in the case of a fraction to the next whole number) of the value of the employee's last three annual ratings.
- (e) If an employee received more than three ratings during the

4-year period, the agency uses the three most recent annual ratings of record.

- (f) If an employee received one or two, but not three ratings of record during the applicable 4-year period, the agency gives credit for performance on the basis of the actual rating(s) of record divided by the number of actual ratings received.
- For example, an employee who received two ratings of record of "**Fully Successful**" receives the appropriate amount of additional retention service credit divided by the two ratings.
- (g) If an employee received only one rating of record during the applicable 4-year period, the agency gives retention credit is given for performance on the basis of the value of that one actual rating of record.
- (h) **Modal Rating.** If an employee did not receive any ratings of record during the applicable 4-year period, the agency gives retention credit on the basis of a single "**Modal Rating**" for the employee's summary level pattern.
- The "Modal Rating" is the summary rating level given most frequently to the summary rating pattern that applies to the employee's position.
 - The agency determines the "Modal Rating" on the basis of its most recently completed available ratings.
 - The agency also decides whether to base the "Modal Rating" upon ratings finalized through the agency, or upon ratings finalized in a smaller agency organization.

3-A-1-12

Release From the Competitive Level

- (a) The agency releases employees from the retention register in the inverse order of their retention standing (i.e., the employee with the lowest standing is the first individual reached for a reduction in force action).

A

[See Section **3-A-17** for more detailed guidance.]

- (1) The agency releases all employees in group III before employees in group II, and releases all employees in group II before employees in group I.
 - (2) Then within subgroups, the agency releases all employees in subgroup B before employees in subgroup A, and releases all employees in subgroup A before employees in subgroup AD.
- (b) The agency must notify any employees reached for release out of this regular order (such as under a temporary or a continuing exception in order to retain an employee with special skills) of the reasons for the exception.
-

3-A-1-13

Basic Right to Bump or Retreat

- (a) Competitive service employees in tenure groups I or II with current performance ratings of at least "**Minimally Successful**" who are reached for release from the competitive level are entitled to an offer of assignment if they have "**Bump**" or "**Retreat**" rights to an available position in the same competitive area, and they would otherwise be separated or demoted by reduction in force.

A [See Section **3-A-18** for more detailed guidance.]

- (b) **Available Position.** The existence of an "**Available Position**" does not oblige an agency to offer an employee a particular position; however, it does establish the employee's right to be offered a position at the same grade of the available position.

A [See Section **3-A-19** for more detailed guidance.]

- (c) An "**Available Position**" must:
- (1) Last at least 3 months;
 - (2) Not be a temporary time-limited position;
 - (3) Be in the competitive service;

- (4) Be a position that the released employee qualifies for;
 - (5) Have a pay rate that requires no reduction, or the least possible reduction, in the employee's present grade. (However, an available position may not have a higher grade than the employee's present position.);
 - (6) Have the same type of work schedule (full-time, part-time, seasonal, intermittent, on-call) as the employee's present position;
 - (7) Be within three grades (or grade-intervals) of the employee's present position ("Grade-Intervals" are discussed below); and
 - (8) Be held by an employee:
 - (i) In a lower retention subgroup who is subject to "**Bump**" rights, or
 - (ii) In the same subgroup, but with less service, and who holds a position which the employee formerly occupied on a permanent basis (or an essentially identical position) that is subject to "**Retreat**" rights.
- Promotion potential is not a consideration in filling a position under OPM's reduction in force regulations. A reduction in force offer may have the less, more, or the same potential.
 - An employee with an excepted service appointment has no assignment rights under OPM's reduction in force regulations. However, an agency may elect to establish its own system of reduction in force assignment rights for its excepted employees.

3-A-1-14

Bumping Rights

"**Bumping**" means displacing an employee in a lower tenure group, or in a lower subgroup within the released employee's own tenure group.

A [See Section **3-A-20** for more detailed guidance.]

- (a) Although the released employee must be qualified for the position, it may be a position that the employee never held.
 - (b) The agency does not consider employees' relative total service in determining an employee's bumping rights.
-

3-A-1-15 **Retreating Rights**

"Retreating" means displacing an employee with less service within the released employee's own tenure group and subgroup.

A [See Section **3-A-20** for more detailed guidance.]

- (a) The position may be up to five grades (or grade-intervals) lower than the position held by the released employee if he or she is a disabled veteran in Subgroup AD.
 - (b) The position must also be the same position or essentially identical to a position held by the released employee in any Federal agency on a permanent basis.
 - (c) An employee with a current annual performance rating of "Minimally Successful" only has retreat rights to positions held by employees with the same or lower ratings.
-

3-A-1-16 **Consideration of Grade Intervals in Assignment Rights**

The agency determines the grade limits of an employee's assignment rights on the basis of the position the employee holds at the time of the reduction in force, regardless of how the employee progressed to the position.

A

[See Section **3-A-23** for more detailed guidance.]

- For example, an employee released from a GS-11 position that progresses GS-5-7-9-11 has bump and retreat rights to positions from GS-11 through GS-5. An employee released from a GS-9 position that progresses GS-5-6-7-8-9 has bump and retreat rights to positions from GS-9 through GS-6.
 - The difference between successive grades in a one-grade occupation is a grade difference, and the difference between successive grade in a multi-grade occupation is a grade-interval difference.
-

3-A-1-17

Offers of Assignment to Vacant Positions

An agency is not required to offer vacant positions in a reduction in force, but may choose to fill all, some, or none of the vacancies.

A

[See Section **3-A-21** for more detailed guidance.]

- (a) When an agency chooses to fill a vacancy with an employee reached for a reduction in force action, it must follow subgroup retention standing. The "**Bumping**" principle applies to the offer of the vacant position, in that the released employee in the highest group and subgroup must receive the offer of a position before an employee in a lower group and subgroup.
- (b) The agency is not required to consider total service in offering positions to employees in the same group and subgroup unless the employee with the most service also formerly held the position on a permanent basis. The "Retreating" principle applies to the offer of the vacant position.
- (c) An employee's right to reduction in force assignment rights is met if the agency offers the employee a vacant position at the grade to which he or she has bump or retreat rights.

- (d) An agency may choose to waive qualifications in offering an employee reduction in force assignment to a vacant position. However, the agency may not waive a minimum educational requirement.
 - (e) A reduction in force offer of a vacant position can only be in the same competitive area, and must be within three grades (or grade-intervals) of the employee's present position.
-

3-A-1-18 **Reduction in Force Notices**

- (a) An agency must give each employee at least 60 days specific written notice before the employee is reached for a reduction in force action.

A [See Section **3-A-29** for more detailed guidance.]

- (b) If faced with an unforeseeable situation, the agency may, with OPM approval, give the employee a specific reduction in force notice of less than 60 days, but at least 30 days, before the effective date of the reduction in force.

A [See Section **3-A-30** for more detailed guidance.]

3-A-1-19 **Reduction in Force Appeals And Grievances**

- (a) An employee who has been separated, downgraded, or furloughed for more than 30 days by reduction in force has the right to appeal the Merit Systems Protection Board (MSPB) if the employee believes that the agency did not properly follow the reduction in force regulations.

A [See Section **3-A-33** for more detailed guidance.]

- The employee must file the appeal during the 30-day period beginning the day after the effective date of the reduction in force action.
- (b) An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude reduction in force

must use the negotiated grievance procedure and may not appeal the reduction in force action to the Board unless the employee alleges the action was based upon discrimination. The time limits for filing a grievance under a negotiated grievance procedure are set forth in the collective bargaining agreement.

A [See Section **3-A-34** for more detailed guidance.]

Section 2, Management Rights

Introduction This section covers the agency's responsibility to make final decisions in the development and implementation of reduction in force actions under OPM's retention regulations.

Contents This section contains the following topics:

Topic	See Paragraph
Basic Right to Organize Workforce	3-A-2-1
Reduction in Force Decisions	3-A-2-2
Right to Take Other Personnel Actions	3-A-2-3

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-2-1	3-B-2-1
3-A-2-2	3-B-2-2
3-A-2-3	3-B-2-3

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 2, Management Rights

3-A-2-1 Basic Right To Organize Workforce

The agency has the responsibility to plan the work and to organize the workforce to accomplish agency objectives within available resources. (5 CFR 351.201(a)(1))

B [See paragraph **3-B-2-1** for additional guidance.]

3-A-2-2 Reduction in Force Decisions

Each agency is responsible for deciding what positions are abolished, whether a reduction in force or transfer of function is necessary, and (if applicable) when a reduction in force or transfer of function will take place. (5 CFR 351.201(a)(1))

- This also includes the right of the agency to decide which positions are required after a reorganization or other organizational change, where the positions are located, and when the positions are to be filled, abolished, or vacated.

B [See paragraph **3-B-2-2** for additional guidance.]

3-A-2-3 Right to Take Other Personnel Actions

An agency's need to apply reduction in force (or transfer of function) procedures does not suspend the agency's authority and responsibility to take other personnel actions such as reassignment, promotion, change of duty station, or demotion for cause or unacceptable performance. (5 CFR 351.201(a)(1))

- An agency may effect other personnel actions before, during, or after a reduction in force, or transfer of function.

B [See paragraph **3-B-2-3** for additional guidance.]

Section 3, Compliance With OPM's Reduction in Force Regulations

Introduction This section covers the agency's responsibility to properly apply OPM's retention regulations. This section also covers OPM's right to review an agency's preparations for reduction in force actions.

Contents This section contains the following topics:

Topic	See Paragraph
Agency Responsibility	3-A-3-1
OPM Review of an Agency's Reduction in Force Plans	3-A-3-2

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on this key paragraph in Unit 3-A,	In Unit 3-B see paragraph:
3-A-3-1	3-B-3-1

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 3, Compliance With OPM's Reduction in Force Regulations

3-A-3-1 Agency Responsibility

Each agency must insure that, in taking reduction in force actions, it complies with all applicable laws, regulations, and the terms of any negotiated bargaining agreements. (5 CFR 351.204)

- Each agency is responsible for uniformly and consistently applying OPM's retention regulations in any one reduction in force. (5 CFR 351.204)
- The use of reduction in force procedures to avoid required procedures for other situations is improper (for example, conducting a reduction in force rather than using adverse action procedures to release an employee with a history of conduct problems).

B [See paragraph **3-B-3-1** for additional guidance.]

3-A-3-2 OPM Review of an Agency's Reduction in Force Plans

OPM may examine an agency's preparation for reduction in force at any stage. (5 CFR 351.205)

- If OPM finds that an agency's reduction in force preparations are contrary to the express provisions or the spirit and intent of the applicable regulations or would violate employee rights or equities, OPM may recommend corrective action with respect to those preparations. (5 CFR 351.205)
-

Section 4, Reduction in Force Definitions

Introduction This section covers reduction in force terminology.

Contents This section contains the following topics:

Topic	See Page
Definitions in This Module	3-A-4-1

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>
--

Section 4, Reduction in Force Definitions

3-A-4-1

Reduction in Force Definitions

OPM defines directly or indirectly by regulation the following terms used in Module 3:

- (a) **"Assignment Right"** means the right of an employee to be assigned (by **"Bump"** or **"Retreat"**) in the second round of competition to a position in a different competitive level held by an employee with lower standing on a retention register. (5 CFR 351.701(a))
- (b) **"Bump"** is the assignment of an employee to a position held by another employee in a lower group, or in a lower subgroup within the same tenure group. (5 CFR 351.701(b))
- (c) **"Competing Employee"** means an employee in tenure group I, II, or III in either the competitive or the excepted service. (5 CFR 351.203)
- (d) **"Competitive Area"** means the organizational and geographic boundaries in which employees compete in a reduction in force. (5 CFR 351.402)
- (e) **"Competitive Level"** means a group of positions in the same grade and classification series that have similar duties and other requirements. (5 CFR 351.403)
- (f) **"Competitive Service"** has the meaning given in 5 U.S.C. 2102.
- (g) **"Days"** means calendar days. (5 CFR 210.102(b)(3))
- (h) **"Excepted Service"** has the meaning given in Section 5 U.S.C. 2103.
- (i) **"Furlough"** under reduction in force procedures means the placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on noncontinuous basis, but not more than 1 year when the action is based on one of the reduction in

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

force reasons and is not in accordance with preestablished conditions of employment. (5 CFR 351.203)

- ①
 - Section 5 CFR 351.604 covers reduction in force furloughs.
- ①
 - Subpart 5 CFR 752-D covers adverse action furloughs of 30 days or less, or 22 workdays or less on a noncontinuous basis.)
- (j) **"Local Commuting Area"** means the geographic area that usually constitutes one area for employment purposes, as determined by the agency. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment. (5 CFR 351.203)
- (k) **"Notice"** means a written communication from an agency official to an individual employee stating that the employee will be reached for a reduction in force action. (Subpart 5 CFR 351-H)
- (l) **"Rating Of Record,"** for an employee subject to 5 U.S.C. Chapter 43 or 5 CFR Part 430, means the performance rating (1) prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the subsequent issuance of a summary level either within a pattern (as authorized by paragraph 5 CFR 430.208(d)), or (2) a rating of record that results because of a within-grade increase decision (as authorized by subparagraph 5 CFR 531.404(a)(1)).

For an employee not subject to 5 U.S.C. Chapter 43 or 5 CFR Part 430, **"Rating of Record"** means the officially designated performance rating, as provided for in the agency's appraisal system, that is considered to be an **"Equivalent Rating of Record"** under the provisions of 5 CFR 430.201(c). (5 CFR 351.203)
- (m) **"Reorganization"** means the planned elimination, addition, or redistribution of functions or duties in an organization. (5 CFR 351.203)

- (n) **"Representative Rate"** means the fourth step of the grade for a position under the General Schedule; the **"Prevailing Rate"** for a position under the Federal Wage System or similar wage-determining procedure; and for other positions, the rate designated by the agency as representative of the position. (5 CFR 351.203)
- (o) **"Retention Register"** is a list of competing employees within a competitive level who are grouped by tenure, veterans preference, and length of service augmented by performance credit. (5 CFR 351.404)
- (p) **"Retention Standing"** means an employee's relative standing on a retention register based on tenure, veterans' preference, and length of service augmented by performance credit. (5 CFR 351.404)
- (q) **"Retreat"** is the assignment of an employee to a position held by another employee with lower retention standing in the same subgroup in a different competitive level. (5 CFR 351.701(c))
- (r) **"Round of Competition"** means the different stages of competing for retention. In first round competition, employees compete to stay in the competitive level. In the second round of competition, employees compete for assignment to positions in different competitive levels. (5 CFR 351.601; 5 CFR 351.701)
- (s) **"Subgroup Standing"** means the employee's relative standing on a retention register based on tenure group and veteran preference subgroup. It does not take into account length of service and performance credit. (5 CFR 351.501(a)(2))
- (t) **"Tenure"** means the period of time an employee may reasonably expect to serve under a current appointment. (5 CFR 351.501(a)(2))
- (u) **"Transfer of Function"** means: (1) the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s); or (2) the movement of the competitive area in which the function is performed to another local commuting area. (5 CFR 351.203)

- (v) **"Undue Interruption"** means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position in first or second round reduction in force competition. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the reduction in force to perform the optimal quality or quantity of work. The 90-day standard may be extended if placement is made in first or second round reduction in force competition to a low priority program, or to a vacant position. (5 CFR 351.203)
-

Section 5, Coverage of OPM's Reduction in Force Regulations

Introduction This section explains when OPM's reduction in force regulations apply to agency-initiated personnel actions. This section also covers personnel actions excluded from OPM's retention regulations. Finally, this section covers the agency's option to take certain other personnel actions without regard to the reduction in force regulations.

Contents This section contains the following topics:

Topic	See Paragraph
Obligation of the Agency to Use OPM's Reduction in Force Regulations	3-A-5-1
Agency Authority to Reassign	3-A-5-2
Optional Use of Reduction in Force or Reassignment	3-A-5-3
Reduction in Force Actions and Reasons for a Reduction in Force	3-A-5-4
Actions Excluded From Reduction in Force Coverage	3-A-5-5
Employees Covered By OPM's Reduction in Force Regulations	3-A-5-6
Modifications to General Coverage Under OPM's Reduction in Force Regulations	3-A-5-7
Employees Excluded From Coverage Under OPM's Reduction in Force Regulations	3-A-5-8
Employees May Volunteer for Reduction in Force Only if Authorized by Statute	3-A-5-9

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-5-1	3-B-5-1
3-A-5-2	3-B-5-2

Continued on next page

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
 Restructuring Information Handbook Module 3
 Reduction in Force
 Unit A, Required Procedures (December 2002)

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-5-2-(a)	3-B-5-2-(a)
3-A-5-2-(c)	3-B-5-2-(c)
3-A-5-3	3-B-5-3
3-A-5-4-(a)	3-B-5-4-(a)
3-A-5-4-(b)	3-B-5-4-(b)
3-A-5-4-(c)	3-B-5-4-(c)
3-A-5-5-(a)	3-B-5-5-(a)
3-A-5-5-(b)	3-B-5-5-(b)
3-A-5-5-(c)	3-B-5-5-(c)
3-A-5-5-(d)	3-B-5-5-(d)
3-A-5-5-(e)	3-B-5-5-(e)
3-A-5-5-(f)	3-B-5-5-(f)
3-A-5-5-(g)	3-B-5-5-(g)
3-A-5-5-(h)	3-B-5-5-(h)
3-A-5-6-(c)	3-B-5-6-(c)
3-A-5-7-(a)	3-B-5-7-(a)
3-A-5-7-(b)	3-B-5-7-(b)
3-A-5-7-(c)	3-B-5-7-(c)
3-A-5-7-(d)	3-B-5-7-(d)
3-A-5-8-(e)	3-B-5-8-(e)
3-A-5-8-(f)	3-B-5-8-(f)

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 5, Coverage of OPM's Reduction in Force Regulations

3-A-5-1 Obligation of the Agency to Use OPM's Reduction in Force Regulations

- ① An agency is required to use OPM's retention regulations only if the employee is separated, downgraded, or placed in a nonpay status because of a reason covered in paragraph **3-A-5-4** below. (5 CFR 351.201(a)(2))

 - B** [See paragraph **3-B-5-1** for additional guidance.]
-

3-A-5-2 Agency Authority to Reassign

At its discretion, an agency may reassign an employee, without regard to reduction in force procedures, to a vacant position at the same grade and rate of pay. The position may be in the same, or in a different: (5 CFR 335.102)

- B** [See paragraph **3-B-5-2** for additional guidance.]
 - (a) Competitive level;

 - B** [See subparagraph **3-B-5-2-(c)** for additional guidance.]
 - (b) Competitive area; or
 - (c) Local commuting area.

 - B** [See subparagraph **3-B-5-2-(c)** for additional guidance.]
-

3-A-5-3 Optional Use of Reduction in Force or Reassignment

At its discretion, an agency may provide an offer of a position at the same grade and pay to an employee who is reached for a reduction in force action by either:

- (a) Offering the employee assignment under the retention regulations to an encumbered or a vacant position;; (5 CFR 351.704(a)(1)), or

- (b) Reassigning the employee to a vacant position. (5 CFR 335.102)

B [See paragraph **3-B-5-3** for additional guidance.]

3-A-5-4 **Reduction in Force Actions and Reasons for a Reduction in Force**

A personnel action must be effected under reduction in force procedures when both (1) the action to be taken, and (2) the reason for the action, are covered by the retention regulations. (5 CFR 351.201(a)(2))

- An action that meets one, but not both, conditions, is not a reduction in force action and must be taken under other appropriate authority.

B [See paragraph **3-B-5-4** for additional guidance.]

- (a) **Action To Be Taken** is the release of an employee from a reduction in force competitive level by:

- (1) Separation; (5 CFR 351.201(a)(2))
- (2) Furlough for more than 30 days; (5 CFR 351.201(a)(2))
- (3) Demotion; (5 CFR § 351.201(a)(2)), or
- (4) Reassignment requiring displacement. (5 CFR 351.201(a)(2))

B [See subparagraph **3-B-5-4-(a)** for additional guidance.]

- (b) **Reason For The Action** is:

- (1) Lack of work; (5 CFR 351.201(a)(2))
- (2) Shortage of funds; (5 CFR 351.201(a)(2))
- (3) Insufficient personnel ceiling; (5 CFR 351.201(a)(2))
- (4) Reorganization; (5 CFR 351.201(a)(2))

- (5) An individual's exercise of reemployment rights or restoration rights; (5 CFR 351.201(a)(2)), or
- (6) Reclassification of an employee's position due to erosion of duties when this action:
 - (i) Will take effect after an agency has formally announced a reduction in force in the employee's competitive area (5 CFR 351.201(a)(2)), and
 - (ii) The reduction in force will take effect within 180 days. (5 CFR 351.201(a)(2))

B [See subparagraph **3-B-5-4-(b)** for additional guidance.]

- (c) OPM's retention regulations do not allow an agency to retroactively conduct a reduction in force unless an intervening event has occurred (such as a reduction in force action that followed a retroactive restoration.

B [See subparagraph **3-B-5-4-(c)** for additional guidance.]

3-A-5-5 **Actions Excluded From Reduction in Force Coverage**

OPM's retention regulations do not apply to:

- (a) The termination of a temporary or term promotion, or the return of an employee to a position held before the temporary or term promotion, or one of equivalent grade and pay; (5 CFR 351.202(c)(1))

B [See subparagraph **3-B-5-5-(a)** for additional guidance.]

- (b) A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error; (5 CFR 351.202(c)(2))

B [See subparagraph **3-B-5-5-(b)** for additional guidance.]

- (c) A change to lower grade based on the reclassification of an

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

employee's position due to erosion of duties, except that this exclusion does not apply to such reclassification actions that will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 days; (5 CFR 351.202(c)(3))

- This exception ends at the completion of the reduction in force.

B [See subparagraph **3-B-5-5-(c)** for additional guidance.]

- (d) Placement of an employee serving on an on-call or seasonal basis in a nonpay, nonduty status in accordance with conditions established at time of appointment; (5 CFR 351.202(c)(6))

B [See subparagraph **3-B-5-5-(d)** for additional guidance.]

- (e) A change in an employee's work schedule from part-time to full-time; (5 CFR 351.202(c)(7))
- An involuntary change from full-time to part-time is covered by reduction in force procedures; (5 CFR 351.202(c)(7), or

B [See subparagraph **3-B-5-5-(e)** for additional guidance.]

- (f) A reduction in the number of scheduled hours within a part-time tour of duty (for example, from 32 to 16 scheduled hours per week; (5 CFR 351.403(b)(4))

B [See subparagraph **3-B-5-5-(f)** for additional guidance.]

- (g) A reduction in rank (for example, an employee is reassigned from a supervisory position to a nonsupervisory position); and

B [See subparagraph **3-B-5-5-(g)** for additional guidance.]

- (h) A constructive demotion (for example, an employee's position is reclassified to a higher grade because of a new classification error and the employee is not promoted even though the employee is qualified for the higher-graded position).

B [See subparagraph **3-B-5-5-(h)** for additional guidance.]

3-A-5-6 **Employees Covered By OPM's Reduction in Force Regulations**

Except as noted in paragraphs **3-A-5-7** and **3-A-5-8** below, subparagraphs **(a)** and **(b)** explain that, unless excluded by statute, OPM's retention regulations apply to each Federal civilian employee:

- (a) In the executive branch of the Federal Government; (5 CFR 351.202(a)(1), or
- (b) In a position outside the executive branch that is subject by statute to competitive service requirements or is determined by the appropriate legislative or judicial administrative body to be covered by the retention regulations. (5 CFR 351.202(a)(2))
- (c) An employee carried on an agency's rolls because of a compensable injury is subject to reduction in force actions.

B [See paragraph **3-B-5-6-(c)** for additional guidance.]

3-A-5-7 **Modifications to General Coverage Under OPM's Reduction in Force Regulations**

- (a) Administrative law judges are subject to the modified procedures in 5 CFR Part 930. (5 CFR 351.202(a)(2))

B [See subparagraph **3-B-5-7-(a)** for additional guidance.]

- (b) Certain positions covered by Indian preference are subject to modified reduction in force procedures pursuant to section 472a of title 25, United States Code.

B [See subparagraph **3-B-5-7-(b)** for additional guidance.]

- (c) Employees of the U.S. Postal Service who are eligible for veterans' preference are covered by OPM's reduction in force regulations under authority of subparagraph 1005(a)(2) of the Postal Reorganization Act of 1970.
 - Postal Service employees who are not eligible for veterans' preference are not covered by OPM's reduction in force regulations.

B [See subparagraph **3-B-5-7-(c)** for additional guidance.]

- (d) Health care personnel of the Department of Veterans Affairs, Veterans Health Services and Research Administration, who are appointed under the authority of paragraph 38 U.S.C. 4104(1) or paragraph 38 U.S.C. 4114, are covered by OPM's reduction in force regulations.

B [See **subparagraph 3-B-5-7-(d)** for additional guidance.]

- Also, under Title 38, U.S.C., the Department of Veteran Affairs (VA) designates a group of employees as "**hybrids**." The "**hybrids**" are excepted service employees appointed either under 38 U.S.C. 7401(3) (full-time permanent employees), or under Section 38 U.S.C. 7405 (part-time permanent employees). The hybrids compete under OPM's reduction in force regulations as excepted service employees.

3-A-5-8

Employees Excluded From Coverage Under OPM's Reduction in Force Regulations

OPM's retention regulations do not apply to:

- (a) A National Guard technician. (5 CFR 351.202(c)(5))
- The release of a National Guard Technician is covered under Section 709 of Title 32, U.S.C. (5 CFR 351.202(c)(5))
- (b) A member of the Senior Executive Service. (5 CFR 351.202(b)(1))
- Section 5 U.S.C. 3595 authorizes "Reduction in Force in the Senior Executive Service; subpart 359-F "Removal of Career Appointees as a Result of Reduction in Force" implements the statute.
 - The reduction in force regulations do apply to an employee who holds a Senior-level (SL) position classified above GS-15 under authority of 5 U.S.C. 5376.

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

(5 CFR 534.501)

- (c) An employee in a position outside the executive branch, except for a position that is subject by statute to competitive service requirements, or is determined by the appropriate legislative or judicial administrative body to be covered by the retention regulations. (5 CFR 351.202(a)(2))
- (d) An employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the United States Senate. (5 CFR 351.202(b)(2))
- (e) A reemployed civil service annuitant, unless the appointing officer determines that an annuitant may compete under reduction in force procedures. (5 U.S.C. 3323(b))
 - Under paragraph 5 U.S.C. 3323(b), an annuitant serves at the will of the appointing officer and may be separated at any time at the discretion of the appointing officer.

[See subparagraph **3-B-5-8-(e)** for additional guidance.]

- If the agency does not separate the annuitant prior to a reduction in force, the agency determines the annuitant's retention standing on the basis of the employee's actual appointment; the annuitant then competes in the reduction in force in the same manner as other competing employees.
- (f) A foreign national employee appointed under programs authorized by section 408 of the Foreign Service Act of 1980 (22 U.S.C. 3968), which may include special plans for reduction in force; for more information, see subparagraph **3-B-5-8-(f)**. (5 CFR 351.201(d))
 - In these plans an agency may give effect to local labor laws and practices by supplementing the factors in the retention regulations to the extent consistent with the public interest.
 - There is no right for foreign national employees to appeal to the Merit Systems Protection Board any actions taken under these special retention plans.

3-A-5-9

Employees May Volunteer for Reduction in Force Only if Authorized by Statute

The abolishment of a position and a subsequent reduction in force are agency-initiated actions. (5 U.S.C. 7106(a)(2); 5 CFR 351.201(a)(1))



- See Section **3-A-2** for additional guidance concerning the agency's right to make decisions relating to the abolishment of positions and the staffing of an organization.
 - Without specific statutory authority, an employee may not volunteer for a reduction in force action.
 - Section 5 U.S.C. 3502(f) authorizes potential voluntary reduction in force actions in the Department of Defense if the voluntary separation results in the retention of a Defense employee in a similar position who will otherwise be separated by reduction in force.
 - Section 3136 of Public Law 106-398 similarly authorizes potential voluntary reduction in force separations for Department of Energy employees at closure projects potential voluntary reduction in force actions in the Department of Defense if the voluntary separation results in the retention of an Energy employee in a similar position who will otherwise be separated by reduction in force.
-

Section 6, Reorganization, Misclassification, and Job Erosion

Introduction This section covers the personnel procedures that an agency uses to undertake a reorganization, correct a classification error, or downgrade a position as the result of job erosion.

Contents This section contains the following topics:

Topic	See Paragraph
Reorganization Basics	3-A-6-1
Use of Reduction in Force Procedures in Reorganization	3-A-6-2
Misclassification Due to New Classification Standards or Correction of Classification Error	3-A-6-3
Reclassification Due to Job Erosion	3-A-6-4
Use of Reduction in Force in Job Erosion	3-A-6-5
Accretion of Duties	3-A-6-6

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-6-1	3-B-6-1
3-A-6-2-(a)	3-B-6-2-(a)
3-A-6-2-(b)	3-B-6-2-(b)
3-A-6-2-(c)	3-B-6-2-(c)
3-A-6-2-(d)	3-B-6-2-(d)
3-A-6-2-(e)	3-B-6-2-(e)
3-A-6-3	3-B-6-3
3-A-6-4-(a)	3-B-6-4-(a)
3-A-6-5	3-B-6-5

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>
--

Section 6, Reorganization, Misclassification, and Job Erosion

3-A-6-1 Reorganization Basics

"**Reorganization**" means the planned elimination, addition, or redistribution of functions or duties in an organization. (5 CFR 351.203)

- Subparagraph **3-A-4-1-(m)** also contains the reduction in force definition of reorganization.

B [See paragraph **3-B-6-1** for additional guidance.]

3-A-6-2 Use of Reduction in Force Procedures in Reorganization

If a reorganization results in an employee being reached for separation or downgrading, the agency must follow OPM's reduction in force regulations, but only at the time of actual separation or downgrading. (5 CFR 351.201(a)(2))

- (a) The agency may implement a reorganization when organizational changes actually take place, or at a later date such as during a classification survey.

B [See subparagraph **3-B-6-2-(a)** for additional guidance.]

- (b) Most reduction in force actions are actually reorganizations, including lack of work, shortage of funds, and reduction in personnel ceiling.

B [See subparagraph **3-B-6-2-(b)** for additional guidance.]

- (c) An agency decision to privatize work under authority of Office of Management and Budget Circular A-76 or other authority is a reorganization.

B [See subparagraph **3-B-6-2-(c)** for additional guidance.]

- (d) The agency has the right to conduct a reorganization and a

reduction in force at any time, not just in direct response to an event such as a reduction in available funds.

B [See subparagraph **3-B-6-2-(d)** for additional guidance.]

- For example, the agency reorganizes its workforce or reporting relationships to accommodate a shortage in available funds.
- (e) The agency may reassign an employee to another position at the same grade without regard to relative retention standing, and avoid the use of reduction in force procedures in a reorganization. (5 CFR 335.102)

B [See subparagraph **3-A-5-2-(e)** for additional guidance.]

3-A-6-3 **Misclassification Due to New Classification Standards or Correction of Classification Error**

If the grade of a position must be reduced because of the application of new OPM classification standards or the correction of classification error, the agency does not use reduction in force procedures. (5 CFR 351.202(c)(2))

- In these situations, the duties of the position do not change; the grade of the position changes because of new classification standards or the correction of classification error.

B [See paragraph **3-B-6-3** for additional guidance.]

3-A-6-4 **Reclassification Due to Job Erosion**

"**Job Erosion**" describes a situation where the grade of a position must be reduced because duties have gradually drifted away through an extended erosion process. (5 CFR 351.202(c)(3))

- (a) In job erosion cases, there is no record of:
- (1) The reason why the grade-supporting duties of a position are no longer being performed; and

- (2) The time frame when the change to grade-controlling duties actually occurred.

B [See paragraph **3-B-6-4-(a)** for additional guidance.]

- (b) Job erosion contrasts with a reclassification due to reorganization, where the agency carries out a planned change in duties when the record shows:
 - (1) A direct or indirect management decision resulted in the deletion of the grade-supporting duties of a position; (5 CFR 351.201(a)(2), and
 - (2) The time frame when management made this decision. (5 CFR 351.201(a)(2))
-

3-A-6-5

Use of Reduction in Force in Job Erosion

OPM's reduction in force regulations apply to job erosion reclassification actions when: (5 CFR 351.202(c)(3))

- (a) The job erosion downgrading action will take effect after an agency has formally announced a reduction in force in the employee's competitive area; (5 CFR 351.202(c)(3)), and
- (b) The reduction in force will occur within 180 days after the effective date of the downgrading action. (5 CFR 351.202(c)(3))
 - In deciding whether job erosion is an option, the agency must consider whether a reduction in force has been announced, and will take effect within 180 days, in the employee's competitive area. (5 CFR 351.202(c)(3))

B [See paragraph **3-B-6-5** for additional guidance.]

3-A-6-6

Accretion of Duties

At its option, an agency may promote an employee without the usual competitive procedures if the agency reclassifies the position on the basis of additional duties and responsibilities. (5 CFR

335.103(c)(3)(ii)

- If the agency noncompetitively promotes employees on the basis of accretion of duties and responsibilities, the agency is responsible for establishing its formal policies to document that each promotion is legitimate. (5 CFR 335.103(c)(3)(ii))
- ①
- Paragraph **3-A-6-1** above notes that "**Reorganization**" means the planned elimination, addition, or redistribution of functions or duties to one or more positions in an organization. (5 CFR 351.203)
- ①
- Subparagraph **3-A-4-1-(m)** also contains the reduction in force definition of reorganization.
-

Section 7, Competitive Area

Introduction This section explains how the agency defines a competitive area, in which employees compete for retention. The agency defines each competitive solely on the basis of the agency's organizational and geographical boundaries.

Contents This section contains the following topics:

Topic	See Paragraph
Competitive Area	3-A-7-1
Basis for Competitive Area	3-A-7-2
Competitive Area Standard for Headquarters Activities	3-A-7-3
Competitive Area Standard for Field Activities	3-A-7-4
Inspector General Competitive Area	3-A-7-5
Separate Administrative Management Authority in Competitive Area Determinations	3-A-7-6
Size of Competitive Area	3-A-7-7
Local Commuting Area	3-A-7-8
Local Commuting Area and Competitive Area	3-A-7-9
Record of Competitive Area Definition	3-A-7-10
Restriction on Changing Competitive Area Definition Within 90 Days of Reduction in Force Effective Date	3-A-7-11

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-7-1-(e)	3-B-7-1-(e)
3-A-7-2-(b)	3-B-7-2-(b)
3-A-7-6	3-B-7-6
3-A-7-7-(a)	3-B-7-7-(a)
3-A-7-7-(b)	3-B-7-7-(b)

Continued on next page

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-7-7-(c)	3-B-7-7-(c)
3-A-7-7-(d)	3-B-7-7-(d)
3-A-7-8-(a)	3-B-7-8-(a)

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 7, Competitive Area

3-A-7-1

General Information About Competitive Areas

Each agency must establish competitive areas that are the boundaries within which employees compete for retention under reduction in force procedures. (5 CFR 351.402(a))

- (a) Employees in a competitive area compete for retention under OPM's reduction in force regulations only with other employees in the same competitive area. (5 CFR 351.402(b))
 - Employees do not compete for retention with employees of the agency in a different competitive area. (5 CFR 351.402(b))
- (b) The competitive area includes all employees within the organizational unit(s) and geographical location(s) that are included in the competitive area definition. (5 CFR 351.402(b))
 - Each employee competes with all other employees in the competitive area for positions under OPM's retention regulations. (5 CFR 351.402(b))
- (c) In any one reduction in force, an agency may not use one competitive area for the first round of competition, and a different competitive area for second rounds of competition. (5 CFR 351.402(b))
- (d) There is no minimum or maximum number of employees in a competitive area. (5 CFR 351.402(b))

① [See paragraph **3-A-7-7** below for additional guidance.]

- (e) A telework or telecommuting employee competes in reduction in force on the basis of the employee's official position of record, including the location of the employing activity.

B [See subparagraph **3-B-7-1-(e)** for additional guidance.]

3-A-7-2 **Basis for Competitive Area**

- B** An agency must define each competitive area solely in terms of organizational unit(s) and geographical location(s). (5 CFR 351.402(b))
- (a) An agency may not define a competitive area on the basis of other considerations (such as bargaining unit membership, grade, occupation, etc.).
- (b) Once the agency defines the competitive area, the competitive area includes all employees in the organization(s) and location(s) included in the competitive area definition.

[See subparagraph **3-B-7-2-(b)** for additional guidance.]

3-A-7-3 **Competitive Area Standard for Headquarters Activities**

A minimum headquarters competitive area is any organizational unit under "**Separate Administration**" within the local commuting area. (5 CFR 351.402(b))

- ① • See paragraph **3-A-7-6** below for additional guidance on "**Separate Administration.**"
- The same competitive area standard applies to both headquarters and field activities.

① [See paragraph **3-A-7-6** below for additional guidance.]

3-A-7-4 **Competitive Area Standard for Field Activities**

The minimum competitive area in the field is an activity under separate administration within the local commuting area. (5 CFR 351.402(b))

- (a) If two or more field activities are grouped at the same field installation, but are organizationally independent and separate from each other in operation, work function, staff, and personnel management, each activity may properly be designated a competitive area. (5 CFR 351.402(b))

① [See paragraph **3-A-7-6** below for additional guidance on "**Separate Administration.**"]

- (b) The same competitive area standard applies to both headquarters and field activities.

① [See paragraph **3-A-7-6** below for additional guidance.]

3-A-7-5 **Inspector General Competitive Area**

An agency must establish a separate competitive area for an Inspector General activity established under authority of the Inspector General Act of 1978 (Public Law 95-452, as amended). (5 CFR 351.402(d))

- This competitive area only includes employees of the Inspector General activity.
-

3-A-7-6 **Separate Administrative Management Authority in Competitive Area Determinations**

As used for purposes of establishing a minimum competitive area, "**Separate Administration**" is the administrative authority to take or direct personnel actions (including the authority to establish positions, abolish positions, assign duties, etc.) rather than the issuance or processing of the documents by which these decisions are effected. (5 CFR 351.402(b))

B [See paragraph **3-B-7-6** for additional guidance.]

- (a) "**Separate Administration**" means that the organizational unit is separately organized and clearly distinguished from other organizational units within the same local commuting area in regard to operation, work function, staff, and personnel management. (5 CFR 351.402(b))
- (b) "**Separate Administration**" for purposes of establishing competitive areas applicable to both headquarters and field organizations recognizes that individual organizational components may be under separate administration even though many agencies reserve final approval of certain personnel actions to a higher level in the agency (including classification of positions, filling of higher-graded positions, processing of

personnel actions, etc. (5 CFR 351.402(b))

- (c) **"Separate Administration"** is evidenced by the agency's organizational manual and delegations of authority that document where, in the organization, final authority rests to make decisions such as establishing positions, abolishing positions, assigning duties, etc. This is the standard for a minimum competitive area in a local commuting area, in either a headquarters organization or field component. (5 CFR 351.402(b))
 - (d) The fact that the same personnel office services several activities does not, of itself, require that they be placed in the same competitive area.
 - The personnel office merely processes personnel actions rather than having final responsibility to make decisions on whether to establish position, abolish positions, assign duties, etc. (5 CFR 351.402(b))
 - (e) The agency uses the same general minimum standard of **"Separate Administration within the Local Commuting Area"** to establish competitive areas for both headquarters and field components. (5 CFR 351.402(b))
-

3-A-7-7

Size of Competitive Area

An agency has considerable flexibility in defining a competitive area that is consistent with OPM's regulations. (5 CFR 351.402(b))

- ① (a) A competitive area may not be smaller than the minimum standard covered in paragraphs **3-A-7-3** and **3-A-7-4** above. (5 CFR 351.402(b))
- B** [See subparagraph **3-B-7-4-(a)** for additional guidance.]
- ① (b) OPM's regulations do not require an agency to establish a competitive area that is larger than the minimum standard covered in paragraphs **3-A-7-3** and **3-A-7-4** above. (5 CFR 351.402(b))
- B** [See subparagraph **3-B-7-4-(b)** for additional guidance.]

- (c) OPM's regulations do not require that a minimum competitive area must include a specific number of employees. (5 CFR 351.402(b))

B [See subparagraph **3-B-7-4-(c)** for additional guidance.]

- (d) OPM's regulations do not define a maximum organizational or geographic size for a competitive area. (5 CFR 351.402(b))

B [See subparagraph **3-B-7-4-(d)** additional guidance.]

3-A-7-8 **Local Commuting Area**

"**Local Commuting Area**" means the geographic area that usually includes one area for employment purposes, as determined by the agency. (5 CFR 351.203)

- (a) The "**Local Commuting Area**" includes any population center (or two or more neighboring centers) and the surrounding localities in which people live and can reasonably be expected to travel back and forth every day to their usual employment. (5 CFR 351.203)

B [See subparagraph **3-B-7-8-(a)** for additional guidance.]

- (b) Each agency has the right and the responsibility for defining local commuting areas and applying this definition. (5 CFR 351.204)
- There is no OPM mileage standard to determine when two local duty stations would be included in the same local commuting area.
-

3-A-7-9 **Local Commuting Area and Competitive Area**

When an organization has components in more than one local commuting area, the agency may designate each local commuting area as a separate competitive area. (5 CFR 351.402(b))

- ①
 - When different organizations of the same agency are located in the same local commuting area, the agency then refers to its personnel management authority to determine what is the minimum competitive area; see paragraph **3-A-7-6** above for more information.
-

3-A-7-10 **Record of Competitive Area Definition**

When an agency establishes or changes competitive areas, it must publish descriptions of the areas or otherwise make them readily available for review by employees and OPM. (5 CFR 351.402(c))

- The agency normally includes its competitive definition(s) in its internal personnel manual, or with similar documents relating to the agency's specific reduction in force procedures.
-

3-A-7-11 **Restriction on Changing Competitive Area Definition Within 90 Days of Reduction in Force Effective Date**

Agencies must establish competitive areas at least 90 days prior to a reduction in force. (5 CFR 351.402(c))

- ①
 - Section **3-A-8** covers an agency's request to OPM for an exception to the 90-day competitive area requirement.
-

Section 8, Request for a Competitive Area Change

Introduction This section explains when an agency must submit a request for OPM approval of a change in a competitive area definition, and how to submit the request.

Contents This section contains the following topics:

Topic	See Paragraph
OPM Prior Approval of Change in Competitive Area Definition Within 90 Days of Reduction in Force Effective Date	3-A-8-1
Information in Request to OPM	3-A-8-2
OPM Address to Send Request	3-A-8-3

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on this key paragraph in Unit 3-A,	In Unit 3-B see paragraph:
3-A-8-1	3-B-8-1

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 8, Request for a Competitive Area Change

3-A-8-1

OPM Prior Approval of Change in Competitive Area Definition Within 90 Days of Reduction in Force Effective Date

When an agency changes an existing competitive area or establishes new competitive areas less than 90 days prior to the effective date of a reduction in force, the agency must receive OPM approval of the change before the effective date of the reduction in force. (5 CFR 351.402(c))

- A new competitive area does not result from changes within an existing competitive area such as the transfer of a function from another competitive area prior to the effective date, or the updating of the competitive area definition to document other organizational changes that have taken place since the competitive area definition was last updated.

B

[See paragraph **3-B-8-1** for additional guidance.]

3-A-8-2

Information in Request to OPM

The agency should submit the request to OPM as soon as possible, and should include the following information:

- (a) Identification of the proposed competitive area including the organizational segment, geographic location, and limits of the local commuting area;
- (b) A description of how the proposed area differs from the one previously established for the same unit and geographic area;
- (c) An organizational chart of the agency showing the relationship between the organizational components within the competitive area and other components in the commuting area;
- (d) The number of competing employees in the proposed competitive area;

- (e) A description of the operation, work function, staff, and personnel administration of the proposed area and, where appropriate, a description of how the area is distinguished from others in these respects; and
 - (f) A discussion of the circumstances that led to the proposed changes less than 90 days before a proposed reduction.
-

3-A-8-3 OPM Address to Send Request

- (a) The agency should send the competitive area request to:

Office of Personnel Management
Associate Director
For Employment
Washington, DC 20415

- (b) For expedited service, agencies may FAX requests to:

Office of Personnel Management
Office of Employment Policy
Room 6551
Washington, DC 20415-9700

FAX- 202-606-2329; voice- 202-606-0960

Section 9, Competitive Level

Introduction This section covers how an agency establishes reduction in force competitive levels based upon the official position descriptions of the competing employees.

Contents This section contains the following topics:

Topic	See Paragraph
General Information About Competitive Levels	3-A-9-1
Position Descriptions are Basis for Competitive Levels	3-A-9-2
Establishing Competitive Levels	3-A-9-3
Interchangeable Positions are in the Same Competitive Level	3-A-9-4
Undue Interruption	3-A-9-5
Separate Competitive Levels Required	3-A-9-6
Separate Competitive Levels Prohibited	3-A-9-7
Mobility Agreements and Travel Requirements Not Considered in Competitive Levels	3-A-9-8

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-9-2	3-B-9-2
3-A-9-2-(a)	3-B-9-2-(a)
3-A-9-2-(b)	3-B-9-2-(b)
3-A-9-2-(c)	3-B-9-2-(c)
3-A-9-2-(c)	3-B-9-2-(c)
3-A-9-5	3-B-9-5
3-A-9-6-(d)	3-B-9-6-(d)
3-A-9-6-(e)	3-B-9-6-(e)
3-A-9-6-(f)	3-B-9-6-(f)

B This symbol highlights where you can find additional material in

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 9, Competitive Level

3-A-9-1

General Information About Competitive Levels

After establishing the competitive area, the agency establishes competitive levels that include groups of interchangeable positions. (5 CFR 351.403(a))

- When the agency applies the four retention factors to the competitive level (tenure, veterans' preference, length of service, and performance ratings), the competitive level becomes a "**Retention Register**" which lists employees in the order of their relative retention standing. (5 CFR 351.401)
 - The terms "**Competitive Level**" and "**Retention Register**" are generally used in reference to a final retention register without regard to this distinction.
-

3-A-9-2

Position Descriptions are Basis for Competitive Levels

The agency establishes competitive levels on the basis of each employee's official position of record. (5 CFR 351.403(a)(2))

B

[See paragraph **3-B-9-2** for additional guidance.]

- (a) Even when using an automated system to determine employees' retention rights, the agency's burden of proof in an employee's appeal to the Merit Systems Protection Board is still the employee's official position of record, including the position descriptions.

B

[See subparagraph **3-B-9-2-(a)** for additional guidance.]

- (b) At its option in considering a competitive level appeal, the Merit Systems Protection Board has the right to consider evidence other than the employee's official position description.

B

[See subparagraph **3-B-9-2-(b)** for additional guidance.]

- (c) An agency may not place positions in a competitive level on the

basis of the personal qualifications or performance levels of individual employees. (5 CFR 351.403(a)(2))

B [See subparagraph **3-B-9-2-(c)** for additional guidance].

(d) The agency determines the competitive level on the basis of the position's classification series and/or grade on the effective date of the reduction in force.

B [See subparagraph **3-B-9-2-(d)** for additional guidance].

3-A-9-3 **Establishing Competitive Levels**

A "**Competitive Level**" consists of positions in the competitive area that are: (5 CFR 351.403(a)(1))

- (a) In the same grade (or occupational level); (5 CFR 351.403(a)(1))
- (b) In the same classification series; (5 CFR 351.403(a)(1)), and
- (c) Similar enough in duties, qualifications requirements, pay schedules, and working conditions, so that an agency may reassign the incumbent of one position to any of the other positions in the level without "**Undue Interruption.**" (5 CFR 351.403(a)(1))

①

- "Qualifications Requirements" for purposes of establishing competitive levels includes medical standards approved by OPM, and/or specific agency-established physical requirements, included in the position description of a competing employee's official position of record.

- Paragraph **3-A-9-5** below covers "**Undue Interruption**" for purposes of establishing competitive levels.
-

3-A-9-4 **Interchangeable Positions are in the Same Competitive Level**

Positions in the same competitive level are so similar that the agency

may readily assign an employee in one position to any of the other positions in the competitive level: (5 CFR 351.403(a)(1))

- (a) Without changing the terms of the employee's appointment, (5 CFR 351.403(a)(1)), and
 - (b) Without undue interruption to the agency's work program. (5 CFR 351.403(a)(1))
 - There is no minimum or maximum number of positions that can be placed in a competitive level; for example, a competitive level could potentially consist of one unique position.
-

3-A-9-5

Undue Interruption

"**Undue Interruption**" is defined in paragraph **3-A-4-1-(v)** as a degree of interruption that would prevent the completion of required work within the agency's allowable limits of time and quality. (5 CFR 351.203)

B

[See paragraph **3-B-9-5** for additional guidance.]

- (a) A work program would be subject to undue interruption if an employee required more than 90 days after displacing a lower-standing employee to successfully perform the essential duties and responsibilities of the position. (5 CFR 351.203)
 - (b) The agency may also determine whether undue interruption would be a consideration in 90 days or less as the result of special work priorities or deadlines. (5 CFR 351.203)
-

3-A-9-6

Separate Competitive Levels Required

①

Consistent with the standard for interchangeability covered in paragraphs **3-A-9-3** and **3-A-9-4** above, the agency must establish separate competitive levels for certain positions:

- (a) **Competitive and Excepted Service.** The agency must establish separate competitive levels for positions in the competitive service, and for positions in the excepted service.

(5 CFR 351.403(b)(1))

- Employees who hold excepted service appointments in competitive service positions (for example, Veterans Readjustment Appointments compete for retention in the excepted service). (5 CFR 351.403(b)(1))

(b) **Excepted Service Appointment Authority.** The agency establishes separate competitive levels for excepted service positions filled under different appointment authorities. (5 CFR 351.403(b)(2))

(c) **Pay System.** The agency establishes separate competitive levels for positions filled under different pay systems or pay schedules. (5 CFR 351.403(b)(3))

(d) **Work Schedule.** The agency establishes separate competitive levels for positions filled on different work schedules:

(1) Full-time; (5 CFR 351.403(b)(4))

(2) Part-time; (5 CFR 351.403(b)(4))

(3) Intermittent; (5 CFR 351.403(b)(4))

(4) Seasonal; (5 CFR 351.403(b)(4)), or

(5) On-call. (5 CFR 351.403(b)(4))

- ①
- An agency has no authority to establish separate competitive levels based upon subsets of the five categories covered in subparagraphs **3-A-9-6-(d)-(1)** through **-(5)** above. (5 CFR 351.403(b)(4))

B [See subparagraph **3-B-9-6-(d)** for additional guidance.]

(e) **Formally Designated Trainee or Developmental Positions.** The agency establishes separate competitive levels for positions filled by an employee in a formally designated trainee or developmental program that has the following characteristics: (5 CFR 351.403(b)(5))

(1) Is designed to meet the agency's needs and

requirements for the development of skilled personnel;
(5 CFR 351.702(e)(1))

- (2) Is formally designated as a trainee or developmental program, with its provisions announced to employees and supervisors; (5 CFR 351.702(e)(2))
- (3) Is developmental by design, offering planned growth in duties and responsibilities and providing advancement in recognized lines of career progression; (5 CFR 351.702(e)(3)), and
- (4) Is fully implemented, with the participants chosen for the program through standard selection procedures. (5 CFR 351.702(e)(4))

B

[See subparagraph **3-B-9-6-(e)** for additional guidance.]

- (f) **Supervisory Positions and Competitive Levels.** OPM's regulations no longer have a specific requirement that an agency must establish a separate competitive level solely because an employee holds a supervisory rather than a nonsupervisory position.

B

[See paragraph **3-B-9-6-(f)** for additional guidance.]

3-A-9-7

Separate Competitive Levels Prohibited

An agency may not place a position on a separate competitive level based solely on:

- (a) The sex of an employee, except when OPM has determined that certification of eligibles by sex is justified; (5 CFR 351.403(a)(3))
- (b) A requirement to serve a probationary period for initial appointment to a supervisory or managerial position; (5 CFR 351.403(b)(5))
- (c) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who otherwise would be in the same competitive level; (5 CFR 351.403(c)(1))

- (d) A requirement to work changing shifts; (5 CFR 351.403(c)(2))
 - (e) The grade promotion potential of the position. (5 CFR 351.403(c)(3)), or
 - (f) A difference in the local wage areas in which wage grade positions are located. (5 CFR 351.403(c)(4))
-

3-A-9-8

Mobility Agreements and Travel Requirements Not Considered in Competitive Levels

An agency has no authority under OPM's reduction in force regulations to establish separate competitive levels based upon a position's requirement for a:

- (a) **"Mobility Agreement"**; or
 - (b) **"Travel."**
-

Section 10, Establishing Retention Registers

Introduction This section both the content and format of reduction in force retention registers.

Contents This section contains the following topics:

Topic	See Paragraph
General Information About Retention Registers	3-A-10-1
Employees Listed on the Retention Register	3-A-10-2
Employees Not Listed on the Retention Register Because of Armed Forces Restoration Rights	3-A-10-3
Employees Listed Apart From the Retention Register	3-A-10-4

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-10-1	3-B-10-1
3-A-10-2	3-B-10-2
3-A-10-2-(a)	3-B-10-2-(a)
3-A-10-2-(b) and (c)	3-B-10-2-(b)-(c)
3-A-10-4	3-B-10-4
3-A-10-4-(a)-(1)	3-B-10-4-(a)-(1)

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 10, Establishing Retention Registers

3-A-10-1 General Information About Retention Registers

The "**Retention Register**" applies the four retention factors required by law in 5 U.S.C. 3502(a) (tenure, veterans' preference, length of service, and performance ratings) to the competitive level. (5 CFR 351.404(a))

- A "**Retention Register**" lists competing employees (which are defined in 5 CFR § 351.203 as employees in tenure group I, II, or III) in the order of their relative retention standing in a single competitive level. (5 CFR 351.404(a))

B [See paragraph **3-B-10-1** for additional guidance.]

3-A-10-2 Employees Listed on the Retention Register

The retention register includes the name of each competing employee who holds an official position of record in the competitive level and is:

B [See paragraph **3-B-10-2** for additional guidance.]

(a) Serving in that position); (5 CFR 351.404(a)(1))

B [See subparagraph **3-B-10-2-(a)** for additional guidance.]

(b) Temporarily promoted from the competitive level by either temporary promotion or term promotion, (5 CFR 351.404(a)(2)),

B [See subparagraphs **3-B-10-2-(b)-(c)** for additional guidance.], or

(c) Detailed from the competitive level under 5 U.S.C. § 3341 or other authority. (5 CFR 351.404(a)(3))

B [See subparagraphs **3-B-10-2-(b)-(c)** for additional guidance.]

3-A-10-3 **Employees Not Listed on the Retention Register Because of Armed Forces Restoration Rights**

The retention register does not include the name of a competing employee on military duty with a restoration right to the competitive level. (5 CFR 351.404(a))

- The employee does not compete for retention under OPM's reduction in force regulations; instead, the employee has a restoration right under 5 CFR Part 353 based on the Armed Forces Service.

3-A-10-4 **Employees Listed Apart From the Retention Register**

Employees holding certain positions in a competitive level do not compete for retention in that competitive level.

B [See paragraph **3-B-10-4** for additional guidance.]

- (a) The agency first enters on a separate list the name of each employee who is serving in the competitive level under a:
- (1) Time-limited temporary appointment; (5 CFR 351.404(b)(1))

B [See subparagraph **3-B-10-4-(a)-(1)** for additional guidance.]

- (2) Term promotion; (5 CFR 351.404(b)(1)), or
 - (3) Temporary promotion. (5 CFR 351.404(b)(1))
- (b) The agency enters on a separate list the name of each employee who holds an official position of record in the competitive level and has received a final written decision under 5 CFR Part 432 ("**Performance Based Reduction in Grade and Removal Actions**") of:
- (1) Removal because of "**Unacceptable**" or equivalent performance; (5 CFR 351.404(b)(2)), or
 - (2) Demotion because of "**Unacceptable**" or equivalent performance. (5 CFR 351.405)

- An employee who has received a written decision of demotion under 5 CFR Part 432 competes for retention from the position to which the employee will be, or has been, demoted. (5 CFR 351.405)
- (c) The agency enters on a separate list the name of each employee who holds an official position of record in the competitive level and has received a final written decision under 5 CFR Part 752 ("**Adverse Action**") of:
- (1) Removal; (5 CFR 351.404(b)(2)), or
 - (2) Demotion. (5 CFR 351.405)
- An employee who has received a written decision of demotion under 5 CFR Part 752 competes for retention from the position to which the employee will be, or has been, demoted. (5 CFR 351.405)
-

Section 11, Determining Employees' Retention Standing

Introduction This section covers the four statutory factors that serve as a basis of a retention register. This section also summarizes the order in which an agency lists employees on a retention register for purposes of reduction in force competition.

Contents This section contains the following topics:

Topic	See Paragraph
General Information About Retention Standing	3-A-11-1
Order of Employees on the Retention Register	3-A-11-2

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>
--

Section 11, Determining Employees' Retention Standing

3-A-11-1 General Information About Retention Standing

The four retention factors required in paragraph 5 U.S.C. 3502(a) are implemented in the following order on the retention register: (5 CFR 351.501(a))

- (a) **Tenure** is the first factor and is implemented through three "**Tenure Groups**" on the retention register; (5 U.S.C. 3502(a)(1))
 - (b) **Veterans' Preference** is the second factor and is implemented through three "**Tenure Subgroups**" on the retention register; (5 U.S.C. 3502(a)(2))
 - (c) **Service** is the third factor and is implemented through each employee's "**Service Computation Date**" on the retention register; (5 U.S.C. 3502(a)(3)), and
 - (d) **Performance** is the fourth factor and is implemented through additional service added for retention to the employee's Service Computation Date on the retention register. (5 U.S.C. 3502(a)(4))
-

3-A-11-2 Order of Employees on the Retention Register

The agency lists competing employees on the retention register in the following order:

- (a) **Tenure Groups**. The order of the three retention Tenure Groups on the retention register is:
 - (1) **Group I**; (5 CFR 351.501(a)(1))
 - (2) **Group II**; (5 CFR 351.501(a)(1)), and
 - (3) **Group III**. (5 CFR 351.501(a)(1))



- Section **3-A-12** covers reduction in force Tenure Groups.

(b) **Tenure Subgroups.** The order of the three veterans' preference retention Tenure Subgroups on the retention register is:

- (1) **Subgroup AD;** (5 CFR 351.501(a)(2))
- (2) **Subgroup A;** (5 CFR 351.501(a)(2), and
- (3) **Subgroup B.** (5 CFR 351.501(a)(2))



- Paragraph **3-A-13-1** covers reduction in force tenure subgroups.

(c) **Service Credit.** Within each subgroup, the agency first establishes a service computation date for each competing employee. (5 CFR 351.503(a))



- Section **3-A-14** covers reduction in force service credit.

(d) **Performance.** Then within each subgroup, the agency adds additional service credit for performance, listing the employee with the earliest service date at the top of the subgroup. (5 CFR 351.501(a)(3))



- Section **3-A-15** covers additional retention service credit based on performance.
-

Section 12, Retention Tenure Groups

Introduction This section explains how an agency begins to develop a retention register by placing positions in appropriate competitive or excepted service tenure groups.

Contents This section contains the following topics:

Topic	See Paragraph
General Information About Tenure Groups	3-A-12-1
Competitive Service Tenure Groups	3-A-12-2
Excepted Service Tenure Groups	3-A-12-3

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-12-1	3-B-12-1
3-A-12-2-(c)-(2)	3-B-12-2-(c)-(2)
3-A-12-2-(c)-(3)	3-B-12-2-(c)-(3)
3-A-12-2-(d)	3-B-12-2-(d)
3-A-12-3-(a)	3-B-12-3-(a)
3-A-12-3-(b)-(2)	3-B-12-3-(b)-(2)
3-A-12-3-(c)-(1)	3-B-12-3-(c)-(1)
3-A-12-3-(c)-(2)	3-B-12-3-(c)-(2)
3-A-12-3-(c)-(3)	3-B-12-3-(c)-(3)

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 12, Retention Tenure Groups

3-A-12-1 General Information About Tenure Groups

Tenure is one of the four retention factors required in 5 U.S.C. § 3502(a). (5 U.S.C. 3502(a)(1))

B [See paragraph **3-B-12-1** for additional guidance.]

3-A-12-2 Competitive Service Tenure Groups

OPM's retention regulations define competitive service tenure groups to include:

- (a) **Group I** includes each career employee who is not serving a probationary period for appointment to a competitive position. (5 CFR 351.501(b)(1))
 - (1) An employee serving a probationary period required by 5 CFR Subpart 315-I for a supervisory or managerial position does not affect the tenure group designation. (5 CFR 351.501(b)(1))
 - (2) The following employees are in tenure group I as soon as they complete any required probationary period for initial appointment:
 - (i) An appointment for whom substantial evidence exists of eligibility to immediately acquire status and career tenure and whose case is pending final resolution by OPM (including cases under Executive Order 10826 to correct certain administrative errors); (5 CFR 351.501(b)(1)(i))
 - (ii) An employee who acquires competitive status and satisfies the service requirement for career tenure when his or her position is brought into the competitive service; (5 CFR 351.501(b)(1)(ii))
 - (iii) An administrative law judge; (5 CFR 351.501(b)(1)(iii))

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

- (iv) An employee appointed under 5 U.S.C. § 3104 (which provides for the employment of specifically qualified scientific and professional personnel) or a similar authority; (5 CFR 351.501(b)(1)(iv)), and
- (v) An employee who acquires status under 5 U.S.C. § 3304(c) on transfer to the competitive service from the legislative or judicial branches of the Federal Government. (5 CFR 351.501(b)(1)(v))

(c) **Group II** includes:

- (1) Each career-conditional employee; (5 CFR 351.501(b)(2))
- (2) Each employee serving a probationary period for initial appointment to a competitive position; (5 CFR 351.501(b)(2)), and
- (3) An employee is in tenure group II when substantial evidence exists of eligibility to immediately acquire status and career-conditional tenure and the employee's case is pending final resolution by OPM (including cases under Executive Order 10826 to correct certain administrative errors). (5 CFR 351.501(b)(2))

(d) **Group III** includes each employee serving under:

- (1) Indefinite appointment; (5 CFR 351.501(b)(3))
- (2) Temporary appointment pending establishment of a register (**TAPER**); (5 CFR 351.501(b)(3))

B [See subparagraph **3-B-12-2-(c)-(2)** for additional guidance on positions filled under the "**Welfare-to-Work Worker-Trainee Program.**"]

- (3) Term appointment); (5 CFR 351.501(b)(3))

B [See subparagraph **3-B-12-2-(c)-(3)** for additional guidance on term appointments.]

(4) Status quo appointment; (5 CFR 351.501(b)(3))

(5) A provisional appointment; (5 CFR 316.401),

①

[See subparagraph **3-A-12-2-(e)** below for additional guidance on provisional appointments.]

(6) Any other nonstatus nontemporary appointment. (5 CFR 351.501(b)(3))

(e) A competitive service employee serving under a temporary limited appointment is not in tenure group III and is not a competing employee, except when the employee serves in a provisional appointment that was: (5 CFR 351.501(b)(3))

(1) Granted by OPM; (5 CFR 351.501(b)(3), or

(2) Made under an authority established by law, Executive order, or regulation (see 5 CFR 316.401, and 351.501(b)(3)).

B

[See subparagraph **3-B-12-2-(e)** for additional guidance.]

3-A-12-3

Excepted Service Tenure Groups

OPM's retention regulations define excepted service tenure groups to include:

(a) **Group I** includes each permanent employee whose appointment carries no restriction or condition such as conditional, indefinite, specific time limit, or trial period; (5 CFR 351.502(b)(1))

B

[See subparagraph **3-B-12-3-(a)** for additional guidance.]

(b) **Group II** includes each employee:

(1) Serving a trial period; (5 CFR 351.502(b)(2)(ii)), or

(2) Whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies

B

having these appointments. (5 CFR 351.502(b)(2)(iii))

[See subparagraph **3-B-12-3-(b)-(2)** for additional guidance on positions filled under the "**Student Educational Employment Program**).

(c) **Group III** includes each employee:

- (1) With indefinite tenure (an appointment without a specific time limit, but not actually or potentially permanent); (5 CFR 351.502(c)(3)(i))

B [See subparagraph **3-B-12-3-(c)-(1)** for additional guidance.]

- (2) Under an appointment with a specific time limitation of more than 1 year; (5 CFR 351.502(c)(3)(ii)), or

B [See subparagraph **3-B-12-3-(c)-(2)** for additional guidance.]

- (3) Who is currently serving under a temporary appointment limited to 1 year, but has completed one year of current continuous service under a temporary appointment with no break in service of 1 workday or more). (5 CFR 351.502(c)(3)(iii))

B [See subparagraph **3-B-12-3-(c)-(3)** for additional guidance.]

Section 13, Veterans' Preference in Reduction in Force

Introduction This section covers the eligibility criteria in order to be eligible for veterans' preference under OPM's reduction in force regulations. This section also explains how in developing a retention register an agency places employees in appropriate tenure subgroups based on the employee's eligibility for veterans' preference in retention.

Contents This section contains the following topics:

Topic	See Paragraph
Tenure Subgroups	3-A-13-1
Employees in Tenure Subgroups	3-A-13-2
General Eligibility for Veterans' Preference	3-A-13-3
Disabled Veteran	3-A-13-4
Eligibility For Veterans' Preference When Initial Entry Into the Armed Forces Took Place Before October 15, 1976	3-A-13-5
Eligibility For Veterans' Preference When Initial Entry Into The Armed Forces Took Place On Or After October 15, 1976	3-A-13-6
Eligibility for Veterans' Preference Based on Derivative Preference	3-A-13-7
Eligibility for Veterans' Preference When the Employee is Retired From the Armed Forces	3-A-13-8
Eligibility for Veterans' Preference When the Employee is Retired From the Armed Forces as a Title 10 Reservist	3-A-13-9

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-13-1	3-B-13-1

Continued on next page

Section 13, Veterans' Preference in Reduction in Force

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-13-1-(b)	3-B-13-1-(b)
3-A-13-7-(a)	3-B-13-7-(a)
3-A-13-7-(b)	3-B-13-7-(b)
3-A-13-7-(c)	3-B-13-7-(c)
3-A-13-7-(d)	3-B-13-7-(d)
3-A-13-8	3-B-13-8
3-A-13-8-(a)	3-B-13-8-(a)
3-A-13-8-(b)-(1)	3-B-13-8-(b)-(1)
3-A-13-8-(b)-(3)	3-B-13-8-(b)-(3)
3-A-13-8-(c)	3-B-13-8-(c)
3-A-13-9-(b)	3-B-13-9-(b)

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 13, Veterans' Preference in Reduction in Force

3-A-13-1 Tenure Subgroups

"Veterans' Preference" is one of the four retention factors required in 5 U.S.C. 3502(a). (5 U.S.C. 3502(a)(2))

B [See paragraph **3-B-13-1** for additional guidance.]

- (a) An agency has no authority to apply a "freeze" and restrict an employee from updating veterans' preference records prior to the effective date of a reduction in force. (5 U.S.C. 3502(a)(3); 5 CFR 351.501(a)(2))
- (b) An agency is not required to consider veterans' preference records that are not available until after the effective date of the reduction in force). (5 CFR 351.506(a))

B [See subparagraph **3-B-13-1-(b)** for additional guidance.]

3-A-13-2 Employees in Tenure Subgroups

Within each of the three tenure groups on a retention register, the agency places the names of competing employees in veterans' preference tenure subgroups:

- (a) **Subgroup AD** includes each veterans' preference eligible employee who has a compensable service-connected disability of 30 percent or more. (5 CFR 351.501(c)(1))
- (b) **Subgroup A** includes each veterans' preference eligible employee not in subgroup AD, including all employees eligible for **"Derivative Preference"** under 5 U.S.C. 2108(3)(D)-(G)). (5 CFR 351.501(c)(2))

① [See paragraph **3-A-13-7** below for additional guidance on **"Derivative Preference"**.]

- (c) **Subgroup B** includes each employee not eligible for veterans' preference under OPM's reduction in force regulations. (5 CFR 351.501(c)(3))

3-A-13-3 **General Eligibility for Veterans' Preference**

Section 5 U.S.C. 2108 authorizes veterans' preference for purposes of Title 5, United States Code. (5 CFR Part 211)

(a) The "**Dual Compensation Act of 1964**," as codified in 5 U.S.C. §§ 3501(a) and 3502(a)(A) and (B), places additional limitations upon retired members of the Armed Forces that restricts both eligibility for retention preference, and the crediting of service in the Armed Forces for retention. (5 CFR 351.501(d))



- See paragraphs **3-A-13-8** and **3-A-13-9** below for additional information on the application of the Dual Compensation Act upon retention preference.
- Except for an employee who is a retired member of the Armed Forces, an employee who is eligible for veterans' preference for purposes of initial appointment to the Federal service is also eligible for veterans' preference under OPM's reduction in force regulations.



(b) Sections **3-A-13** and **3-B-13** of the Restructuring Information Handbook Module 3 have basic information on the application of veterans' preference for retention.

- However, in making an official determination of whether an employee is entitled to veterans' preference for retention, or to determine whether an employee's service in the Armed Forces is creditable for retention, refer to the comprehensive OPM Issuance, "**Vet Guide**," which is available from the OPM website.

3-A-13-4 **Disabled Veteran**

A "**Disabled Veteran**" is defined in section 2108(2) of title 5, United States Code, and further implemented through 5 CFR 211.102(b)), as an individual who:

(a) Served on active duty in the Armed Forces; (5 U.S.C. 2108(2))

(b) Separated from the Armed Forces under honorable conditions; and presently receives either;

- (1) A service-connected disability; (5 U.S.C. 2108(2)), or
 - (2) Compensation, disability retirement benefits, or a pension from the Department of Veterans Affairs, or the Armed Forces. (5 U.S.C. 2108(2))
- ①
- See paragraph **3-13-A-8** below for information on the disability standard set in 5 U.S.C. 3501(a)(3)(A) that agencies use in determining the retention preference rights of a retired member of the Armed Forces.
-

3-A-13-5

Eligibility For Veterans' Preference When Initial Entry Into the Armed Forces Took Place Before October 15, 1976

If the employee initially entered the Armed Forces before October 15, 1976, "**Veteran**" means an individual who served on active duty in the Armed Forces: (5 CFR 211.102(a))

- (a) During a war; (5 U.S.C. 2108(1)(A))
 - (b) In a campaign or expedition for which a campaign badge has been authorized; (5 U.S.C. 2108(1)(A))
 - (c) During the period from April 28, 1952, through July 1, 1955; (5 U.S.C. 2108(1)(A)); or
 - (d) For more than 180 consecutive days, any part of which the employee served from February 1, 1955, through October 14, 1976. (5 U.S.C. 2108(1)(B))
-

3-A-13-6

Eligibility For Veterans' Preference When Initial Entry Into The Armed Forces Took Place On Or After October 15, 1976

If the employee initially entered the Armed Forces on or after October 15, 1976, "**Veteran**" means an individual who served on active duty in the Armed Forces, and:

- (a) Is a disabled veteran (5 U.S.C. 2108(3)(C)); or
- (b)(1) Served in a campaign or expedition for which a campaign

badge has been authorized; (5 U.S.C. 2108(1)(A)), and

(b)(2) As provided in 38 U.S.C. § 5303(a), medal holders who initially enlisted in the Armed Forces after September 7, 1980, or who entered on active duty after October 13, 1982, must have served continuously for 24 months, or the full period called or ordered to active duty.

- The service requirement does not apply to veterans with compensable service-connected disabilities, or to veterans separated for disability in the line of duty, or for hardship.

(c) Section 1102 of Title XI of Public Law 105-85, approved and effective November 18, 1997, extended veterans' preference to other eligible nondisabled veterans who served on active duty in the Armed Forces during the period beginning August 2, 1990, and ending January 2, 1992.

- In order to be eligible for veterans' preference the individual must still meet other conditions required by statute. (For example, the individual must meet the general requirement for 24 months continuous service in the Armed Forces, or service for the full period called that the individual was called or ordered to active duty.

① [Subparagraph **3-A-6-(b)-(2)** above covers the general requirements for veterans' preference.]

- Section 1102 of Title XI of Public Law 105-85 did not extend veterans' preference for retention to retired members of the Armed Forces who are excluded from preference by the Dual Compensation Act of 1964, as codified in 5 U.S.C. § 3501(a).

① [See paragraph **3-A-13-8** below for additional guidance on the Dual Compensation Act's limits on the application of veterans' preference to retired members of the Armed Forces.]

3-A-13-7

Eligibility for Veterans' Preference Based on Derivative Preference

Veterans' preference also extends to four types of employees who are eligible for derivative preference, which is retention subgroup "A": (5 CFR 211.102(c))

B [See paragraph **3-B-13-7** for additional guidance.]

- (a) The unmarried widow or widower of a veteran, as defined in 5 U.S.C. 2108(1)(A); (5 U.S.C. 2108(3)(D)),
- (b) The spouse of a service-connected disabled veteran, as defined in § 5 U.S.C. 2108(2), who has been unable to qualify for a Federal position; (5 U.S.C. 2108(E)),
- (c) The mother of a veteran who died in a war or campaign, provided that the mother also meets other statutory conditions; (5 U.S.C. 2108(F)), or
- (d) The mother of a permanently disabled veteran, provided that the mother also meets other statutory conditions. (5 U.S.C. 2108(G))
 - There is no authority to place an employee in retention subgroup "**AD**" on the basis of derivative preference.
 - An employee's entitlement to derivative preference in reduction in force competition is not affected by application of the veterans' preference provisions of the Dual Compensation Act to the veteran.

① [See paragraph **3-A-13-8** below for additional guidance.]

3-A-13-8 **Eligibility for Veterans' Preference When the Employee is Retired From the Armed Forces**

Section 5 U.S.C. 3501(a) of the Dual Compensation Act of 1964 limits veterans' preference for retired members of the Armed Force to an employee who meets one of the three conditions covered in subparagraphs **3-A-15-8-(a)** through **-(c)** below.

①

B [See paragraph **3-B-13-8** for additional guidance.]

- (a) Under the Dual Compensation Act, an employee who is a retired member of the Armed Forces is eligible for veterans' preference for retention purposes if the **employee's retirement from the Armed Forces** (without regard to benefits from the Veterans Administration) is based on a disability that either:
- (1) Resulted from injury or disease received in the line of duty as a direct result of armed conflict (5 U.S.C. 3501(a)(3)(A)(i)); 5 CFR § 351.501(d)(1)(ii), or,
 - (2) Was caused by an instrumentality of war, and was incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code. (5 U.S.C. 3501(a)(3)(A)(ii); 5 CFR 351.501(d)(1)(ii))

B [See subparagraph **3-B-13-8-(a)** for additional guidance.]

- (b) Under the Dual Compensation Act, an employee who is a retired member of the Armed Forces is eligible for veterans' preference for retention purposes if the employee's retired pay from a uniformed service is not based on 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training, and either: (5 U.S.C. 3501(a)(3)(B); 5 CFR 351.501(d)(2))
- (1) Retired at the rank of major (or equivalent) or higher, and is a disabled veteran, as defined in 5 U.S.C. 2108(2); (5 U.S.C. 2108(4)(A); 5 CFR 351.501(d)(4)), or
 - (2) Retired below the rank of major (or equivalent) (5 U.S.C. 2108(4)(B); 5 CFR 351.501(d)(4)).

B [See subparagraph **3-B-13-8-(b)** for additional guidance.]

- (3) The Dual Compensation Act restrictions on veterans' preference for purposes of reduction in force competition in subparagraphs **3-A-15-8-(a)** above also apply to early retirement from the Armed Forces under Public Law 102-484 based upon a minimum of 15 (rather than 20) years of active military service.

[See subparagraph **3-B-13-8-(b)-(3)** for additional guidance.]

- (c) Under the Dual Compensation Act, an employee who is a retired member of the Armed forces is eligible for veterans' preference for retention purposes if the employee has been continuously employed in a position covered by OPM's retention regulations since November 30, 1964, without a break in service of more than 30 days (5 U.S.C. 3501(a)(3)(C); 5 CFR 351.501(d)(3)), and either:
- (3) Retired at the rank of major (or equivalent) or higher, and is a disabled veteran, as defined in 5 U.S.C. 2108(2); (5 U.S.C. 2108(4)(A); 5 CFR 351.501(d)(4)), or
 - (4) Retired below the rank of major (or equivalent) (5 U.S.C. 2108(4)(B); 5 CFR 351.501(d)(4)).

B

[See subparagraph **3-B-13-8-(c)** for additional guidance.]

3-A-13-9

Eligibility for Veterans' Preference When the Employee is Retired From the Armed Forces as a Title 10 Reservist

A veteran who becomes eligible for retired pay at age 60 as a reservist under authority of chapter 1223 of title 10, United States Code, is not subject to the Dual Compensation Act of 1964 because the retirement from the Armed Forces is based on less than 20 years creditable active service. (5 CFR 351.501(d)(5))

- (a) To retain retention preference at age 60, the reservist must have either:
- (1) Retired at the rank of major (or equivalent) or higher, and be a disabled veteran, as defined in 5 U.S.C. 2108(2); (5 U.S.C. 2108(4)(A)); 5 CFR 351.501(d)(5)), or
 - (2) Retired below the rank of major (or equivalent). (5 U.S.C. 2108(4)(B); 5 CFR 351.501(d)(5))
- (b) The reservist is eligible for veterans' preference only if the employee meets the applicable Armed Forces service requirements covered in, as appropriate, paragraphs **3-A-13-3** or **3-A-13-4** above. (5 CFR 351.501(d)(5))



A [See subparagraph **3-B-13-9-(b)** for additional guidance.]

- If the employee meets the requirements for veterans' preference, the reservist is always eligible for veterans' preference in reduction in force until age 60 when the Armed Forces retirement pay commences. (5 CFR 351.501(d)(5))

Section 14, Reduction in Force Service Credit

Introduction This section covers the types of civilian and military service that the agency credits in developing a retention register.

Contents This section contains the following topics:

Topic	See Paragraph
General Information on Service Credit	3-A-14-1
Responsibility of the Agency to Determine Employees' Retention Service Dates	3-A-14-2
Creditable Service for Retention	3-A-14-3
Determining the Service Date	3-A-14-4
Determining the Service Date of Retired Members of the Armed Forces	3-A-14-5
Additional Information on Creditable Service	3-A-14-6

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-14-1	3-B-14-1
3-A-14-3-(a)	3-B-14-3-(a)
3-A-14-4	3-B-14-4
3-A-14-5-(a)	3-B-14-5-(a)

B This symbol highlights where you can find additional material in Unit 3-B.

E This symbol highlights where you can find additional guidance in Unit 3-E on a reduction in force service credit topic.
--

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.
--

Section 14, Reduction in Force Service Credit

3-A-14-1 **General Information on Service Credit**

"**Length of Service**" is one of the four retention factors required in 5 U.S.C. 3502(a). (5 U.S.C. 3502(a)(3))

B [See paragraph **3-B-14-1** for additional guidance.]

- ① • As covered in Section **3-A-13**, the agency lists the "**Competing Employees**" on a retention register within tenure groups and subgroups by length of service, in descending order starting with the earliest service date.
-

3-A-14-2 **Responsibility of the Agency to Determine Employees' Retention Service Dates**

The agency is responsible for determining each employee's retention service date as of the reduction in force effective date. (5 CFR 351.503(c)(1); 5 CFR 351.506(a))

- (a) The agency has no authority to use a "freeze" date as the basis to exclude creditable retention service credit that is verified before the reduction in force effective date. (5 CFR 351.503(c)(1); 5 CFR 351.506(a))
- (b) The agency is also responsible, if necessary, for correcting the retention service date of an employee to withhold retention service credit for noncreditable service. (5 CFR 351.503(c)(1))
-

3-A-14-3 **Creditable Service for Retention**

Employees receive retention service credit for:

- (a) All civilian service performed as a Federal employee that meets the definition of "**Federal Employee**" found in 5 U.S.C. 2105(a); (5 U.S.C. 3502(a)(3); 5 CFR 351.503(a)),

B [See paragraph **3-B-14-3-(a)** for additional guidance.]

- (b) Civilian service that does not meet the definition of "**Federal Employee**" found in 5 U.S.C. § 2105(a) if a controlling statute specifically defines this service as creditable under OPM's reduction in force regulations; (5 CFR 351.503(a)), and
 - (c) All active duty performed in a uniformed service, except as restricted by the Dual Compensation Act of 1964 for certain members of the Armed Forces who are receiving retired pay. (5 U.S.C. 3502(a)(A) and (B); (5 CFR 351.503(b))
 - An employee may not receive dual retention service credit for service performed on active duty in the Armed Forces that was performed during concurrent civilian employment as a Federal employee. (5 CFR 351.503(b)(3))
- ①
- Paragraph **3-A-14-5** below covers how agencies determine the retention service date for retired members of the Armed Forces.
-

3-A-14-4 **Determining the Service Date**

An employee's service date under the reduction in force regulations is one of the three following dates:

- B** [See paragraph **3-B-14-4** for additional guidance.]
- (a) If the employee has no previous creditable service, the date that the employee entered on duty; (5 CFR 351.503(d)(1)), or
 - (b) If the employee has previous creditable service, the date obtained by subtracting the employee's total previous creditable service from the date that the employee last entered on duty; (5 CFR 351.503(d)(2)), or
 - (c) Whether or not the employee has previous creditable service, the date obtained by subtracting from the applicable date above any retention service credit based on performance to which the employee is entitled under 5 CFR 351.504. (5 CFR § 351.503(e))
-

3-A-14-5 **Determining the Service Date of Retired Members of the Armed Forces**

The Dual Compensation Act of 1964 limits the amount of military service that most retired members of the Armed Forces may credit under OPM's reduction in force regulations. (5 U.S.C. 3502(a)(B); 5 CFR 351.503(b)(2))

- (a) If the retired member of the Armed Forces is not eligible for veterans' preference under OPM's reduction in force regulations, the employee receives retention credit only for creditable active military service:
- (1) During a war; (5 U.S.C. 3501(a)(B)(i); 5 CFR 351.503(b)(2)(i)), or
 - (2) Actually performed in a campaign or expedition for which a campaign badge has been authorized. (5 U.S.C. 3501(a)(B)(i); 5 CFR 351.503(b)(2)(i))

B [See paragraph **3-B-14-5-(a)** for additional guidance.]

- (b) If the retired member of the Armed Forces is eligible for veterans' preference under OPM's reduction in force regulations, the employee receives retention credit for all creditable active service in the Armed Forces. (5 U.S.C. 3501(a)(B)(ii); 5 CFR 351.503(b)(2)(Guidance for subparagraph))

- ① • See paragraphs **3-A-13-8** through **3-A-13-9** for specific information on determining veterans' preference eligibility for retired members of the Armed Forces.
-

3-A-14-6 **Additional Information on Creditable Service**

E For detailed information on determining creditable service under the reduction in force regulations, refer to the "**Reduction In Force Service Credit Guide**," which is Unit **3-E** of this Handbook.

- The **Guide** also covers related topics, such as setting service computation dates, and making adjustments for noncreditable service.

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

- Before the Guide, OPM published its material on reduction in force service credit in Chapter 6 of the OPM Handbook, "**The Guide to Processing Personnel Actions.**"
-

Section 15, Reduction in Force Service Credit for Performance

Introduction This section covers the awarding of retention service credit based on employees' performance ratings. The agency credits this additional service in developing a retention register.

Contents This section contains the following topics:

Topic	See Paragraph
General Information About Performance	3-A-15-1
Effective Date for OPM's 1997 Regulations Covering Retention Service Credit for Performance	3-A-15-2
Time Period Covered by Employees' Ratings of Record	3-A-15-3
Ratings Used For Reduction in Force Purposes	3-A-15-4
Ratings in Other Agencies	3-A-15-5
Rating of Record-Employees Covered by 5 U.S.C. Chapter 43 or 5 Part 430	3-A-15-6
Rating of Record-Employees Not Covered By 5 U.S.C. Chapter 43 Or 5 CFR Part 430	3-A-15-7
Availability of Ratings	3-A-15-8
Freezing Ratings	3-A-15-9
Missing Ratings	3-A-15-10
Amount of Credit-Single Rating Pattern	3-A-15-11
Amount of Credit-Multiple Rating Patterns	3-A-15-12
Unacceptable Performance-Proposed Decision To Remove Or Demote	3-A-15-13
Unacceptable Performance-Final Decision to Remove or Demote	3-A-15-14
Unacceptable Performance-Elimination of "Unacceptable" Rating	3-A-15-15

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

Continued on next page

Section 15, Reduction in Force Service Credit for Performance

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-15-1	3-B-15-1
3-A-15-4-(d)	3-B-5-4-(d)
3-A-15-5	3-B-15-5
3-A-15-7-(a)	3-B-15-7-(a)
3-A-15-7-(d)	3-B-15-7-(d)
3-A-15-8-(a)	3-B-15-8-(a)
3-A-15-8-(c)	3-B-15-8-(c)
3-A-15-8-(d)(1)	3-B-15-8-(d)(1)
3-A-15-8-(d)(2)	3-B-15-8-(d)(2)
3-A-15-9-(a)	3-B-15-9-(a)
3-A-15-10-(a)	3-B-15-10-(a)
3-A-15-10-(b)-(1)	3-B-15-10-(b)-(1)
3-A-15-10-(b)-(2)	3-B-15-10-(b)-(2)
3-A-15-11	3-B-15-11
3-A-15-12	3-B-15-12

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 15, Reduction in Force Service Credit for Performance

3-A-15-1 General Information About Performance

"**Performance**" is one of the four retention factors required in 5 U.S.C. 3502(a). (5 U.S.C. 3502(a)(4))

B [See paragraph **3-B-15-1** for additional guidance.]

3-A-15-2 Effective Date for OPM's 1997 Regulations Covering Retention Service Credit for Performance

OPM published final retention regulations in the Federal Register on November 24, 1997, with revised procedures on the crediting of employees' performance ratings in reduction in force. (62 FR 62495)

- These performance regulations apply to all reduction in force actions effective on or after October 1, 1998. (Federal Register Note to 5 CFR 351.504)
-

3-A-15-3 Time Period Covered by Employees' Ratings of Record

Each employee receives additional retention service credit for performance based upon the average of the employee's three most recent ratings of record received during the 4-year period prior to the date that the agency either:

- (a) Issues specific reduction in force notices; (5 CFR 351.504(b)(1)), or
- (b) Freezes ratings before issuing specific reduction in force notices. (5 CFR 351.504(b)(2))

① [See paragraph **3-A-8** below for additional guidance on freezing ratings of record.]

3-A-15-4 Ratings Used For Reduction in Force Purposes

An agency may only use a "**Rating of Record**," or an "**Equivalent**

Rating of Record," as the basis for granting retention service credit in a reduction in force. (5 CFR 351.504(a)(1))

- ①
 - Paragraph 5 CFR § 351.203 includes the definitions of both "**Rating of Record**" and "**Equivalent Rating of Record**."
- ① (a) Paragraph **3-A-15-6** below covers "**Rating of Record**."
- ① (b) Paragraph **3-A-15-7** below covers "**Equivalent Rating of Record**."
- ① (c) "**Current Rating of Record**" is the employee's "**Rating of Record**" or "**Equivalent Rating of Record**" for the most recently completed appraisal period. (5 CFR 351.203)
 - The agency must identify a competing employee's "**Current Rating of Record**" (or "**Current Equivalent Rating of Record**") not only for crediting additional retention service, but also for determining the employee's potential "**Bump**" and "**Retreat**" rights to other positions.
- ① [See subparagraphs **3-A-18-2-(c)** and **3-A-19-2** for addition guidance on the use of ratings of record in determining employees' assignment rights.]
- (d) If an employee has not received any actual (or equivalent) ratings of record in the applicable 4-year period before the reduction in force, the agency determines a "**Modal Rating**," which is the summary rating level assigned most frequently among the actual ratings of record that are:
 - (1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force; (5 CFR 351.203)
 - (2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; (5 CFR 351.203), and
 - (3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices, or the cutoff date the agency specifies prior to

the issuance of notices after which no new ratings will be put on record. (5 CFR 351.203)

①

[See subparagraph **3-A-15-10-(a)** below for additional guidance on when the agency determines a "**Modal Rating**."]

- (4) The agency may determine modal ratings on the appraisal programs and patterns within the competitive area, a larger organizational unit (or units) within a subagency, a subagency, or agencywide. (5 CFR 351.203; § 5 CFR 351.504(c)(1))

B

[See subparagraph **3-B-15-4-(d)** for additional guidance on modal ratings.]

- (e) When a regular or extended appraisal period ends, and either an agency-established deadline for issuing ratings of record passes or the agency issues a subsequent rating of record, an agency may not retroactively issue (or change) a rating of record (or an equivalent rating of record) from an earlier appraisal period except:
 - (1) Within 60 days of the date the rate of issuance based upon an informal request by the employee; (5 CFR 430.208(i)(1))
 - (2) As a result of a grievance, a complaint, or other formal proceeding that results in a final determination (or a bona fide settlement) that the agency must change the employee's rating of record; (5 CFR 430.208(i)(2)), or
 - (3) When the agency determines that it incorrectly calculated or recorded a rating of record. (5 CFR 430.208(i)(3))

3-A-15-5

Ratings in Other Agencies

Regardless of whether the employee's service occurred in the present or a former agency, the employee's actual or equivalent ratings of record are used to the extent they are available. (5 CFR 351.504(b)(1))

- If an employee's ratings in a prior agency are not

available in the employee's official records, the current employing agency can accept the employee's copies of actual or equivalent ratings of record for this purpose.

B [See paragraph **3-B-15-5** for additional guidance.]

3-A-15-6 **Rating of Record-Employees Covered by 5 U.S.C. Chapter 43 or 5 Part 430**

For an employee covered by 5 U.S.C. Chapter 43 or by 5 CFR Part 430, "**Rating of Record**" for purposes of OPM's retention regulations uses the definition covered in 5 CFR § 430.203. (5 CFR 351.203)

- (a) In 5 CFR § 430.203, "**Rating of Record**" means the performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period, and the assignment of a summary level within a pattern (as specified in 5 CFR § 430.208(d), or in accordance with 5 CFR § 531.404(a)(1) of Chapter I of Title 5 CFR).
- These constitute official ratings of record referenced in Chapter I of Title 5 CFR." (5 CFR 430.203)
- (b) Employees who received ratings of record while covered by 5 CFR Subpart 430-B receive additional retention service credit based upon those ratings. (5 CFR 351.504(a)(2))
-

3-A-15-7 **Rating of Record-Employees Not Covered By 5 U.S.C. Chapter 43 Or 5 CFR Part 430**

For an employee who is not covered by 5 U.S.C. Chapter 43 or by 5 CFR Part 430, "**Rating Of Record**" for purposes of OPM's retention regulations means the officially designated performance rating, as provided for in the agency's appraisal system, that is considered to be an equivalent rating of record under the provisions of 5 CFR 430.201(c). (5 CFR 351.203)

- (a) Employees who received ratings of record while not covered by 5 U.S.C. Chapter 43, and by 5 CFR Subpart 430-B, receive additional retention service credit based upon those ratings only if the agency conducting the reduction in force determines that

the ratings are "**Equivalent Ratings of Record**" under the provisions of 5 CFR 351.201(c). (5 CFR 351.504(a)(3))

- B** [See subparagraph **3-B-15-7-(a)** for additional guidance.]
- ① (b) Section 5 CFR 430.201(c) defines "**Equivalent Ratings of Record**" to include subparagraphs **3-A-15-7-(c)** through **-(e)** below. (5 CFR 430.201(c)(1))
- (c) If an agency has administratively adopted and applied the procedures of subpart 5 CFR 430-B to evaluate the performance of its employees, the ratings of record resulting from that evaluation are considered "**Equivalent Ratings of Record**" for reduction in force purposes. (5 CFR 430.201(c)(1))
- (d) Other performance evaluations given while an employee is not covered by the provisions of subpart 5 CFR 430-B are considered ratings of record for reduction in force purposes when the performance evaluation:
- (1) Was issued as an officially designated evaluation under the employing agency's performance evaluation system; (5 CFR 430.201(c)(2)(i))
 - (2) Was derived from the appraisal of performance against expectations that are established and communicated in advance and are work related; (5 CFR 430.201(c)(2)(ii)), and
 - (3) Identified whether the employee performed acceptably. (5 CFR 430.201(c)(2)(iii))
- (e) When the performance evaluation does not include a summary level designator and pattern comparable to those established at 5 CFR 430.208(d), the agency may identify a level and pattern based on information related to the appraisal process. (5 CFR 430.201(c)(2))
-

3-A-15-8

Availability of Ratings

To be creditable for reduction in force purposes, ratings of record must have been issued to the employee, with all appropriate reviews and

signatures, and must also be on record. (5 CFR 351.504(b)(3))

- (a) This means that the rating was:
 - (1) Issued to the employee; (5 CFR 351.504(b)(3))
 - (2) Returned with all appropriate reviews and signatures; (5 CFR 351.504(b)(3)), and
 - (3) On record and available for use by the office responsible for preparing retention registers (the rating of record is final and has been entered into the agency's personnel records system). (5 CFR 351.504(b)(3))

B [See subparagraph **3-B-15-8-(a)** for additional guidance.]

- (b) Agencies must ensure that ratings of record are issued in accordance with established schedules and forwarded to the appropriate office on a timely basis. (5 CFR 351.504(b)(3))
- (c) Since agencies' rating procedures may vary, each agency must set its own internal policy for processing ratings and putting them on record for reduction in force purposes; this policy must be:
 - (1) Included in the agency's appropriate issuances that implement these performance management policies; (5 CFR 351.504(b)(4)); and,
 - (2) Applied on a uniform and consistent basis in the competitive area where the reduction in force will take place. (5 CFR 351.504(b)(4))

B [See subparagraph **3-B-15-8-(c)** for additional guidance.]

- ① (d) The agency's appropriate issuances that implement its performance management policies under subparagraph **3-A-15-8-(c)** above must specify:
 - (1) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the 4-year period prior to either the date the agency issues reduction in force

notices or the agency-established cutoff date for ratings of record, as appropriate; (5 CFR 351.504(b)(4)(i)),

B [See subparagraph **3-B-15-8-(d)-(1)** for additional guidance.]

- (2) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used to determine employees' retention standing; (5 CFR 351.504(b)(4)(ii)), and

B [See subparagraph **3-B-15-8-(d)-(2)** for additional guidance.]

- (3) If the agency has employees in a competitive area who have ratings of record under more than one pattern of summary levels, the agency must specify the number(s) of years additional retention service credit that it will establish for the summary levels. (5 CFR 351.504(e)(7))

- The agency must make this information available for review. (5 CFR 351.504(e)(7))

①

- Paragraph **3-A-15-12** below contains additional information on providing additional retention service credit to employees who, within a single competitive area, have ratings of record under more than one pattern of summary levels.
- Paragraph 5 CFR 430.208(d) covers patterns of summary levels used in appraisal programs.

3-A-15-9

Freezing Ratings

To provide time to properly determine employee retention standing prior to a reduction in force, the agency may establish a policy providing for a cutoff date a specified number of days prior to the date it issues specific reduction in force notices. (5 CFR 351.504(b)(2); 5 CFR 351.504(b)(4)(ii))

- (a) After the cutoff date, the agency may not put new ratings of record on record for reduction in force purposes. (5 CFR 351.504(b)(2); 5 CFR 351.504(b)(4)(ii))

[See paragraph **3-B-15-9-(a)** for additional guidance.]

- (b) If adopted, this policy must be:
- (1) Applied on a uniform and consistent basis in the competitive area where the reduction in force will occur; (5 CFR 351.504(b)(4)(ii)), and
 - (2) Documented in the agency's performance management policies or other appropriate issuance. (5 CFR 351.504(b)(4)(ii))
-

3-A-15-10

Missing Ratings

If an employee has not received three actual ratings of record during the applicable 4-year period prior to the date the agency issues specific reduction in force notices or freezes ratings, the agency provides additional retention service credit under the following procedures: (5 CFR 351.504(c))

- (a) An employee who has not received any rating of record during the applicable 4-year period receives retention service credit for performance based on the "**Modal Rating**" for the summary level pattern that applies to the employee's official position of record at the time of the reduction in force; (5 CFR 351.504(c)(1)), or

B [See subparagraph **3-B-15-10-(a)** for additional guidance.]

①

- Subparagraph **3-A-15-4-(d)** above defines "**Modal Rating**."
- (b) An employee who has received at least one, but fewer than three previous ratings of record during the applicable 4-year period, receives retention service credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. (5 CFR 351.504(c)(1))
- (1) An employee who has received only two actual ratings of record during the applicable 4-year period receives retention service credit for performance by adding together the value of the two ratings, then dividing the

sum by two and rounding to the next higher whole number if the result is a fraction, to determine the amount of additional retention service credit. (5 CFR 351.504(c)(1))

B [See subparagraph **3-B-15-10-(b)-(1)** for additional guidance.]

- (2) An employee who has received only one actual rating of record during the applicable 4-year period receives retention service credit for performance on the basis of the value of the single rating. (5 CFR 351.504(c)(1))

B [See subparagraph **3-B-15-10-(b)-(2)** for additional guidance.]

3-A-15-11 **Amount of Credit-Single Rating Pattern**

If the agency finds that all employees in a reduction in force competitive area received all of their ratings of record under a single pattern of summary levels as covered in 5 CFR § 430.208(d), the agency gives additional retention service credit to the employees in additional years of service on the basis of the mathematical average of each employee's ratings of record:

- (a) 20 additional years of service for each rating of record of "**Outstanding**" or equivalent summary (Level 5); (5 CFR 351.504(d)(1))
- (b) 16 additional years of service for each rating of record of "**Exceeds Fully Successful**" or equivalent summary (Level 4); (5 CFR 351.504(d)(2)), and
- (c) 12 additional years of service for each rating of record of "**Fully Successful**" or equivalent summary (Level 3). (5 CFR 351.504(d)(3))
- (d) The agency may not give any additional retention service credit ratings for a rating of record below "Fully Successful" or equivalent. (5 CFR 351.504(d))
- If the average is a fraction, the agency rounds up the fraction to the next higher whole number.

- The agency may not give any additional retention service credit for ratings of record of "**Minimally Successful**" or equivalent (Level 2), or "**Unacceptable**" or equivalent summary (Level 1). (5 CFR § 351.504(d))

B [See paragraph **3-B-15-11** for additional guidance on retention service credit with a single rating pattern.]

3-A-15-12 **Amount of Credit-Multiple Rating Patterns**

If an agency has employees in a competitive area who have received ratings of record under more than one pattern of summary levels, as covered in 5 CFR § 430.208(d), the agency must consider the mix of patterns and provide additional retention service credit for performance to employees expressed in additional years of service on the following basis: (5 CFR 351.504(e))

B [See paragraph **3-B-15-12** for additional guidance.]

- (a) The additional years of service for reduction in force purposes consists of the mathematical average (rounded in the case of a fraction to the next higher whole number) of the additional retention service credit that the agency established for the summary levels of the employee's applicable rating(s) of record. (5 CFR 351.504(e)(1))
- (b) The agency must establish the amount of additional retention service credit provided for summary levels only in full years. (5 CFR 351.504(e)(2))
- (c) The agency may not establish additional retention service credit for summary levels below Level 3 ("Fully Successful" or equivalent). (5 CFR 351.504(e)(2))
- (d) When establishing additional retention service credit for the summary levels at Level 3 ("**Fully Successful**" or equivalent) and above, the agency must provide at least an additional 12 years, but no more than 20 additional years, additional retention service credit for a summary level. (5 CFR 351.504(e)(3))
- (e) The agency may establish the same number of years additional retention service credit for more than one summary level. (5

CFR 351.504(e)(4))

- (f) The agency must establish the same number of years additional retention service credit for all ratings of record with the same summary level in the same pattern of summary levels. (5 CFR 351.504(e)(5))
 - Paragraph 5 CFR 430.208(d) covers patterns of summary levels used in appraisal programs.
- (g) The agency may establish a different number of years additional retention service credit for the same summary level in different patterns. (5 CFR 351.504(e)(6))
- (h) In providing service credit for retention to employees who are under more than one pattern of summary levels (which are covered in 5 CFR § 430.208(d)), the agency must specify the number(s) of years additional retention service credit that it will establish for summary levels. (5 CFR 351.504(e)(7))
 - The agency must make this information available for review. (5 CFR 351.504(e)(7))
- ①
 - Paragraph **3-A-15-8** above notes that the agency must specify this information in the appropriate issuances that implement the agency's performance management policies. (5 CFR 351.504(b)(4))
- ① (i) The agency may apply this paragraph (paragraph **3-A-15-12**, "**Amount of Credit-Multiple Rating Patterns**") only to ratings of record put on record on or after October 1, 1997. (5 CFR 351.504(e)(8))
 - The agency must determine additional retention service credit for ratings of record put on record prior to October 1, 1997, in accordance with paragraph 3-A-15-11. (5 CFR 351.504(e)(8))
- ① [See paragraph **3-A-15-11** for additional guidance on additional service credit under a single rating pattern.]
- B** [See paragraph **3-B-15-12** for additional guidance on all of the provisions in paragraph **3-A-15-12**.]

3-A-15-13 **Unacceptable Performance-Proposed Decision To Remove Or Demote**

An employee with a current Level 1 ("**Unacceptable**" or equivalent) rating of record who has not received a final written decision of removal or demotion under 5 CFR Part 432 (for example, an employee on an opportunity to demonstrate acceptable performance as defined in 5 CFR § 430.103(d)) is not penalized in first round reduction in force competition, and is listed on the retention register with other employees. (5 CFR 351.404(b)(2))

- (a) The employee is assigned to the appropriate group and subgroup and receives credit for all applicable service.
 - (b) The employee also receives any service credit to which entitled for the other two previous ratings of record.
 - An employee with a proposed, but not a final written decision of removal or demotion under 5 CFR Part 752 because of a pending adverse action, is not penalized solely on that basis in first or second round reduction in force competition, and is listed on the retention register with other employees. (5 CFR 351.404(b)(2))
- ①
- Subparagraph **3-A-4-1-(r)** defines "**Round of Competition.**" "**First Round Competition**" is reduction in force competition for other positions within the competitive level, while "**Second Round Competition**" is reduction in force competition for positions on other competitive levels based upon "**Bump**" and "**Retreat**" rights.

3-A-15-14 **Unacceptable Performance-Final Decision to Remove or Demote**

An employee who has received a final written decision of removal under 5 CFR Part 432 due to unacceptable (or equivalent) performance competes differently from an employee who has received a final written decision of demotion due to unacceptable (or equivalent) performance:

- (a) An employee who as of the effective date of the reduction in force has received a final written decision of removal under 5

CFR Part 432 because of unacceptable performance, or under 5 CFR Part 752 because of adverse action, is listed apart from the retention register and does not compete in first or second round reduction in force competition. (5 CFR 351.404(b)(2))

- (b) An employee who has received a final written decision of demotion under 5 CFR Part 432 because of unacceptable performance, or under 5 CFR Part 752 because of adverse action, is listed on the retention register for the position to which the employee will be demoted. (5 CFR 351.405)
-

3-A-15-15

Unacceptable Performance-Elimination of "Unacceptable" Rating

If because of performance improvement during the notice period of a proposed action under authority of 5 CFR Part 432 an employee is not demoted or separated, and the employee's performance continues to be acceptable for 1 year after the notice, any record of the unacceptable performance is removed from agency records. (5 CFR 293.404(a)(3))

- In this situation, no record of the Level 1 ("**Unacceptable**") rating would exist.
 - There is no authority for an agency to remove an employee's Level 1 rating except under authority of 5 CFR § 293.404(a)(3) covered above, or under other appropriate authority (for example, an award resulting from a grievance, equal employment opportunity complaint, or similar complaint).
-

Section 16, Personnel Records in Reduction in Force

Introduction This section covers the agency's responsibility to maintain the accurate retention records that the agency uses to prepare the retention register, and to determine employees' potential assignment rights to other position. This section also covers employees' right to review retention registers when the employee actually receives a specific written notice of reduction in force.

Contents This section contains the following topics:

Topic	See Paragraph
Responsibility of Agency to Maintain Personnel Records	3-A-16-1
Responsibility of Agency Under Privacy Act And FOIA	3-A-16-2
Employee Access To Retention Records	3-A-16-3
Review of Retention Register With Employee's Name	3-A-16-4
Review of Other Retention Registers	3-A-16-5
Retention of Records for 1 Year	3-A-16-6

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-16-1	3-B-16-1
3-A-16-3	3-B-16-3

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 16, Personnel Records in Reduction in Force

3-A-16-1 Responsibility of Agency to Maintain Personnel Records

The agency is responsible for maintaining the personnel records that are used to determine the retention standing of competing employees. (5 CFR 351.505(a))

B [See paragraph **3-B-16-1** for additional guidance.]

3-A-16-2 Responsibility of Agency Under Privacy Act And FOIA

The agency is responsible for ensuring that each employee's access to retention records is consistent with both the Privacy Act (5 U.S.C. 552a), and the Freedom of Information Act (FOIA), 5 U.S.C 552). (5 CFR 351.505(e))

3-A-16-3 Employee Access To Retention Records

The agency must allow its retention registers and related records to be inspected by:

- (a) An employee of the agency who has received a specific reduction in force notice, or the employee's representative; (5 CFR 351.505(b)(1)), and
- (b) A representative of OPM; (5 CFR 351.505(b)(2)).
 - An employee who has not received a specific reduction in force notice has no right to review the agency's retention registers and related records. (5 CFR 351.505(d))

B [See paragraph **3-B-16-3** for additional guidance.]

3-A-16-4 Review of Retention Register With Employee's Name

An employee who has received a specific reduction in force notice has the right to review the complete retention register used by the agency

to determine the employee's retention standing in a reduction in force action that the agency has taken, or will take, including: (5 CFR 351.505(c)(1))

- (a) The names of all other employees listed on that register;
- (b) The employees' respective individual reduction in force service computation dates;
- (c) The employees' respective individual reduction in force service computation dates adjusted for additional service credit; and
- (d) The complete retention register with the employee's name so that the employee may consider how the agency constructed the competitive level, and how the agency determined the relative retention standing of the competing employees. (5 CFR 351.505(c)(1))
 - The employee's representative acting on behalf of the individual employee has the same right to access these retention records. (5 CFR 351.505(b)(1))

3-A-16-5

Review of Other Retention Registers

An employee who has received a specific reduction in force notice has the right to review the complete retention registers for other positions that could affect:

- (a) The composition of the employee's own competitive level, and/or (5 CFR 351.505(c)(1))
- (b) The determination of the employee's assignment rights to positions on other competitive levels. (5 CFR 351.505(c)(2))
 - The employee's representative acting on behalf of the individual employee has the same right to access these retention records. (5 CFR 351.505(b)(1))

3-A-16-6

Retention of Records for 1 Year

The agency must preserve all registers and records relating to a

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

reduction in force for at least 1 year after the date it issues a specific reduction in force notice. (5 CFR 351.505(f))

- The agency should always retain any retention records that are, or may be, subject to review in an appeal or grievance without regard to the general 1-year limit for preserving records related to the reduction in force.
-

Section 17, Release From the Competitive Level

Introduction This section covers the regular order of releasing employees from a competitive level because of reduction in force competition. This section also covers mandatory and optional exceptions to the regular order of release from the competitive level.

Contents This section contains the following topics:

Topic	See Paragraph
Date Used to Determine an Employee's Retention Standing	3-A-17-1
Release of Noncompeting Employees	3-A-17-2
Order Of Releasing Employees from the Competitive Level	3-A-17-3
Breaking Ties in Employees' Retention Standing	3-A-17-4
Mandatory Exception to the Regular Order of Release Based upon Service in the Armed Forces	3-A-17-5
Mandatory Exception to the Regular Order of Release and the Use of Annual Leave to Obtain Retirement Benefits and/or to Continue Health Benefits	3-A-17-6
Effective Date of Reduction in Force Action When Using a Mandatory Exception	3-A-17-7
Mandatory Use of Annual Leave in Relocation Situations to Obtain Retirement Benefits and/or to Continue Health Benefits Coverage	3-A-17-8
Permissive Continuing Exception to the Regular Order of Release	3-A-17-9
Effective Date of Reduction in Force Action When Using a Permissive Continuing Exception	3-A-17-10
Notice to Higher-Standing Employees When Using a Permissive Continuing Exception	3-A-17-11
Permissive Temporary Exception and Undue Interruption	3-A-17-12

Continued on next page

Section 17, Release From the Competitive Level

Contents (continued)

Topic	See Paragraph
Permissive Temporary Exception to Satisfy a Government Obligation	3-A-17-13
Permissive Temporary Exception and Use of Sick Leave	3-A-17-14
Permissive Temporary Exception and the Use of Annual Leave to Obtain Retirement Benefits and/or to Continue Health Benefits	3-A-17-15
Discretionary Temporary Exception and Other Exceptions	3-A-17-16
Effective Date of Reduction in Force Action When Using a Discretionary Temporary Exception	3-A-17-17
Notice to Higher-Standing Employees When Using a Discretionary Temporary Exception	3-A-17-18
Exceptions to the Regular Order of Release with the Liquidation Exception	3-A-17-19
Notice to Higher-Standing Employees When Using a Liquidation Exception	3-A-17-20

Additional Information

When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-17-1	3-B-17-1
3-A-17-2-(c)	3-B-17-2-(c)
3-A-17-2-(d)	3-B-17-2-(d)
3-A-17-3	3-B-17-3
3-A-17-3-(b)	3-B-17-3-(b)
3-A-17-3-(c)	3-B-17-3-(c)
3-A-17-6	3-B-17-6
3-A-17-6-(f)	3-B-17-6-(f)
3-A-17-13	3-B-17-13
3-A-17-19	3-B-17-19

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 17, Release From the Competitive Level

3-A-17-1 Date Used to Determine an Employee's Retention Standing

The agency determines each employee's retention standing as of the effective date of the reduction in force. (5 CFR 351.506(a))

B [See paragraph **3-B-17-1** for additional guidance.]

- The effective date of the reduction in force is the date that the employee is released from the competitive level. (5 CFR 351.506(a))
 - ① • Note that the terms "**Competitive Level**" and "**Retention Register**" are used interchangeably, as covered in paragraph **3-A-9-1**.
-

3-A-17-2 Release of Noncompeting Employees

Before a competing employee (an employee in tenure groups I, II, or III) may be released from a competitive level, the agency must first release from that competitive level each employee who:

- (a) Holds a temporary appointment to a position in that competitive level; (5 CFR 351.602(a))
 - (b) Holds a term promotion or temporary promotion to a position in that competitive level (these employees are returned to their permanent positions of record, or equivalent); (5 CFR 351.602(b))
 - (c) Has received a written decision of removal or demotion under 5 CFR Part 432 ("**Performance Based Reduction in Grade and Removal Actions**") because of "**Unacceptable**" (or equivalent) performance from a position in that competitive level. (5 CFR 351.602(c)), or
- B** [See paragraph **3-B-17-2-(c)** for additional guidance.]
- (d) Has received a written decision of removal or demotion under 5

CFR Part 752 ("**Adverse Actions**"). (5 CFR 351.602(c)),

- An employee who has received a written decision of demotion under 5 CFR Part 432, or under 5 CFR Part 752, competes for retention from the position to which the employee will be, or has been, demoted. (5 CFR 351.405)

B [See paragraph **3-B-17-2-(d)** for additional guidance.]

3-A-17-3 **Order of Releasing Employees from the Competitive Level**

Unless a retention register includes employees in retention tenure groups I, II, and III, the agency then releases competing employees from the reduction in force retention register in the inverse order of the employees' relative retention standing. (5 CFR 351.601(a))

B [See paragraph **3-B-17-3** for additional guidance.]

- (a) The first employee released is the employee who has the lowest retention standing on the retention register. (5 CFR 351.601(a))
- (b) The employee with the next lowest standing on the retention register is the second employee released, and the same order is followed until the required number of employees are released from the retention register. (5 CFR 351.601(a))

B [See subparagraph **3-B-17-3-(b)** for additional guidance.]

- (c) If a retention register includes employees in tenure groups I, II, and III, a tenure group I employee may not displace a tenure group III employee until all tenure group II employees are displaced from the register; see subparagraph 3-B-17-3-(c) for more information.

B [See subparagraph **3-B-17-3-(c)** for additional guidance.]

- (d) Upon displacing another employee in the competitive level, the higher-standing employee (the displacing employee) retains the same status and tenure in the new position. (5 CFR 351.601(a))

- (e) The displacement of a lower-standing employee by a higher-standing employee in the same competitive level is not a reduction in force action for the higher-standing employee, who is reassigned to the position rather than released from the competitive level. (5 CFR 351.601(a))
- (f) A higher-standing employee who displaces a lower-standing employee in the same competitive level retains the same status and tenure upon encumbering the position of the lower-standing employee. (For example, a subgroup I-B employee who displaces a subgroup III-B term employee retains the same I-B status and tenure while encumbering the term position. (5 CFR 351.403(a))
- ① (g) An agency may release a competing employee from a competitive level, and still retain a lower standing competing employee with lower retention standing in the same level, only if the agency uses a mandatory, discretionary, or liquidation exception, which are covered in paragraphs **3-A-17-5** through **3-A-17-20** below.
- (f) An employee in an abolished position has a right to a position held by a lower-standing employee in the same competitive level rather than being released from the level; if the employee in the abolished position has the lowest standing, the employee is the one released from the competitive level. (5 CFR 351.601)
- ①
 - When satisfying an assignment right of an employee from a different competitive level, an agency is not required under OPM's reduction in force regulations to always offer the job of the lowest-standing employee; see subparagraph **3-B-17-3-(c)** for more information.
 - Paragraphs **3-A-17-5** through **3-A-17-20** cover exceptions to the usual order of release from the competitive level.
- ①

3-A-17-4

Breaking Ties in Employees' Retention Standing

When employees in the same retention subgroup have identical service dates and are tied for release, the agency has the right to determine the order in which the tied employees are released. (5 CFR

351.601(b))

3-A-17-5

Mandatory Exception to the Regular Order of Release Based upon Service in the Armed Forces

The agency must use a mandatory exception to the regular order of releasing employees in order to retain tenure group I or group II employees who have restoration rights under 38 U.S.C. 4301 or 4304 after returning from service in the Armed Forces. (5 CFR 351.606(a))

- (a) A mandatory exception applies to employees with restoration rights for either 6 months, or 1 year, as appropriate. (5 CFR 351.601(a)(1)); 5 CFR 353.301(a))
- (b) Before release from the competitive level by reduction in force, each employee with a restoration right based on service in the Armed Forces must be retained over other employees in the tenure Group and subgroup until the end of the applicable 6 months or 1-year mandatory retention period. (5 CFR 351.601(a)(1))
- (c) If an employee with this restoration right is reached for release from a competitive level during the applicable mandatory retention period (for example, 6 months or 1 year) following restoration from the Armed Forces, the agency is obligated to find another position for the employee under the provisions of 5 CFR Part 353, if possible, rather than separate the employee by reduction in force. (5 CFR 353.207; (5 CFR 353.209(b))
- (d) The agency must record on the retention register the reason(s) for using a mandatory exception to the regular order of release. (5 CFR 351.606(c))
 - Each employee listed on the retention register has the right to review the reason(s) for the use of the mandatory exception to the regular order of release. (5 CFR 351.606(c); 5 CFR 351.505)

3-A-17-6

Mandatory Exception to the Regular Order of Release and the Use of Annual Leave to Obtain Retirement Benefits and/or to Continue Health Benefits

An agency must use a mandatory exception to the regular order of releasing employees from the competitive level in order to retain an employee who is being involuntarily separated from the agency by reduction in force if the employee elects to use annual leave, and remain on the agency's rolls after the effective date that the employee would otherwise have been separated, for the purpose of establishing initial eligibility for:

- (a) Immediate retirement under 5 U.S.C. 8336, 8412, or 8414 (including discontinued service retirement or voluntary early retirement); (5 CFR 351.606(b)(1)), and/or
- (b) Continuation of health benefits coverage into retirement under 5 U.S.C. 8905. (5 CFR 351.606(b)(1))

B [See paragraph **3-B-17-6** for additional guidance on subparagraphs **3-A-17-6-(a)** and **-(b)**.]

- (c) An employee retained under this provision must be covered by the leave provisions authorized by Chapter 63 of Title 5, United States Code. (5 CFR 351.606(b)(3))

- ①
 - Paragraph **3-A-17-15** covers how an agency may use a permissive temporary exception to the regular order of releasing employees in order to retain an employee who is covered by a Federal leave system under authority other than Chapter 63 of Title 5, United States Code, for the purpose of establishing initial eligibility for immediate retirement under 5 U.S.C. 8336, 8412, or 8414, and/or continuation of health benefits coverage into retirement under 5 U.S.C. 8905. (5 CFR 351.608(e))

- (d) An agency may not retain an employee under this provision past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements. (5 CFR 351.606(b)(4))
- (e) Except as permitted as a permissive temporary exception under authority of 5 CFR § 351.608(d) for an employee on approved sick leave, an agency may not approve an employee's use of

any other type of leave after the employee has been retained under a mandatory exception for the purpose of gaining initial eligibility for immediate retirement and/or continuation of health benefits into retirement. (5 CFR 351.606(b)(5))

① [See paragraph **3-A-17-14** below for additional guidance.]

(f) Section 5 CFR 630.212 defines annual leave that is available for purposes of a mandatory exception under this paragraph. (5 CFR 351.606(b)(6))

B [See subparagraph **3-B-17-6-(f)** for additional guidance on these specific annual leave provisions.]

(g) The agency must record on the retention register the reason(s) for using a mandatory exception to the regular order of release. (5 CFR 351.606(c))

- Each employee listed on the retention register has the right to review the reason(s) for the use of the mandatory exception to the regular order of release. (5 CFR 351.606(c); 5 CFR 351.505)

3-A-17-7

Effective Date of Reduction in Force Action When Using a Mandatory Exception

The agency determines the retention standing of an employee who is retained under a mandatory exception as of the date the employee would have been released from the competitive level had the agency not used the exception. (5 CFR 351.506(b))

3-A-17-8

Mandatory Use of Annual Leave in Relocation Situations to Obtain Retirement Benefits and/or to Continue Health Benefits Coverage

An employee who is being involuntarily separated under authority of 5 CFR Part 752 as an adverse action because of the employee's decision to decline relocation (including transfer of function) may elect to use annual leave and remain on the agency's rolls after the effective date that the employee would otherwise have been separated by adverse action in order to establish initial eligibility for:

- (a) Immediate retirement under paragraphs 5 U.S.C. 8336, 8412, or 8414 or (including discontinued service retirement or voluntary early retirement); (5 CFR 351.606(b)(2)), and/or
- (b) Continuation of health benefits coverage into retirement under paragraph 5 U.S.C. 8905. (5 CFR 351.606(b)(2))
- (c) An employee retained under this provision must be covered by chapter 63 of title 5, United States Code. (5 CFR 351.606(b)(3))
- (d) An agency may not retain an employee under this provision past the date that the employee first becomes eligible for immediate retirement, or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements. (5 CFR 351.606(b)(4))

① Paragraph 5 CFR 630.212 defines "**Annual Leave**" for purposes of this paragraph. (5 CFR 351.606(b)(6))

3-A-17-9 **Permissive Continuing Exception to the Regular Order of Release**

An agency may use a permissive continuing exception to the regular order of releasing employees in order to retain an employee for more than 90 days in a position that no higher-standing employee can take over:

- (a) Within 90 days; (5 CFR 351.607), and
 - (b) Without undue interruption to the agency. (5 CFR 351.607)
-

3-A-17-10 **Effective Date of Reduction in Force Action When Using a Permissive Continuing Exception**

The agency determines the retention standing of an employee who is retained in the competitive level under a permissive continuing exception as of the date the employee would have been released from the competitive level had the agency not used the exception. (5 CFR 351.506(b))

3-A-17-11 **Notice to Higher-Standing Employees When Using a Permissive Continuing Exception**

When an agency retains an employee under a permissive continuing exception, the agency must give each higher-standing employee reached for release from the same retention register:

- (a) A written notice of the exception; (5 CFR 351.607), and
 - (b) The reason for the exception. (5 CFR 351.607)
-

3-A-17-12 **Permissive Temporary Exception and Undue Interruption**

An agency may use a permissive temporary exception for not more than 90 days to the regular order of releasing employees in order to retain an employee in a position that no higher-standing employee can take over within 90 days without undue interruption to the agency. (5 CFR 351.608(b))

3-A-17-13 **Permissive Temporary Exception to Satisfy a Government Obligation**

An agency may use a permissive temporary exception, without regard to time limit, to the regular order of releasing employees in order to retain an employee in order to satisfy a Government obligation to the retained employee. (5 CFR 351.608(c))

B [See paragraph **3-B-17-13** for additional guidance.]

- (a) An agency may use a permissive temporary exception in order to provide an employee with a 60 days minimum reduction in force notice when the agency was otherwise unable to give a timely notice to the employee.

- ①
 - Paragraph **3-A-29-8** covers the requirement for a minimum 60 days specific reduction in force notice.
- (b) An agency may also use a permissive temporary exception in order to provide an employee with a new 60 days minimum reduction in force notice when the agency gives the employee a new notice because the employee is being reached for a more

severe reduction in force action.



- Paragraph **3-A-29-10** covers the requirement for a new minimum 60 days specific reduction in force notice when an agency finds that an employee will be reached for a more severe action than the action covered in the prior notice.

3-A-17-14

Permissive Temporary Exception and Use of Sick Leave

An agency may use a permissive temporary exception to the regular order of releasing employees in order to retain an employee who is on approved sick leave on the effective date of the reduction in force. (5 CFR 351.608(d))

- (a) The agency may retain the employee under this provision for a period not to exceed the date that the employee's sick leave is exhausted. (5 CFR 351.608(d))
- (b) Use of sick leave for this purpose must be in accordance with the requirements in Subpart 5 CFR 630-D, or other applicable leave system for Federal employees. (5 CFR 351.608(d))

3-A-17-15

Permissive Temporary Exception and the Use of Annual Leave to Obtain Retirement Benefits and/or to Continue Health Benefits

An agency may use a permissive temporary exception to the regular order of releasing employees in order to retain an employee who:

- (a) Is being involuntarily separated by reduction in force under 5 CFR Part 351; (5 CFR 351.608(e)(1)(i)), and
- (b) Is covered by a Federal leave system under authority other than Chapter 63 of Title 5, United States Code; (5 CFR 351.608(e)(1)(ii)), and
 - (1) Will attain first eligibility for an immediate retirement benefit under 5 U.S.C. 8336, 8412, or 8414 (or other authority) (5 CFR 351.608(e)(1)(iii)), and/or
 - (2) Establish eligibility under 5 U.S.C. 8905 (or other

authority) to carry health benefits coverage into retirement, during the period represented by the amount of the employee's accrued annual leave. (5 CFR 351.608(e)(1)(iii))

- This option allows an agency that is covered by OPM's reduction in force regulations, but is not covered by a Federal leave system under Chapter 63 of title 5, U.S.C., to retain a released employee past the planned separation date for purposes of reaching first eligibility for an immediate annuity, and/or establishing eligibility to continue health benefits into retirement.
- (c) An agency may not approve an employee's use of any other type of leave after the agency retains the employee as a permissive temporary exception under this provision. (5 CFR 351.608(e)(2))
- (d) This permissive temporary exception may not exceed the date that the employee first becomes eligible for immediate retirement or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements. (5 CFR 351.608(e)(3))
- (e) Accrued annual leave available under this permissive temporary exception includes all accumulated, accrued, and restored annual leave, as applicable, in addition to annual leave earned and available to the employee after the effective date of the reduction in force. (5 CFR 351.608(e)(4))
- When approving a permissive temporary exception under this provision, an agency may not advance annual leave or consider any annual leave that might be credited to an employee's account after the effective date of the reduction in force other than annual leave earned while in an annual leave status. (5 CFR 351.608(e)(4))

3-A-17-16

Discretionary Temporary Exception and Other Exceptions

An agency may use a permissive temporary exception to the regular order of releasing employees in order to extend an employee's

separation date beyond the effective date of the reduction in force when the temporary retention of a lower-standing employee does not adversely affect the right of any higher-standing employee who is released ahead of the lower standing employee. (5 CFR 351.608(f))

- (a) The agency may establish a maximum number of days, up to 90 days, for which a permissive temporary exception may be approved under this provision. (5 CFR 351.608(f))
- (b) There is no authority under this provision for an agency to retain an employee for the purpose of gaining eligibility for immediate retirement under paragraphs 5 U.S.C. 8336, 8412, or 8414, and/or for continuation of health benefits coverage into retirement under paragraph 5 U.S.C. 8905. (5 CFR 351.608(f); 5 CFR 351.606(b)(1); 5 CFR 351.608(e))



- As applicable, an agency retains an employee to gain initial eligibility for benefits only on annual leave as provided in paragraph **3-A-17-6** for a mandatory exception, or as provided in paragraph **3-A-17-15** for a permissive temporary exception. (5 CFR 351.608(f); 5 CFR 351.606(b)(1); 5 CFR 351.608(e))

3-A-17-17

Effective Date of Reduction in Force Action When Using a Discretionary Temporary Exception

The agency determines the retention standing of an employee who is retained in the competitive level under a permissive temporary exception as of the date the employee would have been released from the competitive level had the agency not used the exception. (5 CFR 351.506(b))

3-A-17-18

Notice to Higher-Standing Employees When Using a Discretionary Temporary Exception

When an agency retains an employee under a permissive temporary exception for more than 30 days after the date a higher-standing employee is released from the same retention register, the agency must:

- (a) Give written notice to each higher-standing employee in the

competitive level who is reached for release the reason for the exception, and the date that the lower-standing employee's retention will end; (5 CFR 351.608(g)(1)), and

- (b) List opposite the retained employee's name on the retention register the reasons for the exception, and the date that the employee's retention will end. (5 CFR 351.608(g)(2))
-

3-A-17-19 **Exceptions to the Regular Order of Release with the Liquidation Exception**

When an agency will abolish all positions in a competitive area within 180 days, it must release the employees in subgroup order, but may release them regardless of their retention standing within a subgroup. (5 CFR 351.605)

B [See paragraph **3-B-17-19** for additional guidance.]

- ① • An agency may not use the liquidation exception to release an employee who is under a mandatory exception covered under paragraph **3-A-17-5** above.
-

3-A-17-20 **Notice to Higher-Standing Employees When Using a Liquidation Exception**

① When an agency uses the "**Liquidation Provision**" covered in paragraph **3-A-17-19** above, it must:

- (a) Notify affected employees; (5 CFR 351.605), and
- (b) Give the date that the liquidation will be completed. (5 CFR 351.605)
-

Section 18, Actions Following Release From the Competitive Level

Introduction This section explains that, when an agency releases an employee by reduction in force from a competitive level, the agency must determine whether the employee has a bump or retreat right to another position before the agency separates or furloughs the employee.

Contents This section contains the following topics:

Topic	See Paragraph
Offer of Another Position	3-A-18-1
Separation or Furlough	3-A-18-2

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-18-1-(b)	3-B-18-1-(b)
3-A-18-2	3-B-18-2

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 18, Actions Following Release From the Competitive Level

3-A-18-1 Offer of Another Position

An employee reached for release from a competitive level may have a right under the reduction in force positions to a position in a different competitive level. (5 CFR 351.603)

- ①
 - **"Assignment Right"** means the right of a released employee to be assigned by **"Bump"** or **"Retreat"** to a different position in the **"Second Round"** of reduction in force competition. (5 CFR 351.701(a))
- (a) If the employee has an assignment right to another position, the agency must offer the employee that position, or an equivalent position. (5 CFR § 351.603); (5 CFR 351.701(a))
- ①
 - The definitions of **"Assignment Right," "Bump," "Retreat,"** and **"Round of Competition"** are found in Section **3-A-4** of this Module.
- ①
 - Section **3-A-18** begins the material on employees' reduction in force assignment rights.
- (b) An offer of assignment in an optional **"Mock RIF"** prior to the issuance of specific reduction in force notices has no impact on a later actual reduction in force offer of assignment.

B

[See subparagraph **3-B-18-1-(b)** for additional guidance.]

3-A-18-2 Separation or Furlough

The agency may use reduction in force procedures to separate or furlough the released employee only if the employee: (5 CFR 351.603)

- (a) Has no assignment right to another position; or
- (b) Declines an offer of assignment to another position that would have satisfied the employee's assignment right.

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

B [See paragraph **3-B-18-2** for additional guidance.]

Section 19, Determining Employees' Assignment Rights

Introduction This section covers the basic eligibility requirements for an employee released from a retention register to have potential “bump” or “retreat” rights to an “Available Position” held by a lower-standing employee on a different competitive level.

Contents This section contains the following topics:

Topic	See Paragraph
Bumping and Retreating Rights	3-A-19-1
Employees With Assignment Rights	3-A-19-2
Employees With No Assignment Rights	3-A-19-3
Definition of Available Position	3-A-19-4
Positions Occupied by Temporary Employees	3-A-19-5
Limitations in Offering Employees Assignment to Other Positions	3-A-19-6
More Than One Available Position for Assignment	3-A-19-7
One Offer of Assignment	3-A-19-8
Requirement To Make an Additional Offer of Assignment	3-A-19-9
Alternative Offer	3-A-19-10
Employees' Status and Tenure After Accepting an Offer of Assignment	3-A-19-11
Promotion Potential of a Position Offered for Assignment	3-A-19-12
Supervisory Positions	3-A-19-13
Displacing Employee Must Actually Perform Position	3-A-19-14
Mobility Agreement and Travel Requirement Not Considered in Determining Assignment Rights	3-A-19-15

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

Continued on next page

Section 19, Determining Employees' Assignment Rights

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-19-4-(b)	3-B-19-4-(b)
3-A-19-4-(c)	3-B-19-4-(c)
3-A-19-5	3-B-19-5
3-A-19-6-(a)	3-B-19-6-(a)
3-A-19-6-(d)	3-B-19-6-(d)
3-A-19-6-(f)	3-B-19-6-(f)
3-A-19-6-(g)	3-B-19-6-(g)
3-A-19-7	3-B-19-7
3-A-19-8	3-B-19-8
3-A-19-9	3-B-19-9
3-A-19-11-(b)	3-B-19-11-(b)
3-A-19-12	3-B-19-12
3-A-19-13	3-B-19-13
3-A-19-14	3-B-19-14

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 19, Determining Employees Assignment Rights

3-A-19-1 Bumping and Retreating Rights

OPM's reduction in force regulations provide released employees with three types of assignment rights to positions in different competitive levels:

- ① (a) Subparagraph **3-A-4-1-(b)** defines "**Bumping**" as the assignment of an employee to a position in a different competitive level that is held by another employee in a lower retention tenure group, or in a lower subgroup within the same tenure Group. (5 CFR 351.701(b)(1))
 - For specific information on "**Bumping**" rights, see paragraph **3-A-20-1**.
- ① (b) Subparagraph **3-A-4-1-(q)** defines "**Retreating**" as the assignment of an employee to a position in a different competitive level that is held by another employee with less service in the same retention subgroup. (5 CFR 351.702(c)(1))
 - For specific information on "**Retreating**" rights, see paragraphs **3-A-20-2** through **3-A-20-4**.
- ① (c) Section **3-A-21** covers reduction in force offers of assignment to "**Vacant Positions**."
 - Paragraph **3-A-21** explains that an agency is not required to fill vacant positions in a reduction in force, but the agency may decide to fill all, some, or no vacant positions as offers of assignment. (5 CFR 351.201(b))
 - The provisions in this Section (**3-A-19**) that apply to an employee's bump and retreat rights also apply to reduction in force offers of vacant positions.

3-A-19-2 Employees With Assignment Rights

OPM's reduction in force regulations provide mandatory assignment

rights ("**Bumping**" and "**Retreating**" rights) to an employee who:

- (a) Holds a position under a competitive service appointment; (5 CFR 351.701(a))
 - (b) Is in retention tenure group I or group II; (5 CFR 351.701(a)), and
 - (c) Has a current performance rating of at least "**Minimally Successful**" or equivalent. (5 CFR 351.701(a))
-

3-A-19-3

Employees With No Assignment Rights

OPM's reduction in force regulations do not provide assignment rights to an employee who:

- (a) Is in retention tenure group III, although the agency at its option can offer limited assignment rights ("**Bumping**" rights) to its group III employees; (5 CFR 351.705(a)(2));

B [See paragraph **3-A-28-3** for additional guidance.]

- (b) Holds a position under an excepted service appointment, although the agency at its option can offer assignment rights to its excepted employees to positions under the same appointing authority, (5 CFR 351.705(a)(3)), or

B [See paragraph **3-A-28-4** for additional guidance.]

- (c) Has a current annual performance rating of "**Unacceptable**" or equivalent. (5 CFR 351.701(a))
-

3-A-19-4

Definition of Available Position

An "**Available Position**" that satisfies an employee's reduction in force assignment right must:

- (a) Be in the competitive service; (5 CFR 351.701(a))
- (b) Be in the same competitive area; (5 CFR 351.701(a))

- B** [See subparagraph **3-B-19-4-(b)** for additional guidance.]
- (c) Last at least 3 months; (5 CFR 351.701(a))
- B** [See subparagraph **3-B-19-4-(c)** for additional guidance.]
- (d) Be a position for which the released employee qualifies, unless the agency, at its discretion, chooses to waive qualifications in offering the employee assignment to a vacant position; (5 CFR 351.701(a))
- ① • See Section **3-A-25** for additional guidance on qualifications for assignment
- ① • See paragraph **3-A-21-4** for additional guidance concerning the looser "**Undue Interruption**" standard that the agency may use to determine an employee's assignment right to a vacant position.
- (e) Have a "**Representative Rate**" that requires no reduction, or the least possible reduction, in the of the position held by the released employee; (5 CFR 351.701(a)), and
- ① • Subparagraph **3-A-4-1-(n)** defines "**Representative Rate**" as the fourth step of a grade for a position under the General Schedule, the prevailing rate for a position under the Federal Wage system or similar wage determining procedure, and for other positions, the rate designated by the agency as representative of the position. (5 CFR 351.203)
- ① • Section **3-A-24** covers additional material on "**Representative Rate.**"
- (f) Have the same type of work schedule (full-time, part-time, intermittent, seasonal, or on-call) as the position from which the employee is released. (5 CFR 351.701(a))
- (g) Be occupied by a lower-standing employee in a different competitive level who can be displaced by the released employee by bumping rights, or by retreating rights; (5 CFR 351.701(a)), and,

- (h) Have the same type of work schedule (including full-time, part-time, intermittent, seasonal, or on-call) as the position from which the higher-standing employee is released. (5 CFR 351.701(a))
-

3-A-19-5 **Positions Occupied by Temporary Employees**

Released employees do not have assignment rights to positions occupied by temporary employees (tenure group "0") in another competitive level. (5 CFR 351.701(a))

- B** [See paragraph **3-B-19-5** for additional guidance.]
-

3-A-19-6 **Limitations in Offering Employees Assignment to Other Positions**

An agency may not:

- (a) Assign an employee to a position with a representative rate higher than that of the employee's current position; (5 CFR 351.704(b)(1))

- B** [See subparagraph **3-B-19-6-(a)** for additional guidance.]

- (b) Assign an other-than-full-time employee to a position held by a full-time employee, or to satisfy an other-than-full-time employee's right of assignment by assigning the employee to a vacant full-time position; (5 CFR 351.704(b)(2))
- (c) Assign a full-time employee to a position held by an other-than-full-time employee, or to satisfy the full-time employee's right of assignment by assigning the employee to a vacant other-than-full-time position; (5 CFR 351.704(b)(3))
- (d) Assign an employee to a temporary position (a position under an appointment not to exceed 1 year), except as an offer of assignment in lieu of separation by reduction in force when the employee has no other assignment right); (5 CFR 351.704(b)(4))

- B** [See subparagraph **3-B-19-6-(d)** for additional guidance.]

(e) Assign an employee to a position held by an employee with a different type of work schedule (including full-time, part-time, intermittent, seasonal, or on-call), or to satisfy the employee's right of assignment by assigning the employee to a vacant position with a different type of work schedule; (5 CFR 351.704(b)(5))

(f) Assign an employee in the competitive service to a position in the excepted service; (5 CFR 351.705(b)(5)), or

B

[See subparagraph **3-B-19-6-(f)** for additional guidance.]

(g) Assign an employee in the excepted service to a position in the competitive service. (5 CFR 351.705(b)(6))

B

[See subparagraph **3-B-19-6-(g)** for additional guidance.]

3-A-19-7

More Than One Available Position for Assignment

When an employee has a potential right of assignment to two or more positions with the same representative rate, the agency may satisfy the employee's right of assignment by offering any one of the positions. (5 CFR 351.701(a))

B

[See paragraph **3-B-19-7** for additional guidance.]

- An employee has no right to choose among positions with the same representative rate. (5 CFR 351.701(a))
-

3-A-19-8

One Offer of Assignment

①

An employee is entitled to only one offer of assignment, and, except as provided in paragraph **3-A-19-9** below, is not entitled to any further offers if the employee:

(a) Accepts an offer; (5 CFR 351.701(a))

(b) Rejects an offer; (5 CFR 351.701(a)), or

(c) Fails to reply to an offer within a reasonable time. (5 CFR 351.701(a))

B

[See paragraph **3-B-19-8** for additional guidance.]

3-A-19-9

Requirement To Make an Additional Offer of Assignment

Even though an employee is entitled to only one offer of assignment, the agency must make a better offer of assignment (a position with a higher representative rate) to a released employee if a position becomes available before, or on, the effective date of the reduction in force. (5 CFR 351.506(a); 5 CFR 351.805(c))

B

[See paragraph **3-B-19-9** for additional guidance.]

- (a) The released employee is entitled to any better offers of assignment regardless of whether the employee previously accepted or declined a previous offer of assignment.
 - (b) A better offer of assignment may become available when another employee rejects an offer or vacates a position by resignation, retirement, etc.
-

3-A-19-10

Alternative Offer

After determining an employee's assignment right, the agency, at its discretion, may also make an alternative offer of a vacant position with the same or a lower representative rate than that of the position to which the employee was entitled.

- (a) The alternative offer may be a second offer of assignment to a vacant position, or may be an offer of a vacant position in lieu of reduction in force separation or other reduction in force action.
- (b) The agency may not make an alternative offer of assignment to a vacant position if the employee's acceptance of the offer would result in a more severe reduction in force action for another employee.
- (c) In making an alternative offer of a vacant position with a lower representative rate, the agency must insure that the employee has also received notice of his or her entitlement to a position with a higher representative rate.

3-A-19-11 **Employees' Status and Tenure After Accepting an Offer of Assignment**

An employee retains the same status and tenure in the new position after:

- (c) Displacing a lower-standing employee in the same competitive level in first round reduction in force competition; (5 CFR 351.403(a)), or
- (d) Accepting an offer of assignment to a position in a different competitive level in second round reduction in force competition. (5 CFR 351.701(a))

B [See subparagraph **3-B-19-11-(b)** for additional guidance.]

3-A-19-12 **Promotion Potential of a Position Offered for Assignment**

The "**Promotion Potential**" of a position is not a consideration in determining an employee's assignment rights to an available position. (5 CFR 351.701(a))

B [See paragraph **3-B-19-12** for additional guidance.]

- (a) "**Promotion Potential**" is also not a consideration in determining an employee's assignment right to a vacant position. (5 CFR 351.201(b); 5 CFR 351.701(a); 5 CFR 351.704(a))
 - (b) An agency may assign an employee under the reduction in force procedures to positions with higher promotion potential; after assignment, the agency noncompetitively promotes the employee to the full performance level of that position in the same manner as if the agency had selected the employee through merit competition.
-

3-A-19-13 **Supervisory Positions**

OPM's reduction in force regulations do not prohibit an otherwise qualified employee who is presently a nonsupervisor from having assignment rights to a supervisory position. (5 CFR 351.702)

B [See paragraph **3-B-19-13** for additional guidance.]

3-A-19-14 **Displacing Employee Must Actually Perform Position**

A released employee who has bumping or retreating rights to a position held by a lower-standing employee must actually perform that position after entering the position. (5 CFR 351.701)

- The agency may not displace a lower-standing employee merely as a paper exercise.

B [See paragraph **3-B-19-14** for additional guidance.]

3-A-19-15 **Mobility Agreement and Travel Requirement Not Considered in Determining Assignment Rights**

There is no authority under OPM's reduction in force regulations for an agency to consider a position's "**Mobility Agreement**" or "**Travel Requirement**" in:

- (a) Determining a released employee's reduction in force assignment rights, or
 - (b) Making the employee a reduction in force offer of assignment to a vacant position.
-

Section 20, Using Bump and Retreat in Meeting Employees' Assignment Rights

Introduction This section covers when an employee released from a competitive level by reduction in force has potential “bump” or “retreat” rights to a continuing position in a different competitive level.

Contents This section contains the following topics:

Topic	See Paragraph
Bump Rights	3-A-20-1
Retreat Rights-General Information	3-A-20-2
Retreat Rights-Essentially Identical Position	3-A-20-3
Retreat Rights-Expanded Grade Limits for Disabled Veterans in Subgroup AD	3-A-20-4

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-20-1-(a)	3-B-20-1-(a)
3-A-20-1-(c)	3-B-20-1-(c)
3-A-20-2-(a)	3-B-20-2-(a)
3-A-20-2-(e)	3-B-20-2-(e)
3-A-20-2-(f)	3-B-20-2-(f)
3-A-20-3-(a)	3-B-20-3-(a)
3-A-20-3-(b)	3-B-20-3-(b)
3-A-20-4	3-B-20-4

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 20, Using Bump and Retreat in Meeting Employees' Assignment Rights

3-A-20-1

Bump Rights

- ① Paragraph **3-A-4-1-(c)** defines "**Bumping**" as a released employee's right of assignment to a position in a different competitive level that is: (5 CFR 351.701(b)(1))
- (a) Held by an employee in a lower tenure group, or in a lower tenure subgroup within the same tenure group; (5 CFR 351.701(b)(1)), and
- B** [See subparagraph **3-B-20-1-(a)** for additional guidance.]
- (b) The same grade, or down to three grades or grade-intervals (or equivalent) below the position of the released employee. (5 CFR 351.701(b)(2))
- A released employee has bumping rights to a position based on the employee's personal qualifications in relation to the position held by the lower-standing employee. (5 CFR 351.702(a))
 - A released employee may have bumping rights to a position regardless of whether or not the employee previously held the position of the lower-standing employee. (5 CFR 351.701(b))
- (c) An agency is not required to consider employees' respective retention service dates in determining bumping rights .
- B** [See subparagraph **3-B-20-1-(c)** for additional guidance.]
- ①
- Section **3-A-23** covers grades and grade-intervals used in determining employees' reduction in force assignment rights.
- ①
- Section **3-A-25** covers employees' qualifications for assignment to another position.

3-A-20-2 **Retreat Rights-General Information**

① Paragraph **3-A-4-1-(q)** defines "**Retreating**" as a released employee's right of assignment to a position in a different competitive level that is:

- (a) Held by another employee in the same retention tenure group and subgroup who has less total creditable service for retention (including additional service credit for performance); (5 CFR 351.701(c)(1))

[See subparagraph **3-B-20-2-(a)** for additional guidance.]

- (b) The same grade, or down to three grades or three grade-intervals (or equivalent) below the position from which the employee is released; (5 CFR 351.701(c)(2)), and
- (c) The same position, or a position that is essentially identical, to a position previously held by the released employee on a permanent basis in any Federal agency. (5 CFR 351.701(c)(3))

①

- Paragraph **3-A-20-3** below explains the competitive level standard that agencies use to evaluate an "**Essentially Identical Position**" for purposes of determining an employee's retreat rights.

- (d) A released employee with a current annual performance rating of "**Minimally Successful**" or equivalent has the right to retreat only to a position that is held by another employee who has a current performance rating of "**Minimally Successful**" or equivalent, or a lower performance rating. (5 CFR 351.701(d))

①

- Section **3-A-23** covers grades and grade-intervals used in determining employees' reduction in force assignment rights.

- (e) A released employee has no retreat rights based solely upon the employee's personal qualifications to perform the position held by an employee with less service in the same subgroup. (5 CFR 351.701(c)(3))

B [See subparagraph **3-B-20-2-(e)** for additional guidance.]

- (f) The agency uses the grade progression of only the released

employee's official position of record to determine the applicable grades (or grade-intervals or equivalent) of the employee's retreat right. (5 CFR 351.701(c)(2))

B

[See subparagraph **3-B-20-2-(f)** for additional guidance.]

- The agency does not consider the grade progression of the position to which the employee has a retreat right.
-

3-A-20-3

Retreat Rights-Essentially Identical Position

In determining employees' retreat rights, a position is considered essentially identical to a position that the released employee previously held if:

- (a) The released employee held the previous position as a competing employee in a Federal agency (for example, when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent); (5 CFR 351.701(c)(3)), and

B

[See subparagraph **3-B-20-3-(a)** for additional guidance.]

- (b) The agency determines on the basis of available information that the released employee previously held an essentially identical position based on the Competitive Level criteria found in Section 3-A-9, but not necessarily in regard to the two positions' respective:

- (1) Grade; (5 CFR 351.701(c)(3))
- (2) Classification series; (5 CFR 351.701(c)(3))
- (3) Type of work schedule; (5 CFR 351.701(c)(3)), or
- (4) Type of service. (5 CFR 351.701(c)(3))

ⓘ

- A released employee may have a right to retreat to an essentially identical position in the present competitive area that is filled at a different grade, classification series, work schedule, appointing authority, etc., than the

position that the released employee actually encumbered, provided that the two positions meet the standard covered in subparagraph **3-A-20-3-(b)** above. (5 CFR 351.701(c)(3))

B [See subparagraph **3-B-20-3-(a)** for additional guidance.]

3-A-20-4 **Retreat Rights-Expanded Grade Limits for Disabled Veterans in Subgroup AD**

A released employee has the right to retreat to a position at the same grade, or down to five grades or five grade-intervals (or equivalent) below the position from which the employee is released, if the employee is:

- (a) Eligible for veterans' preference under OPM's reduction in force regulations; (5 CFR 351.702(c)(2)), and
- (b) Receiving a compensable service-connected disability of 30 percent or more (the employee is in retention Subgroup AD). (5 CFR 351.701(c)(2))

B [See paragraph **3-B-20-4** for additional guidance.]

- Except for the change in grade limits, the other conditions on employees' retreat rights covered in paragraph **3-A-19-2** above also apply to this provision. (5 CFR 351.701(c)(2))
-

Section 21, Using Vacancies in Meeting Employees' Assignment Rights

Introduction This section explains how an agency, at its option, may offer continuing vacant positions to employees reached for release from a competitive level by reduction in force.

Contents This section contains the following topics:

Topic	See Paragraph
Management's Decision to Fill Vacant Positions During a Reduction in Force	3-A-21-1
Making Reduction in Force Offers of Vacant Positions to Released Employees	3-A-21-2
Consideration of Retention Standing in Offering Vacant Positions	3-A-21-3
Consideration of Undue Interruption in Determining Qualifications for Assignment to Vacant Positions	3-A-21-4
Waiver of Qualifications Requirements in Offering Reduction in Force Assignment to Vacant Positions	3-A-21-5
Offering Vacant Positions as Offers to Place Employees In Lieu of Separation or In Lieu of Other Reduction in Force Actions	3-A-21-6
Modification of Qualifications Requirements in Offering Positions In Lieu of Separation or In Lieu of Other Reduction in Force Actions	3-A-21-7

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-21-1	3-B-21-1
3-A-21-2-(a)-(3)	3-B-21-2-(a)-(3)
3-A-21-2-(b)	3-B-21-2-(b)

Continued on next page

Section 21, Using Vacancies in Meeting Employees' Assignment Rights

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-21-1	3-B-21-1
3A-21-3	3-B-21-3
3-A-21-4-(a)	3-B-21-4-(a)
3-A-21-4-(c)	3-B-21-4-(c)
3-A-21-5	3-B-21-5
3-A-21-6	3-B-21-6

B This symbol highlights where you can find additional material in Unit 3-B.

i This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 21, Using Vacancies in Meeting Employees' Assignment Rights

3-A-21-1 **Management's Decision to Fill Vacant Positions During a Reduction in Force**

An agency is not required to fill vacant positions in a reduction in force, but the agency may decide to fill all, some, or no vacant positions. (5 CFR 351.201(b))

B [See paragraph **3-B-21-1** for additional guidance.]

3-A-21-2 **Making Reduction in Force Offers of Vacant Positions to Released Employees**

An agency may offer a released retention group I or II employee (but not a group III employee) assignment to a vacant position in order to satisfy the employee's right to assignment, or to offer the employee assignment in lieu of separation by reduction in force. (5 CFR 351.704(a)(1); 5 CFR 351.701(a))

- (a) An agency may satisfy a released employee's reduction in force assignment right by offering the employee assignment to a vacant position that: (5 CFR 351.704(a)(1); 5 CFR 351.701(a));
- (1) Is in the same competitive area;
 - (2) Has a representative rate at least equal to a position that the employee is entitled on the basis of bump or retreat rights; and
 - (3) Is within the same grade and grade-interval limits that apply to offers of assignment based on bump and retreat rights.

B [See subparagraph **3-B-21-2-(a)-(3)** for additional guidance.]

- ①**
- Subparagraph **3-A-20-1-(b)** covers the three grade and grade-interval limits for bump rights, while subparagraph **3-A-20-2-(b)** and paragraph **3-A-20-3** cover the three and five grade and grade-interval limits for retreat rights.

- ①
 - The other provisions of Section **3-A-19** also apply to reduction in force offers of assignment to vacant positions (for example, the employee has no right to choose among offers of assignment, the employee is only entitled to one offer of assignment, etc.).
 - ①
 - Subparagraph **3-A-21-4-(a)** below covers general qualifications for reduction in force assignment to a vacant position.
 - ①
 - Subparagraph **3-A-21-4-(b)** below covers the looser "**Undue Interruption**" standard that is applicable to the determination of employees' qualifications for reduction in force assignment to a vacant position.
 - ①
 - Paragraph **3-A-21-6** below covers voluntary offers of vacant positions to place employees in lieu of separation or other reduction in force actions.
- (b) An agency may also offer an employee assignment to a vacant position in lieu of separation by reduction in force, subject to the same conditions covered in subparagraph **3-A-21-2-(a)** above. (5 CFR 351.704(a)(1); 5 CFR 351.701(a))
- See subparagraph **3-A-21-2-(b)** for additional guidance.

3-A-21-3

Consideration of Retention Standing in Offering Vacant Positions

When an agency chooses to fill a vacant position with an employee released from a competitive level, the agency must make the offer consistent with OPM's reduction in force regulations. (5 CFR 351.201(c))

B

[See paragraph **3-B-21-3** for additional guidance.]

- (a) A vacant position that is filled effective at the beginning of the day after the effective date of the reduction in force, or immediately after the effective date, is an available position for purposes of determining employees' assignment rights. (5 CFR 351.506(a))

- ①
 - Paragraph **3-A-18-4** covers "**Available Position.**"

- (b) When an agency decides to use a vacant position as a reduction in force offer of assignment to a released employee, the agency determines whether it can offer the position to the released employee provided that another released employee who has higher retention standing would not have a bump or retreat right to the vacant position. (5 CFR 351.704(a)(1))
- (c) The agency must consider the relative subgroup standing of competing employees before offering a released employee assignment to a vacant position (the agency offers a released employee in Subgroup I-A assignment to a vacant position before offering assignment to a released employee in subgroup I-B). (5 CFR 351.201(c))
- (d) When offering a released employee assignment to a vacant position, the agency is not required to consider the relative service computation dates of released employees in the same retention subgroup, unless one employee:
 - (1) Formerly held a position that is essentially identical to the vacant position; (5 CFR 351.201(c);(5 CFR 351.701(c))
 - (2) Has more service credit than a second employee in the same subgroup; (5 CFR 351.201(c);(5 CFR 351.701(c)), and
 - (3) Would have a right to the position on the basis of retreat rights if the agency filled the vacancy another employee who has less retention service credit. (5 CFR 351.201(c);(5 CFR 351.701(c))

3-A-21-4

Consideration of Undue Interruption in Determining Qualifications for Assignment to Vacant Positions

An employee released from a competitive level by reduction in force has an assignment right to another position (through bump, retreat, or an offer of a vacant position) held by an employee with lower retention standing only if the released employee is qualified for assignment. (5 CFR 351.701(a); 5 CFR 351.702(a))



- (a) Except as covered in paragraph **3-A-23-8** ("Waiver of

Qualifications in Offering Assignment to a Vacant Position"), a released employee is qualified for assignment to an **"Available Position"** (see paragraph **3-A-19-4** for definition) if the employee;

- (1) Is otherwise qualified for the position; and
- (2) Has the capacity to perform the duties of the position without **"Undue Interruption"** to the agency. (5 CFR 351.702(a)(4))

B [See subparagraph **3-B-21-4-(a)** for additional guidance.]

- ①** (b) Subparagraph **3-A-5-1-(v)** defines **"Undue Interruption,"** and generally means that an otherwise qualified employee must be able to perform the duties of the position within 90 days. (5 CFR 351.203)
- (c) The 90-day standard for undue interruption generally does not apply to offers of assignment to vacant positions; the definition in paragraph 5 CFR 351.203 states that "The 90-day standard may be extended if placement is made under this part to a low priority program or to a vacant position". (5 CFR 351.203)

B [See subparagraph **3-B-21-4-(c)** for additional guidance.]

- The agency may apply the usual 90-day undue interruption definition in offering assignment to vacancy when the vacant position is in a high priority program. (5 CFR 351.203)

3-A-21-5

Waiver of Qualifications Requirements in Offering Reduction in Force Assignment to Vacant Positions

At its option, an agency may waive OPM's qualifications standards and requirements in offering a released employee assignment to a vacant position. (5 CFR 351.703)

- (a) There is no authority for an agency to waive any minimum education requirements in waiving qualifications for assignment to a vacant position. (5 CFR 351.703(a))

- (b) In order to waive qualifications for assignment to a vacant position, the agency must determine that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position. (5 CFR 351.703(a))

B [See paragraph **3-B-21-5** for additional guidance.]

- ① • Section **3-A-25** explains how the agency considers a released employee's qualifications for assignment.
- ① • Paragraph **3-A-25-8** explains how the agency may waive qualifications when offering an employee assignment to a vacant position.

3-A-21-6

Offering Vacant Positions as Offers to Place Employees In Lieu of Separation or In Lieu of Other Reduction in Force Actions

The agency has the basic right to take other personnel actions, including the filling of vacant positions using authority other than OPM's retention regulations, before, during, and after a reduction in force, unless the agency has limited this right as a matter of policy. (5 CFR 351.201(a)(1))

B [See paragraph **3-B-21-6** for additional guidance.]

- ① • Paragraph **3-A-3-4** covers management's general right to take other personnel actions. (5 CFR 351.201(a)(1))
- (a) A vacant position that is filled on or after the effective date of the reduction in force, or immediately after the effective date, is an "**Available Position**" for purposes of determining employees' assignment rights. (5 CFR 351.506(a))
- (b) The agency may make a voluntary offer of a vacant position to a released employee as:
- (1) An offer in lieu of separation by reduction in force;
 - (2) An offer in lieu of downgrading by reduction in force; or
 - (3) An alternative offer in lieu of an offer of assignment by

reduction in force.

- ① (c) The grade-level limits in subparagraph **3-A-21-2(c)** above that apply to an offer of assignment under the reduction in force regulations do not apply when the agency makes a voluntary offer to a released employee.
- This includes the option to offer a vacant other-than-full-time position to a full-time employee or offer a vacant full-time position to an other-than-full-time employee.
 - Although the employee was reached for a reduction in force action, these voluntary offers are not offers of assignment under the retention regulations.
- (d) The agency must provide for competition through its internal staffing plan if the offered position has more promotion potential than the employee's present position.
- (e) The placement action is processed as a reassignment, position change, change to lower grade, or change in work schedule, and should be documented to show that the employee accepted the position as a voluntary offer in lieu of reduction in force.
- (f) Voluntary offers of vacant positions that are in a different competitive area within the same local commuting area, must be consistent with the Reemployment Priority List, and any other applicable transition programs.
- ①
- Restructuring Information Handbook Module 6 covers the **"Reemployment Priority List."**
- (g) Voluntary offers of vacant positions that are in both a different competitive area and a different local commuting area are not subject to the Reemployment Priority List, but may be covered by other applicable agency-specific transition programs.

3-A-21-7

Modification of Qualifications Requirements in Offering Positions In Lieu of Separation or In Lieu of Other Reduction in Force Actions

At its option, an agency may modify OPM's qualifications standards and requirements in offering a vacant position to a released employee in lieu of separation or other reduction in force action.



- The offer may be a reassignment or a voluntary change to lower grade.
 - See paragraph **3-A-25-9** for additional guidance.
-

Section 22, Using Vacant Temporary Positions as Placement Offers

Introduction This section covers the agency’s options in offering a temporary position as an offer to certain employees who are released from a competitive level by reduction in force.

Contents This section contains the following topics:

Topic	See Paragraph
Competitive Service Temporary Positions Are Not Available Positions	3-A-22-1
Using a Temporary Position as a Reduction in Force Offer of Assignment	3-A-22-2
Using a Temporary Position for Reemployment Following Reduction in Force Separation	3-A-22-3
Conversion to a Temporary Position in Lieu of Reduction in Force Separation	3-A-22-4

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-22-1-(a)	3-B-22-1-(a)
3-A-22-1-(b)	3-B-22-1-(b)
3-A-22-2	3-B-22-2

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 22, Using Vacant Temporary Positions as Placement Offers

3-A-22-1 Competitive Service Temporary Positions Are Not Available Positions

A competitive service employee released from a competitive level by reduction in force does not have assignment rights to a position in a different competitive level that is held by a temporary (tenure group "0") employee. (5 CFR 351.701(a))

- (a) A competitive service temporary employee (tenure group "0") is a noncompeting employee in reduction in force competition. (5 CFR 351.501(b))

B [See subparagraph **3-B-22-(a)** for additional guidance.]

- ①
- Paragraph **3-A-16-2-(a)** provides that under OPM's retention regulations an agency must separate all temporary employees from a competitive level before the agency releases a competing employee from that level by reduction in force. (5 CFR 351.602(a))

- ① (b) Some excepted positions can be an "**Available Position**" if the agency administratively decides to provide its excepted service employees with reduction in force assignment rights to other positions under the same appointing authority.

B [See subparagraph **3-B-22-(a)** for additional guidance.]

- ①
- Paragraph **3-A-12-3** covers excepted service tenure groups.
- ①
- Paragraph **3-A-28-3** covers administrative assignment rights for tenure group III employees, while paragraph **3-A-28-4** covers administrative assignment rights for excepted service employees.

3-A-22-2 Using a Temporary Position as a Reduction in Force Offer of Assignment

At its discretion, an agency may use a vacant temporary position that

will last at least 3 months as a reduction in force offer of assignment only if a competing employee has no assignment right to another position, and will otherwise be separated by reduction in force. (5 CFR 351.704(b)(4))

B [See paragraph **3-B-22-2** for additional guidance.]

(a) The agency makes the offer of the vacant temporary position as a reduction in force offer of assignment on the same basis as other vacant positions offered in reduction in force, including the three-grade or grade-interval limits. (5 CFR 351.704(b)(4))

①

- See Section **3-A-20** for additional guidance on reduction in force offers of vacant positions.

(b) When an employee accepts a temporary position as a reduction in force offer of assignment, the employee retains the same status and tenure (for example, a competitive service employee in subgroup I-B retains the I-B status after entering on duty in the temporary position). (5 CFR 351.701(a))

- If the temporary appointment expires or the agency abolishes the position, the employee is again entitled to compete under the reduction in force regulations based on the retained status and tenure if the employee is faced with separation or downgrading. (5 CFR 351.701(a))

3-A-22-3

Using a Temporary Position for Reemployment Following Reduction in Force Separation

At its discretion, an agency may offer reemployment in a vacant temporary position if a competing employee has no right of assignment.

(a) The agency must follow tenure group and subgroup standing in offering an employee appointment to a temporary position in the same local commuting area as the reduction in force. (5 CFR 330.205(a))

- ①
- The requirement to follow tenure group and subgroup standing ensures compliance to the agency's **"Reemployment Priority List."** (5 CFR 330.205(a))
 - If the position is located in a different local commuting area, OPM's regulations do not require the agency to follow tenure group and subgroup standing.
- (b) When an employee accepts a temporary position as an offer of reemployment following separation by reduction in force, the action is processed as a separation followed by a new temporary appointment.
- (c) The agency may reemploy the separated employee in the temporary position with no break in service, or following a break in service.
- (d) In the temporary position, the employee's status and tenure are changed to that which is appropriate for the temporary appointment (tenure group "0"), reflecting that the employee is not covered by OPM's reduction in force regulations. (5 CFR 351.501(b))
- If the temporary appointment expires or the agency abolishes the temporary position, the agency may separate the employee without regard to OPM's reduction in force regulations. (5 CFR 351.501(b))
 - At the time of separation, the temporary employee is not eligible for selection priority in the agency through the Career Transition Assistance Plan or through the Reemployment Priority List; the employee is not eligible for selection priority in other agencies through the Interagency Career Transition Assistance Plan.

3-A-22-4

Conversion to a Temporary Position in Lieu of Reduction in Force Separation

The agency may offer an employee who has received a notice of separation by reduction in force the opportunity to convert to a temporary (tenure Group "0") position in lieu of involuntary separation.

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)



- In making an appointment to the temporary position, the agency must follow tenure group and subgroup standing in order to comply with the agency's "**Reemployment Priority List.**" (5 CFR 330.205(a))
 - At the time of separation, the temporary employee is not eligible for selection priority in the agency through the Career Transition Assistance Plan or through the Reemployment Priority List; the employee is not eligible for selection priority in other agencies through the Interagency Career Transition Assistance Plan.
-

Section 23, Consideration of Grades in Meeting Employees' Assignment Rights

Introduction This section explains how the agency determines the grade range of a position that might be available as an offer of assignment to an employee who is released from a competitive level by reduction in force.

Contents This section contains the following topics:

Topic	See Paragraph
Range of Grades and Grade-Intervals in Determining Assignment Rights	3-A-23-1
Employee's Position of Record Determines Grade and Grade-Interval Range	3-A-23-2
Distinction Between Grade and Grade-Interval	3-A-23-3
Determining the Grade-Interval Progression for General Schedule Positions	3-A-23-4
General Agency Responsibility to Determine the Grade Interval Line of Progression for Positions Not Covered by the General Schedule	3-A-23-5
Scope Of Positions Considered By The Agency in Determining the Grade Interval Progression for Positions Not Covered by the General Schedule	3-A-23-6
Consideration of Movement Between Positions in Determining the Grade Interval Progression for Positions Not Covered by the General Schedule	3-A-23-7
Determining the Grade Interval Progression for Positions Not Covered by the General Schedule When No Progression Exists	3-A-23-8
Determining the Grade Interval Progression for Positions Not Covered by the General Schedule When No Grade Structure Exists	3-A-23-9

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-23-2	3-B-23-2
3-A-23-5	3-B-23-5

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 23, Consideration of Grades in Meeting Employees' Assignment Rights

3-A-23-1 Range of Grades and Grade-Intervals in Determining Assignment Rights

- ① Section **3-A-19** covers the range of grade limits that apply to employees' "**Bump**" and "**Retreat**" rights.
- (a) Employees have bump and retreat rights to positions at the same grade, or down to three grades or grade-intervals (or equivalent) below the position from which the employee is released. (5 CFR 351.701(b)(2); 5 CFR 351.701(c)(2))
 - (b) Employees who are eligible for veterans' preference in reduction in force and are receiving a service-connected compensable disability of 30% or more have retreat rights to positions at the same grade, or down to five grades or grade-intervals (or equivalent) below the position from which the employee is released. (5 CFR 351.701(c)(2))
 - (c) The same grade limits apply to an offer of assignment to a vacant position.
-

3-A-23-2 Employee's Position of Record Determines Grade and Grade-Interval Range

The agency uses the grade progression of the released employee's official position of record to determine the grade limits of the employee's assignment rights. (5 CFR 351.701(f)(1))

- B** [See paragraph **3-B-23-2** for additional guidance.]
-

3-A-23-3 Distinction Between Grade and Grade-Interval

The difference between successive grades in a one-grade occupation is a "**Grade Difference**," while the difference in a multi-grade occupation is a "**Grade-Interval Difference**."

- (a) A position with a one-grade progression consists of consecutive

grade levels (GS-5-6-7-8).

- (b) A position with a two-grade, or other multi-grade progression consists of nonconsecutive grade levels (GS-5-7-9-11).
 - (c) After the agency determines the range, employee have assignment rights to positions at all grades within the grade-interval limits, including positions in intervening grades within the grade-interval progression in both the employee's present pay system, and positions in other pay systems. (5 CFR 351.701(b)(2); 5 CFR 351.701(c)(2))
-

3-A-23-4

Determining the Grade-Interval Progression for General Schedule Positions

For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee. (5 CFR 351.701(f)(2))



- (a) For General Schedule positions, a two-grade-interval progression applies to the occupations listed in the **"Introduction to the Position Classification Standards."**
 - (b) An employee who is released from a two-grade-interval position has assignment rights to positions at all intervening grade levels within these grade limits, including positions that are not part of the two-grade progression. (5 CFR 351.701(b)(2); 5 CFR 351.701(c)(2))
 - For example, a released employee has an assignment right to an intervening GS-8 position when two-grade progression provides the employee with assignment rights on the basis of GS-9-7-5-4 based upon an entry level GS-5 position.
 - (c) The use of grade intervals extends only to the entry level of the position with a two-grade progression (for example, GS-9-7-5 when the entry level of the two-grade progression is GS-5).
-

- (d) If applicable, the agency provides the employee with assignment rights of three grades or grade intervals by using a one-grade basis to determine grade limits below the entry level of the position with a two-grade progression (GS-9-7-5-4 when the entry level of the two-grade progression is GS-5). (5 CFR § 351.701(f)(5))
 - (e) Employees released from one-grade-interval positions have assignment rights to positions up to three grade levels below the employee's present position (for example, GS-7-6-5-4 when the entry level of the one-grade progression is GS-4).
 - (f) For mixed interval jobs (for example, a GS-9 position that progresses GS-5-6-7-9), the assignment right grade limits are based on progression to the present position. (5 CFR 351.701(f)(2))
 - (g) If the employee holds a position that is less than three grades above the lowest grade in the classification system (the employee holds a GS-2 position), the employee still has potential assignment rights to positions in other pay systems with a representative rate lower than the position held by the released employee. (5 CFR 351.701(f)(5))
-

3-A-23-5

General Agency Responsibility to Determine the Grade Interval Line of Progression for Positions Not Covered by the General Schedule

For positions not covered by the General Schedule, the agency has the responsibility to establish the normal line of progression for each occupational series and grade level, and to then apply employees' assignment limits based on this determination. (5 CFR 351.701(f)(3))

B

[See paragraph **3-B-23-5** for additional guidance.]

3-A-23-6

Scope Of Positions Considered By The Agency in Determining the Grade Interval Progression for Positions Not Covered by the General Schedule

At its discretion, the agency may establish the normal line of progression for positions not covered by the General Schedule on the

basis of: (5 CFR 351.701(f)(3))

- (a) Competitive area;
 - (b) A larger subdivision of the agency including multiple competitive areas; or
 - (c) An agencywide or departmentwide basis.
-

3-A-23-7

Consideration of Movement Between Positions in Determining the Grade Interval Progression for Positions Not Covered by the General Schedule

Each single or multi-grade movement within the normal line of progression is considered a grade interval for purposes of applying the grade range limitations on assignment rights. (5 CFR 351.701(b)(2); (5 CFR 351.701(c)(2)); (5 CFR 351.701(f)(3))

- (a) The normal line of progression may include grade levels in different pay systems. (5 CFR 351.701(f)(3))
 - (b) Once the agency establishes the normal line of progression agency for a particular series and grade level, the same grade level limits for bump and retreat are applied to all employees in that series and grade level without regard to an employee's actual progression to that grade level. (5 CFR 351.701(f)(1); 5 CFR 351.701(f)(3))
 - (c) The agency determines grade limits below the starting point of the normal line of progression on a one-grade basis (for example, WG-10-8-5-4 when the entry level of the progression is WG-5). (5 CFR 351.701(f)(5))
-

3-A-23-8

Determining the Grade Interval Progression for Positions Not Covered by the General Schedule When No Progression Exists

In some situations, the agency may determine that there is no line of progression to a particular series and grade level (when an agency normally fills a particular series and grade at the journeyman level from outside the agency). (5 CFR 351.701(f)(3))

- In this situation, grade interval progression is not

applicable and the agency provides the employee with assignment rights to positions up to three grades lower, as determined on a one-grade basis. (For example, a WG-10 employee in a series and grade which has no line of progression would have assignment rights to positions based upon WG-10-9-8-7.) (5 CFR 351.701(f)(3))

3-A-23-9

Determining the Grade Interval Progression for Positions Not Covered by the General Schedule When No Grade Structure Exists

In a situation where no grade structure exists (the agency uses negotiated pay rates), the agency determines if a line of progression exists for each occupation/pay rate and provides assignment rights to positions up to three grade-intervals lower on that basis. (5 CFR 351.701(f)(4))

Section 24, Consideration of Representative Rates When Determining Employees' Assignment Rights

Introduction This section explains how an agency compares the pay rates of employees holding positions in different pay systems as the agency determines the employees' potential assignment rights to other positions in reduction in force competition.

Contents This section contains the following topics:

Topic	See Paragraph
Comparing Positions	3-A-24-1
Pay Schedule Definition	3-A-24-2
Representative Rate Definition	3-A-24-3
Representative Rate Explanation	3-A-24-4
Representative Rate Calculation	3-A-24-5
Representative Rate and the Rate Used to Determine Retention Rights	3-A-24-6
Application of Representative Rates in Determining Employees' Assignment Rights	3-A-24-7

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-24-2	3-B-24-2
3-A-24-3-(c)	3-B-24-3-(c)
3-A-24-4-(e)	3-B-24-4-(e)
3-A-24-6	3-B-24-6
3-A-24-7	3-B-24-7

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 24, Consideration of Representative Rates When Determining Employees' Assignment Rights

3-A-24-1 Comparing Positions

Agencies may need to compare positions in different pay schedules to determine an employee's eligibility to bump or retreat to a position in a different pay schedule. (5 CFR 351.701(e)(1))

- (a) When two or more positions are in different pay schedules, the agency uses the "**Representative Rate**" of the positions to determine equivalent grade levels and the best offer of assignment for a released employee. (5 CFR 351.701(a))
 - (b) The agency does not use the representative rates when the positions are in the same pay schedule; in this situation, the agency directly compares the grades or levels of the positions. (5 CFR 351.203; 5 CFR 351.701(e))
-

3-A-24-2 Pay Schedule Definition

"**Pay Schedule**" means any one set of pay rates identified by statute or by an agency as applying to a group of occupations.

B [See paragraph **3-B-24-2** for additional guidance.]

- (a) The General Schedule (GS) is one pay schedule, regardless of special rates or premium rates. (5 CFR 531.101)
 - (b) The regular nonsupervisory, leader, and supervisory schedules of the Federal Wage System are considered to be separate pay schedules regardless of special rates. (5 CFR 532.203)
 - Agency special wage schedules for positions not under the regular schedules of the Federal Wage System are considered to be separate pay schedules. (5 CFR 532.254)
-

3-A-24-3 Representative Rate Definition

Representative rate is: (5 CFR 351.203)

- (a) The fourth step of the grade for a position under the General Schedule (except a GS-18 has a single rate); (5 CFR § 531.403); (5 CFR 532.401)
- (b) The prevailing rate for a position under the Federal Wage System or similar wage-determining procedure; (5 CFR 532.401), and
 - Under a wage system with five steps for each grade level or rating, the second step is based on the local prevailing rate and is designated the representative rate. (5 CFR 532.401)
- (c) For other positions (including pay banding), the rate designated by the agency as representative of the position. (5 CFR 351.203); (5 CFR 532.401)

B [See subparagraph **3-A-24-3-(c)** for additional guidance.]

- (d) The representative rate of a Senior-level (SL) position established under authority of 5 U.S.C. § 5376, and classified above GS-15, is the rate designated by the agency as representative of the position. (5 CFR 351.203); (5 CFR 534.501)

3-A-24-4 **Representative Rate Explanation**

"Representative Rate" is the basic rate of pay without regard to:

- (a) Overtime; (5 CFR 531.403; 532.401)
- (b) Night differential; (5 CFR 531.403; 532.401)
- (c) Cost of living allowances; (5 CFR 531.403; 532.401)
- (d) Premium pay (including pay for shortage category positions); (5 CFR 531.403; 532.401), or
- (e) Locality-based comparability payments for General Schedule

employees under 5 U.S.C. 5304. (5 CFR 531.403; 532.401)

- The agency does not consider locality-based comparability payments for General Schedule employees under 5 U.S.C. 5304 in determining the representative rate. (5 CFR 531.403)

B [See subparagraph **3-B-24-4-(e)** for additional guidance.]

- Representative Rate includes pay that is an inherent part of the basic rate, and cannot be isolated and subtracted from the rate (for example, the locality component of pay under the Federal Wage System, which is defined as basic pay). (5 CFR 531.403; 532.401)
-

3-A-24-5 **Representative Rate Calculation**

For General Schedule positions and other positions with per annum salary, the hourly equivalent of the representative rate is obtained by dividing the annual rate by 2,087 with the result adjusted to the nearest cent, counting one-half and over as the next whole cent. (5 CFR 531.102(a))

3-A-24-6 **Representative Rate and the Rate Used to Determine Retention Rights**

The agency compares employees' representative rates that are in effect on the date the agency issues specific reduction in force notices, unless the agency officially knows that new pay rates: (5 CFR 351.701(e)(2))

- (a) Have officially been approved, and
- (b) Will be effective by the effective date of the reduction in force.

B [See paragraph **3-B-24-6** for additional guidance.]

3-A-24-7 **Application of Representative Rates in Determining Employees' Assignment Rights**

To determine whether a position in a different pay schedule is within

the bump and retreat grade limits, the agency determines the representative rates for the employee's current position and for the lowest grade to which the employee has bump and retreat rights. (5 CFR 351.701(b)(2); (5 CFR 351.701(c)(2))

B [See paragraph **3-B-24-7** for additional guidance.]

- (a) The agency compares these limits with the representative rates in the different pay schedule, and determines the range of grades the employee may be assigned to in the other pay schedule. (5 CFR 351.701(a))
 - (b) The highest grade for an assignment right to a position in the other pay schedule is the highest grade with a representative rate that does not exceed the representative rate of the employee's current position. (5 CFR 351.704(b)(1))
 - (c) The lowest grade for an assignment right to a position in the other pay schedule is the lowest grade with a representative rate that is not less than the representative rate of the lowest grade to which the employee has bump and retreat rights. (5 CFR 351.701(b)(2); (5 CFR 351.701(c)(2))
-

Section 25, Consideration of Qualifications When Determining Employees' Assignment Rights

Introduction This section explains how an agency determines whether an employee is qualified for assignment to another position under the reduction in force regulations. This section also explains that in some situations an agency, at its option, may waive or modify the usual qualifications requirements when placing an employee who is reached for a reduction in force action.

Contents This section contains the following topics:

Topic	See Paragraph
Only Qualified Employees Have Assignment Rights	3-A-25-1
Qualifications Standard	3-A-25-2
Other Qualifications Factors	3-A-25-3
Asking Employees for a Qualifications Update	3-A-25-4
Making Qualifications Determinations-General Information	3-A-25-5
Making Qualifications Determinations-Physical Qualifications Determinations	3-A-25-6
Making Qualifications Determinations-Physical Qualifications Determinations for Certain Disabled Veterans	3-A-25-7
Waiver of Qualifications Requirements in Offering Reduction in Force Assignment to Vacant Positions	3-A-25-8
Modification of Qualifications in Offering Positions In Lieu of Separation or In Lieu of Other Reduction in Force Actions	3-A-25-9

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-25-1	3-B-25-1

Continued on next page

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

Additional Information (continued)

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-25-2-(a)	3-B-25-2-(a)
3-A-25-2-(d)	3-B-25-2-(d)
3-A-25-3-(d)	3-B-25-3-(d)
3-A-25-4	3-B-25-4
3-A-25-5	3-B-25-5
3-A-25-6	3-B-25-6
3-A-25-6-(a)-(3)	3-B-25-6-(a)-(3)
3-A-25-6-(d)	3-B-25-6-(d)
3-A-25-8	3-B-25-8
3-A-25-9	3-B-25-9

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 25, Consideration of Qualifications When Determining Employees' Assignment Rights

3-A-25-1 Only Qualified Employees Have Assignment Rights

An employee released from a competitive level by reduction in force has bump or retreat rights to another position held by an employee with lower retention standing only if the released employee is qualified for assignment. (5 CFR 351.701(a))

B [See paragraph **3-B-25-1** for additional guidance.]

3-A-25-2 Qualifications Standard

① Except as covered in paragraph **3-A-23-8** (waiver of qualifications in offering assignment to a vacant position), a released employee is qualified for assignment to an "**Available Position**" (see paragraph **3-A-19-4** for the definition) if the employee:

(a) Meets OPM-established and requirements for the position, including any minimum educational requirement, and any selective placement factors established by the agency; (5 CFR 351.702(a)(1))

B [See paragraph **3-B-25-2-(a)** for additional guidance.]

(b) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position; (5 CFR 351.702(a)(2))

① • See paragraph **3-A-25-6** below for additional guidance.

(c) Meets any OPM-approved special qualifying condition for the position; (5 CFR 351.702(a)(3)), and,

(d) Clearly demonstrates based on overall background, including "**Recency Of Experience**" when appropriate, the ability to successfully perform the duties of the position upon assignment to it without "**Undue Interruption**" to the activity beyond that normally expected in the orientation of any new but fully qualified employee. (5 CFR 351.702(a)(3))

[See paragraph **3-B-25-2-(d)** for additional guidance.]

- B**
 - Subparagraph **3-A-5-1-(v)** defines "**Undue Interruption**" to generally mean that a qualified employee should not need a significant amount of training and should be able to perform the actual duties of the position within 90 days, although the employee may need orientation in organizational structure, terminology, office policies, etc. (5 CFR 351.203)
 - ①
 - Paragraph **3-A-21-4** covers the looser undue interruption standard that the agency may apply in offering a released employee assignment to a vacant position.
-

3-A-25-3 **Other Qualifications Factors**

- ① Besides the standard covered in paragraph **3-A-25-2** above, an agency must, when applicable, consider other factors in determining whether a released employee is qualified for assignment to another position. (5 CFR 351.702)
- ①
 - (a) Before an agency may assign a released employee to a trainee or developmental position, the employee must meet additional conditions in Section **3-A-26**. (5 CFR 351.702(e))
 - (b) The agency may not consider the sex of a released employee in determining the employee's qualifications for assignment, except for positions where OPM has approved certification of eligibles by sex. (5 CFR 351.702(b))
 - (c) An agency may not deny a released employee assignment rights solely because an employee on leave of absence due to a compensable injury is not physically qualified for a position when the disqualification results from the compensable injury. (5 CFR 351.702(c))
 - Instead, the agency makes a decision on the employee's physical qualifications when the employee requests a return to duty under 5 CFR 353.302 and 5 CFR 353.303. (5 CFR 351.702(c))

- ①
 - See subparagraph **3-A-25-6-(d)** below for additional guidance.

 - ① (d) In determining whether the assignment of a released employee would result in undue interruption to the activity under subparagraph **3-A-25-2-(4)** above, the agency may not use the "**Recency of Experience**" provision to disqualify an employee simply because the employee has not worked for some time in a particular function or occupation. (5 CFR 351.702(a)(4))
 - The agency may use a "**Recency of Experience**" requirement in determining the employee's assignment right only for a position where the agency can demonstrate that this added requirement is appropriate for successful performance on the job. (5 CFR 351.702(a)(4))

 - B** [See paragraph **3-B-25-3-(d)** for additional guidance.]

 - ① (e) Before the agency may restrict assignment of a released employee to certain positions because the employee lacks a security clearance, the agency must consider additional undue interruption issues that are covered in Section **3-A-27**.
-

3-A-25-4 **Asking Employees for a Qualifications Update**

An agency may ask employees to update their qualifications statements prior to a reduction in force and may establish a formal deadline for the receipt of this material. (5 CFR 351.702(a))

- The agency is not obligated to consider material received after the deadline in determining the employee's qualifications for assignment to other positions.

B [See paragraph **3-B-25-4** for additional guidance.]

3-A-25-5 **Making Qualifications Determinations-General Information**

The agency reviews available records (including the employee's Official Personnel Folder, a personal qualifications update, etc.) with information on the released employee's education, training, and

experience to determine whether the employee is qualified for assignment to a position in a different competitive level.

B [See paragraph **3-B-25-5** additional guidance.]

3-A-25-6 **Making Qualifications Determinations-Physical Qualifications Determinations**

The agency determines on the basis of available information whether an employee is physically qualified, with “**Reasonable Accommodation**” if necessary, for a position. (5 CFR 351.702(a)(2))

B [See paragraph **3-B-25-6** for additional guidance.]

(a) An agency may require an employee who is released from a competitive level by reduction in force to undergo a relevant medical evaluation if the employee has potential assignment rights to a position with different: (5 CFR 339.301(d))

- (1) OPM-approved medical standards;
- (2) Specific physical requirements; and/or
- (3) Performance tests (including physical fitness and physical agility).

B [See subparagraph **3-B-25-6-(a)-(3)** for additional guidance on performance tests.]

① • See 5 CFR Part 339 for additional guidance on “**Medical Qualification Determinations.**”

① • See 5 CFR Subpart 339-C for additional guidance on “**Medical Examinations.**”

(b) The “**Undue Interruption**” standard found in subparagraph **3-A-5-1-(v)** may also apply to an agency's decision on whether or not for purposes of reduction in force assignment rights a released employee meets a position's: (5 CFR 351.702(a)(2))

- (1) OPM-approved medical standards;

- (2) Specific physical requirements; and/or
 - (3) Performance tests (including physical fitness and physical agility).
- (c) The agency's determination on whether a released employee is physically qualified for assignment to another position does not always require that the agency conduct a separate medical examination for that purpose.
- (1) The agency may require a physical examination when the agency is considering the employee for a position that is subject to physical or medical standards, is covered by a medical surveillance program established by agency regulations, or has important duties that are more physically arduous than the position previously held.
- ①
- See 5 CFR Subpart 339-C for additional guidance on “**Medical Examinations.**”
- ①
- (2) OPM approval of a decision that an employee is not physically qualified is not required except in the case of employees who are 30 percent or more disabled veterans, as covered in paragraph **3-A-23-7** below.
- (d) An agency may not deny reduction in force assignment rights to an employee who is reached for release from a competitive level during a leave of absence that resulted from a compensable injury solely because the employee is physically disqualified as a result of the compensable injury. (5 CFR 351.702(c)).
- B**
- [See subparagraph **3-B-25-6-(d)** for additional guidance.]
- ①
- Paragraph **3-A-5-6** explains that an employee carried on an agency's rolls because of a compensable injury is subject to reduction in force actions the same as if the injury had not occurred. (5 CFR 353.302)
 - If the employee is separated by reduction in force while the employee is on compensation, the employee loses all restoration rights based upon the compensable injury. (5

CFR 353.302)

- (1) The agency must determine whether the injured employee is entitled to any reduction in force assignment rights, subject to recovery from the injury as provided by 5 U.S.C. 8151 and 5 CFR Part 353. (5 CFR 351.702(c))
- ① (2) The agency also applies the "**Undue Interruption**" standard found in subparagraph **3-A-5-1-(v)** to an agency's decision on whether or not a released employee meets the medical standards, and/or specific physical requirements of a position for purposes of reduction in force assignment rights. (5 CFR 351.702(a)(2))
- ① • See subparagraphs **3-A-25-2-(d)** and **3-A-25-6-(b)** above for additional guidance on how the agency considers undue interruption in evaluating an employee's qualifications for a potential assignment right.

3-A-25-7

Making Qualifications Determinations-Physical Qualifications Determinations for Certain Disabled Veterans

If the agency determines on the basis of available evidence that a veteran with a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position which the employee otherwise would have been offered, the agency must notify OPM of this determination. (5 CFR 351.201(d))

- (a) A veteran is entitled to this procedure if the employee is receiving a compensable service-connected disability of 30% or more, even though the employee may not be a preference eligible in reduction in force competition (for example, the employee is retired from the Armed Forces under a provision that excludes veterans' preference for retention purposes). (5 CFR 351.201(d))
- (b) At the same time, the agency must notify the employee of the determination, the reasons for the finding, and of the employee's right to respond to OPM within 15 days of the notification. (5 CFR 351.201(d))

- (c) The agency must submit the reasons for the determination to OPM, along with the complete medical information on which the determination was based. (5 CFR 351.201(d))
- (d) The agency is also required to demonstrate to OPM that the notification was timely sent to the employee's last known address. (5 CFR 351.201(d))
- (e) The agency may not assign any other person to the position until OPM has made a final determination concerning the physical qualifications of the employee for the position. (5 CFR 351.201(d))
- (f) After OPM has completed its review of the proposed disqualification, it will send its findings to both the agency and the employee. The agency is required to comply with OPM's findings. (5 CFR 351.201(d))
- (g) The agency sends the case to:

U.S. Office of Personnel Management
Associate Director for Employment
Office of Employment Policy, Staffing and
Examining Policy Division
1900 E Street, N.W.
Washington, D.C. 20415

(Telephone: 202-606-0830; Fax: 202-606-0390)

3-A-25-8

Waiver of Qualifications Requirements in Offering Reduction in Force Assignment to Vacant Positions

In offering a released employee assignment to a vacant position, an agency, at its discretion, may waive OPM's qualifications standards and requirements for the position, if the agency determines that the employee: (5 CFR 351.703)

- (a) Meets any minimum education requirement for the position; (5 CFR 351.703(a)), and
- (b) Has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the

position. (5 CFR 351.703(a)(2).

B [See paragraph **3-B-25-8** for additional guidance.]

- The promotion potential of the offered vacant position is not a consideration in offering employee assignment. (5 CFR 351.701(a))
- ① • Section **3-A-21** covers the use of vacant positions in meeting employees' assignment rights.

3-A-25-9

Modification of Qualifications in Offering Positions In Lieu of Separation or In Lieu of Other Reduction in Force Actions

The "**Qualifications Standards Handbook**" provides that an agency, at its discretion, may modify qualifications standards for in-service placement actions if the agency determines that the employee can successfully perform the work of a position even though the employee may not meet all the requirements in the OPM qualification standard.

B [See paragraph **3-B-25-9** for additional guidance.]

- ① • Paragraph **3-A-21-5** covers the use of vacant positions as offers in lieu of separation or other reduction in force actions.
-

Section 26, Use of Trainee and Developmental Positions When Determining Employees' Assignment Rights

Introduction Employees who hold positions in formally designated trainee and developmental positions compete among themselves for retention in a reduction in force, and are not subject to displacement by other employees.

Contents This section contains the following topics:

Topic	See Paragraph
Assignment to a Trainee or Developmental Position	3-A-26-1
Definition of a Trainee or Developmental Position	3-A-26-2
Fully Trained Employees Have No Assignment Rights to a Trainee or Developmental Position	3-A-26-3

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-26-2	3-B-26-2
3-A-26-3-(d)	3-B-26-3-(d)

B This symbol highlights where you can find additional material in Unit 3-B.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 26, Use of Trainee and Developmental Positions When Determining Employees' Assignment Rights

3-A-26-1 Assignment to a Trainee or Developmental Position

An agency must consider three additional qualifications requirements when determining whether a released employee has assignment rights to a position held by a lower-standing employee in a formally-designated trainee or developmental position: (5 CFR 351.702(e))

- (a) Whether the lower-standing employee holds a formally designated trainee or developmental position;
- (b) Whether the higher-standing employee meets all of the conditions for selection and entry into the formally designated trainee or developmental program; and,
- (c) If subparagraphs (a) and (b) above apply, whether undue interruption would result if the higher-standing employee displaced the employee holding the trainee or developmental position.



- These additional conditions apply when the released employee is otherwise qualified for assignment to the position, as covered in Section **3-A-25**.

3-A-26-2 Definition of a Trainee or Developmental Position

A formally designated trainee or developmental position is in a program that:

[See paragraph **3-B-26-2** for additional guidance.]

- (a) Has been designed to meet the agency's needs and requirements for the development of skilled personnel; (5 CFR 351.702(e)(1))
- (b) Has been formally designated, with its provisions announced to employees and supervisors; (5 CFR 351.702(e)(2))

- (c) Is developmental by design, offering planned growth in duties and responsibilities and providing advancement in recognized lines of career progression; (5 CFR 351.702(e)(3)), and
 - (d) Is fully implemented, with the participants chosen through standard selection procedures. (5 CFR 351.702(e)(4))
 - Positions in programs that do not meet all of these conditions are not considered trainee or developmental positions for reduction in force purposes.
 - Positions identified simply as "**Career Ladder**" positions, which do not meet all of the four characteristics covered above, are not considered as trainee or developmental positions for reduction in force purposes.
-

3-A-26-3

Fully Trained Employees Have No Assignment Rights to a Trainee or Developmental Position

OPM's reduction in force regulations do not authorize assignment of a higher-standing employee who has completed a course of training or development, or who is otherwise fully trained, into a position in a formally designed trainee or developmental program because the employee no longer meets the conditions for entry into the program. (5 CFR 351.702(e))

- These restrictions prevent a journeyman from bumping or retreating into an apprenticeship program for the same trade or craft, or for the graduate of an intern program to bump or retreat into the same intern program. (5 CFR 351.702(e))
 - OPM's reduction in force regulations do not specifically bar higher-standing employees from displacing employees in trainee or developmental positions. (5 CFR 351.701(a))
- (a) A released employee may displace a lower-standing employee in a trainee or developmental position only if the released employee is otherwise qualified for assignment to the position, and no "**Undue Interruption**" would result from the placement. (5 CFR 351.702(e))

- (b) In order to potentially be considered qualified for assignment to a trainee or developmental position, an employee must meet all of the conditions required for selection and entry into the program. (5 CFR 351.702(e)(4))
 - (c) In determining whether the employee has assignment rights to a formally-designated trainee or developmental position, the agency must consider whether the offer would result in "**Undue Interruption.**" (5 CFR 351.702(e))
 - See subparagraph **3-A-4-1-(v)** for additional guidance on the definition of "**Undue Interruption.**"
 - (d) Since a formally-designated trainee or developmental program always includes planned career advancement based upon progressive training or rotational assignments, undue interruption would normally result if a higher-standing employee was assigned to a trainee or developmental position after the program started. (5 CFR 351.702(e))
- B** [See subparagraph **3-B-26-3-(d)** for additional guidance.]
- (e) An agency may not make an offer of assignment to a vacant formally-designated trainee or developmental position. (5 CFR 351.702(e)(4))
 - The definition of a formally-designated trainee or developmental position states that "participants (are) chosen through standard selection procedures" (i.e., merit staffing procedures).
-

Section 27, Consideration of Security Clearances When Determining Employees' Assignment Rights

Introduction This section explains that in some situations an employee reached for release from a competitive level because of reduction in force may have an assignment right to another continuing position only if the agency finds that the employee will obtain an appropriate security clearance without undue interruption.

Contents This section contains the following topics:

Topic	See Paragraph
Assignment to a Sensitive Position	3-A-27-1
Agency Must Initiate Clearance Process When It Determines Potential Right of Assignment	3-A-27-2
Work Assignments While Approval of Clearance is Pending	3-A-27-3
Assignment Rights When Clearance Is Denied	3-A-27-4

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

i This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 27, Consideration of Security Clearances When Determining Employees' Assignment Rights

3-A-27-1 Assignment to a Sensitive Position

An agency first determines an employee's qualifications for assignment to a sensitive position in the same manner that it makes qualifications determinations for assignment to other positions (see Section **3-A-25** for information on qualifications for assignment).

- (a) In making a qualifications determination involving assignment to a sensitive position, the agency may consider whether the time period required for completion of a security clearance will result in "**Undue Interruption**" to the activity, and apply that standard in determining whether the released employee has a potential right of assignment.



- "**Undue Interruption**" is defined in subparagraph **3-A-4-1-(v)**, and generally requires that an otherwise qualified employee be able to fully perform the position within 90 days after the assignment is made on the effective date of the reduction in force. (5 CFR 351.203)

- (b) An employee who does not have a right of assignment to a sensitive position because approval of the security clearance would result in undue interruption is not qualified for assignment to that position, but still has potential assignment rights to other positions with the same or a lower representative rate. (5 CFR 351.701(a))

3-A-27-2 Agency Must Initiate Clearance Process When It Determines Potential Right of Assignment

When an agency can satisfy an employee's right of assignment only by an offer of a sensitive position, the agency may not delay or deny the assignment solely because the employee does not have the appropriate security clearance or is in the process of obtaining the clearance.

- When the agency determines that an employee has a

right of assignment to a sensitive position and that the employee's lack of a security clearance will not result in undue interruption, the agency at that time should initiate the actions to obtain the clearance.

3-A-27-3 **Work Assignments While Approval of Clearance is Pending**

While the security clearance is being processed, the agency may assign the employee to the sensitive position on the effective date of the reduction in force. If the agency cannot allow the employee access to classified material or permit the employee to perform the duties of the sensitive position, in some situations the agency may:

- (a) Give the employee nonsensitive duties of the position to perform;
- (b) Detail the employee to a nonsensitive position, or set of duties;
- (c) Grant leave upon the employee's request;
- (d) Suspend the employee as provided in Executive Order 10450 and related authorities specified in 5 CFR Part 732;
- (e) Temporarily give the duties of the sensitive position to another qualified employee with the requisite security clearance; or
- (f) Use a discretionary temporary exception to the regular order of release from a competitive level.

- ① • See paragraphs **3-A-17-9** through **-12** for information on temporary exceptions to the regular order of release.
-

3-A-27-4 **Assignment Rights When Clearance Is Denied**

When an agency can satisfy an employee's right of assignment only by an offer of a sensitive position, but the employee fails the security clearance and is therefore not qualified for assignment to the sensitive position, the agency has two principal options covered in subparagraph (a) and (b) below:

- (a) **Separate** the employee by reduction in force from the position

the employee holds at the time of release from the competitive level because the employee had no right of assignment to the position; (5 CFR 351.603), or

- In this situation, the agency would use a discretionary temporary exception to retain the released employee past the effective date of the reduction in force.
- (b) **Assign** the employee, and then upon the later completion of the security clearance process, the agency may take any appropriate action, including removal, as provided in Executive Order 10450 and related authorities specified in 5 CFR Part 732.
- In this situation, the agency would place the employee procedures into the sensitive position with the security clearance on the reduction in force effective date.
-

Section 28, Administrative Assignment Options

Introduction This section covers three options that an agency may voluntarily adopt to provide employees released from a competitive level with additional potential assignment rights to other continuing positions. This section also covers restrictions on providing released employees with administrative assignment rights.

Contents This section contains the following topics:

Topic	See Paragraph
Assignment Options	3-A-28-1
Bumping in the Same Subgroup	3-A-28-2
Bumping Rights for Employees in Tenure Group III	3-A-28-3
Assignment Rights for Excepted Service Employees	3-A-28-4
Administrative Assignment Rights Must Be Consistent With the Reduction in Force Regulations	3-A-28-5
Restrictions on Administrative Assignment Rights	3-A-28-6

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-28-3	3-B-28-3
3-A-28-4	3-B-28-4
3-A-28-6-(d)	3-B-28-6-(d)
3-A-28-6-(e)	3-B-28-6-(e)

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 28, Administrative Assignment Options

3-A-28-1 Assignment Options

- ① An agency may, at its discretion, adopt any of the three options in paragraphs **3-A-28-2** through **3-A-28-4** below for assigning employees in a reduction in force. (5 CFR 351.705(a))

 - ①
 - These options are subject to the restrictions covered in paragraphs **3-A-28-5** and **-6** below. (5 CFR 351.705(b))
-

3-A-28-2 Bumping in the Same Subgroup

An agency may permit competing employees in tenure group I and group II to displace other employees with lower retention standing within the same subgroup. (5 CFR 351.705(a)(1))

- The agency must determine each employee's "**Same Subgroup Bumping Rights**" consistent with the bumping provisions covered in paragraph **3-A-20-1**. (5 CFR 351.705(a)(1))

 - The agency may use this same subgroup bumping option only to offer a released employee assignment to a position with a representative rate higher than that provided by the usual bumping procedures (displacing an employee on a different competitive level who is in a lower tenure Group, or in a lower subgroup within the same subgroup as the released employee). (5 CFR 351.705(a)(1))
-

3-A-28-3 Bumping Rights for Employees in Tenure Group III

An agency may permit competing employees in tenure group III to "**Bump**" other employees in tenure group III. (5 CFR 351.705(a)(2))

- B** [See paragraph **3-B-28-3** for additional guidance.]

- (a) Unless provided by the agency, tenure group III employees have no right of assignment under the reduction in force

regulations. (5 CFR 351.705(a)(2))

- (b) An agency may not provide a group III employee with "**Retreat**" rights. (5 CFR 351.705(a)(2))
-

3-A-28-4 **Assignment Rights for Excepted Service Employees**

An agency may provide "**Bump**" and "**Retreat**" rights for competing employees in the excepted service to other excepted positions filled under the same appointing authority as the position held by the released employee. (5 CFR 351.705(a)(3))

B [See paragraph **3-B-28-4** for additional guidance.]

- (a) Unless provided by the agency, excepted employees have no right of assignment under the reduction in force regulations. (5 CFR 351.701(a); 5 CFR 351.705(a)(3))
- (b) An agency may provide an excepted employee with assignment rights only to a position filled under the same appointing authority as the position held by the released employee. (5 CFR 351.705(a)(3))
-

3-A-28-5 **Requirement That Administrative Assignment Rights Must Be Consistent With the Reduction in Force Regulations**

① If the agency offers employees assignment rights under any of the three administrative assignment options covered in paragraphs **3-A-26-2** through **-4** above, the provisions must be consistent with OPM's reduction in force regulations. (5 CFR 351.705(b)(1))

- The agency must apply the administrative assignment provisions uniformly and consistently in any one reduction in force. (5 CFR 351.705(b)(2))
-

3-A-28-6 **Restrictions on Administrative Assignment Rights**

① If the agency offers employees assignment rights under any of the three administrative assignment options covered in paragraphs **3-A-28-2** through **-4** above or under authority, the agency may not

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

authorize:

- (a) Displacement of an employee, except by an employee with higher retention standing; (5 CFR 351.705(b)(1))
- (b) Assignment of an other-than-full-time employee to a full-time position, except as an offer of assignment to a vacant position in lieu of separation by reduction in force; (5 CFR 351.705(b)(3))
- (c) Assignment of a full-time employee to an other-than-full-time position, except as an offer of assignment to a vacant position in lieu of separation by reduction in force; (5 CFR 351.705(b)(4))
- (d) Assignment of an employee in the competitive service to a position in the excepted service; (5 CFR 351.705(b)(5)), or

B [See subparagraph **3-B-28-6-(d)** for additional guidance.]

- (e) Assignment of an employee in the excepted service to a position in the competitive service. (5 CFR 351.705(b)(6))

B [See subparagraph **3-B-28-6-(e)** for additional guidance.]

Section 29, Reduction in Force Notices to Employees

Introduction This section covers the reduction in force notice that an agency must issue before an employee is released from a competitive level. Specifically, this section covers the minimum time period for issuing a reduction in force notice, as well as the content of the notice.

Contents This section contains the following topics:

Topic	See Paragraph
Definition of a Specific Reduction in Force Notice	3-A-29-1
Certification of Expected Separation	3-A-29-2
Informational Notices	3-A-29-3
Content of Specific Reduction in Force Notice	3-A-29-4
Requirement to Provide Employee With a Copy of OPM's Reduction in Force Regulations	3-A-29-5
Additional Notice Requirements When 50 or More Employees Are Separated By Reduction in Force From a Competitive Area	3-A-29-6
Notice To Bargaining Unit Representative	3-A-29-7
Minimum 60-Day Reduction in Force Notice for All Employees	3-A-29-8
Former Minimum 120-Day Reduction in Force Notice For Certain Defense Employees	3-A-29-9
New Notice Required For More Severe Reduction in Force Action	3-A-29-10
No Maximum Reduction in Force Notice	3-A-29-11
Requesting OPM Approval For a Shorter Reduction in Force Notice Period	3-A-29-12
Same Notice Requirements When Using An Individual Exception to the Reduction in Force Order of Release	3-A-29-13
Computing the Reduction in Force Notice Period	3-A-29-14
Amended Reduction in Force Notice-Later Effective Date	3-A-29-15

Continued on next page

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
 Restructuring Information Handbook Module 3
 Reduction in Force
 Unit A, Required Procedures (December 2002)

Contents (continued)

Topic	See Paragraph
Amended Reduction in Force Notice-Earlier Effective Date	3-A-29-16
Amended Reduction in Force Notice-Better Offer of Assignment	3-A-29-17
Expiration of Reduction in Force Notice-Implementation of Action	3-A-29-18
Expiration of Reduction in Force Notice-Implementation of Less Severe Action	3-A-29-19
Employee's Duty Status During Reduction in Force Notice Period	3-A-29-20

Additional Information

When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-29-1-(b)	3-B-29-1-(b)
3-A-29-1-(c)	3-B-29-1-(c)
3-A-29-4-(b)	3-B-29-4-(b)
3-A-29-8-(a)	3-B-29-8-(a)
3-A-29-11	3-B-29-11
3-A-29-20-(a)	3-B-29-20-(a)
3-A-29-20-(c)	3-B-29-20-(c)

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 29, Reduction in Force Notices to Employees

3-A-29-1

Definition of a Specific Reduction in Force Notice

A specific reduction in force notice is a written communication from an agency official to an individual employee stating that the employee will be reached for a reduction in force action. (5 CFR 351.801(a)(1))

- ①
 - Subparagraph **3-A-4-1-(I)** also covers this definition of "Notice."
- (a) As used in this Section, "**Reduction in Force Notice**" means a specific written reduction in force notice. (5 CFR 351.801(a)(1))
- (b) An agency is required to issue a reduction in force notice only for a reduction in force reason and action.

B [See subparagraph **3-B-29-1-(b)** for additional guidance.]

- ①
 - Subparagraph **3-A-5-4-(a)** covers reduction in force actions, while subparagraph **3-A-5-4-(b)** covers reasons for a reduction in force.
- (c) The reduction in force notice serves as the agency's initial burden of proof in a reduction in force appeal or grievance).

B [See subparagraph **3-B-29-1-(c)** for additional guidance.]

- ①
 - (d) Unit 3-D ("**Samples**") contains sample reduction in force and other downsizing-related notices.
 - An agency may use the OPM sample notices as a reference in developing a specific reduction in force notice that is applicable to the agency particular situation.

3-A-29-2

Certification of Expected Separation

An agency may issue an employee a "**Certification of Expected Separation**" (**CES**) to assist the employee in pre-reduction in force placement assistance and early outplacement assistance. (5 CFR 351.807)



- Section **3-A-32** covers the **CES** option.
-

3-A-29-3

Informational Notices

At its discretion, an agency may issue an advance informational notice to alert employees that a reduction in force may be necessary.

- An informational notice does not count toward the mandatory notice period for a specific reduction in force notice.
 - An informational notice does not satisfy an employee's right to a specific reduction in force notice.
 - OPM's reduction in force regulations do not provide any requirements for an agency's optional informational notice.
-

3-A-29-4

Content of Specific Reduction in Force Notice

A specific reduction in force notice must contain the following information: (5 CFR 351.802)

- (a) What reduction in force action the agency is taking (for example, the employee will be separated, demoted, or furloughed for more than 30 days); (5 CFR 351.802(a)(1))
- (b) The reasons for the reduction in force action; (5 CFR 351.802(a)(1))

B

[See subparagraph **3-B-29-4-(b)** for additional guidance.]

- (c) The effective date of the action; (5 CFR 351.802(a)(1))
- (d) The employee's competitive area, competitive level, retention subgroup, service date, and annual performance ratings of record received during the last 4 years before the agency issues reduction in force notices, or freezes ratings used to determine employees' retention standing; (5 CFR 351.802(a)(2))

- (e) The place where the employee may inspect the regulations and records pertinent to his or her case; (5 CFR 351.802(a)(3))
 - (f) If applicable, the reasons for retaining a lower-standing employee under a mandatory exception (5 CFR 351.606), a permissive continuing exception (5 CFR 351.607), or a permissive temporary exception (5 CFR 351.608); (5 CFR 351.802(a)(3))
- ①
- For additional guidance on exceptions to the order of release, see paragraphs **3-A-17-5** through **-15**.
- (g) If applicable, explain that employees are being separated under the "**Liquidation Provision**" without regard to retention standing within the subgroup, and the date the liquidation reduction in force will be completed; (5 CFR 351.605), and
- ①
- For additional guidance on the "**Liquidation Provision**" in reduction in force, see paragraphs **3-A-17-11** and **-12**.
- (h) If applicable, the employee's right to appeal the reduction in force action to the Merit Systems protection Board under the provisions of the Board's regulations, or to grieve the action under a negotiated grievance procedure; (5 CFR 351.802(a)(6)).

3-A-29-5

Requirement to Provide Employee With a Copy of OPM's Reduction in Force Regulations

When an agency issues a specific reduction in force notice to an employee, the agency must, at the employee's request, provide the employee with a copy of OPM's retention regulations found in 5 CFR Part 351. (5 CFR 351.802(b))

3-A-29-6

Additional Notice Requirements When 50 or More Employees Are Separated By Reduction in Force From a Competitive Area

When an agency separates 50 or more employees from a competitive area, the agency has additional notice requirements to OPM, and to other Federal and nonfederal organizations: (5 CFR 351.804(b) and (c))

- ①
- Paragraphs **3-A-30-4** through **-8** contain information on these requirements.
-

3-A-29-7

Notice To Bargaining Unit Representative

At the same time the agency issues a reduction in force notice to an employee, the agency must also notify the exclusive representative(s), as defined in subparagraph 5 U.S.C. 7103(a)(16), of each affected employee at the time of the notice. (5 CFR 351.801(a)(3))

- This notification requirement does not relieve the agency of any obligations under the Federal Labor Management Relations Statute, or an applicable collective bargaining agreement.
-

3-A-29-8

Minimum 60-Day Reduction in Force Notice for All Employees

An agency must give each competing employee at least 60 days specific written notice before the effective date of the reduction in force action. (5 U.S.C. 3502(d)(1)(A); 5 CFR 351.801(a)(1))

- (a) The 60 days minimum notice period applies to all reduction in force actions, including separation, demotion, and furlough. (5 CFR 351.801(a)(1))

B [See subparagraph **3-B-29-9-(a)** for additional guidance.]

- (b) The 60 days notice period is a statutory requirement; Subparagraph 5 U.S.C. 3502(d)(1)(A) requires a minimum 60 days minimum notice period before a competing employee is reached for a reduction in force action.
- (c) An agency, as a matter of its own policy, may provide for a longer minimum reduction in force notice period.
- (d) An agency may use a "**Permissive Temporary Exception to Satisfy a Government Obligation**" to the regular order of release in order to provide an employee with a minimum reduction in force notice when the agency was otherwise unable to give a timely notice to the employee. (5 CFR 351.608(c))

- ①
 - See paragraphs **3-A-17-13** and **3-B-17-13** for additional guidance on using a "**Permissive Temporary Exception to Satisfy a Government Obligation**" in order to provide an employee with a minimum reduction in force notice. (5 CFR 351.608(c))
-

3-A-29-9 **Former Minimum 120-Day Reduction in Force Notice For Certain Defense Employees**

From January 20, 1993, through January 31, 2000, employees of the Department of Defense (DoD) were entitled to a minimum 120 days reduction in force notice when an activity was separating a significant number of employees from a competitive area.

- The legislation requiring this additional notice period expired January 31, 2000.
 - On May 3, 2000, at 65 FR 25623, OPM published final regulations in the Federal Register that removed references to the obsolete requirement for the minimum 120-day notice.
-

3-A-29-10 **New Notice Required For More Severe Reduction in Force Action**

An employee is entitled to a new reduction in force notice, and a new notice period of at least 60 days, only if the agency takes a more severe reduction in force action than stated in the prior notice to the employee. (5 CFR 351.805(a))

- A change from a one-grade demotion to separation is an example of a more severe reduction in force action.
- (a) An agency may use a "**Permissive Temporary Exception**" to the regular order of release in order to meet the minimum notice requirement when the agency issues a new notice to an employee because of a more severe action. (5 CFR 351.608(c))

- ①
 - See paragraphs **3-A-17-13** and **3-B-17-13** for additional guidance on using a "**Permissive Temporary Exception**" in order to provide an employee with a minimum reduction in force notice. (5 CFR 351.608(c))

- (b) An employee is also entitled to a new reduction in force notice, and a new notice period of at least 30 days, if the agency takes a more severe reduction in force action than stated in the prior notice to the employee, and the agency has obtained OPM approval for a shorter notice period under subparagraph 5 CFR 351.801(a))
 - (c) A new 60-day notice period is not required when an agency takes the same, or a less severe, reduction in force action, than specified in the prior notice. (5 CFR 351.805(a))
-

3-A-29-11 **No Maximum Length of Reduction in Force Notice**

OPM's regulations do define a maximum period for reduction in force notices. (5 CFR 351.801(a)(1))

B [See paragraph **3-B-29-11** for additional guidance.]

3-A-29-12 **Requesting OPM Approval For a Shorter Reduction in Force Notice Period**

An agency may request OPM to authorize a notice period of less than the minimum standard when a reduction in force is caused by unforeseeable circumstances. (5 CFR 351.801(b))

- ① • Section **3-A-30** explains how an agency submits a request for a shorter reduction in force notice period to OPM.
-

3-A-29-13 **Same Notice Requirements When Using An Individual Exception to the Reduction in Force Order of Release**

When an agency makes an individual exception to the regular reduction in force order of release under a "**Mandatory, Continuing, or Permissive Exception**," the retained employee is entitled to a specific written notice at least 60 days before the effective date of the reduction in force. (5 CFR 351.801(d)).

- ① • Paragraph **3-A-17-5** covers a "**Mandatory Exception**" to

- ① the regular reduction in force order of release;
 - Paragraphs **3-A-17-6** and **-7** cover a "**Permissive Continuing Exception**" to the regular reduction in force order of release; and
- ①
 - Paragraphs **3-A-17-9** through **-11** cover a "**Permissive Temporary Exception**" to the regular reduction in force order of release.
- (b) The implementation date of a reduction in force action for an employee covered by a permissive continuing exception, or a permissive temporary exception, is the date on which the exception expires.
- ①
 - See paragraphs **3-A-17-7** and **-11** for additional guidance.
- (b) When an agency makes an individual exception to the regular reduction in force order of release, the retained employee is entitled to a specific written notice at least 30 days before the effective date of the reduction in force if the agency has obtained OPM approval for a notice period shorter than the minimum standard. (5 CFR 351.801(d))
- ①
 - See Section **3-A-30** for additional guidance.
- (c) The agency may not continue the reduction in force notice period beyond the employee's retention period. (5 CFR 351.801(d))

3-A-29-14

Computing the Reduction in Force Notice Period

The notice period begins the day after the employee receives the reduction in force notice. (5 CFR 351.801(c))

- (a) The agency does not count the date the employee receives the notice, or the effective date of the reduction in force action, in computing the minimum reduction in force notice period. (5 CFR 351.801(c); 5 CFR 211.102(b)(3))
- (b) An agency may not count a Saturday, Sunday, or legal holiday

as the last day of the minimum notice period. (5 CFR 210.102(b)(3))

3-A-29-15 **Amended Reduction in Force Notice-Later Effective Date**

An agency must give an employee an amended reduction in force notice if the reduction in force is changed to a later date. (5 CFR 351.805(b))

- (a) The amended reduction in force notice references back to the prior notice, and contains updated information on the employee's retention standing (such as the employee's revised service computation date). (5 CFR 351.805(b))
 - (b) A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates. (5 CFR 351.805(b))
-

3-A-29-16 **Amended Reduction in Force Notice-Earlier Effective Date**

An agency may not take a reduction in force action before the effective date in the notice given to the employee. (5 CFR 351.804(b))

- To take a reduction in force action before the effective date in the notice, the agency must cancel the reduction in force notice and issue the employee a new minimum 60-day reduction in force notice. (5 CFR 351.804(b))
-

3-A-29-17 **Amended Reduction in Force Notice-Better Offer of Assignment**

An agency must give an employee an amended reduction in force notice and allow the employee to decide whether to accept a better offer of assignment to a position with a higher representative rate that becomes available before, or on, the effective date of the reduction in force. (5 CFR 351.805(c))

- (a) The agency must give the employee an amended notice

regardless of whether the employee has accepted or rejected a previous offer. (5 CFR 351.805(c))

- (b) The employee is still entitled to only one offer of assignment and may be separated by reduction in force if the employee rejects the better offer, or fails to reply to the better offer within a reasonable time. (5 CFR 351.603)
-

3-A-29-18 **Expiration of Reduction in Force Notice-Implementation of Action**

A reduction in force notice expires when it is followed by the reduction in force action specified in the notice. (5 CFR 351.804(a))

3-A-29-19 **Expiration of Reduction in Force Notice-Implementation of Less Severe Action**

A reduction in force notice expires when it is followed by a reduction in force action that is less severe than specified in the prior notice, or in an amendment to the notice, before the agency takes the action. (5 CFR 351.804)

3-A-29-20 **Employee's Duty Status During Reduction in Force Notice Period**

When in an emergency the agency lacks work or funds for all or part of the notice period, the agency may, with or without the employee's consent, place the employee:

- (a) On annual leave; (5 CFR 351.806)

B [See subparagraph **3-B-29-20-(a)** for additional guidance.]

- (b) In a leave without pay status; (5 CFR 351.806), or

- (c) In a nonpay status (see subparagraph **3-B-29-20-(c)** for more information). (5 CFR 351.806)

B [See subparagraph **3-B-29-20-(c)** for additional guidance.]

- When possible, the agency must retain the employee on active duty during the reduction in force notice period. (5

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

CFR 351.806)

Section 30, Additional Notice Requirements When Employees Are Separated By Reduction in Force

Introduction This section covers the additional information that an agency must provide to each employee who receives a notice of reduction in force separation. This section also covers special notice requirements that the agency must provide to other Federal and to non-Federal organizations when 50 or more employees in a competitive area receive reduction in force separation notices.

Contents This section contains the following topics:

Topic	See Paragraph
Additional Notice Requirements	3-A-30-1
More Information for Employees	3-A-30-2
Notify Unemployment Insurance Service	3-A-30-3
Notice to Other Organizations When 50 or More Employees Receive Reduction in Force Separation Notices-Summary	3-A-30-4
Content of Notifications to Other Organizations	3-A-30-5
Notify State Dislocated Worker Program	3-A-30-6
Notify Local Governmental Official	3-A-30-7
Notify OPM	3-A-30-8

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>
--

Section 30, Additional Notice Requirements When Employees Are Separated By Reduction in Force

3-A-30-1 Additional Notice Requirements

- ① The notice requirements in this Section are in addition to the reduction in force notice provisions covered in Section **3-A-29**. (5 CFR 351.803(b))
-

3-A-30-2 More Information for Employees

When an agency separates an employee by reduction in force, the agency must provide the employee (either in or with the reduction in force notice, or as a separate supplemental notice to the released employee), with information on: (5 CFR 351.802(a)(5); 5 CFR 351.803(a))

- (a) Severance pay if the displaced employee is eligible, including an estimate; (5 CFR 351.803(a))
 - (b) Benefits available through the State under the Workforce Investment Act of 1998 (Public Law 105-277);
 - (c) Authorizing the release of the displaced employee's resume to potential employers.
- ①
- Section **3-D-5** in Unit 3-D ("**Samples**") contains a sample release authorization.
- (d) Registration for the "**Reemployment Priority List**";
- ①
- Restructuring Information Handbook Module 6 covers the "**Reemployment Priority List**."
- (e) The agency's "**Career Transition Assistance Plan**" (**CTAP**) for local surplus and displaced employees;
- ①
- Restructuring Information Handbook Module 7 covers the "**Career Transition Assistance Plan**."

(f) **"The Interagency Career Transition Assistance Plan" (ICTAP)** for displaced employees; and



- Restructuring Information Handbook Module 8 covers the **"Interagency Career Transition Assistance Plan."**

(g) How to apply for unemployment insurance through the appropriate State office; (5 CFR 351.803(a))

3-A-30-3

Notify Unemployment Insurance Service

The Department of Labor requires that agencies advise it when separating 50 or more employees in a commuting area by reduction in force.

- The agency should provide this information as far in advance as possible to:

Unemployment Insurance Service
Employment and Training Administration-TEUMI
United States Department of Labor
200 Constitution Avenue, M1
Washington, DC 20210

3-A-30-4

Notice to Other Organizations When 50 or More Employees Receive Reduction in Force Separation Notices-Summary

When an agency separates 50 or more employees from a competitive area, the agency has additional notice requirements to OPM, and to other Federal and nonfederal organizations: (5 CFR 351.804(b) and (c))



- The agency must send this additional notice to the three organizations listed in paragraphs **3-A-30-6** through **-8** at the same time it issues the separation notices to the employees. (5 CFR 351.803(c))
-

3-A-30-5

Content of Notifications to Other Organizations



The additional notices to the three organizations listed in paragraphs

3-A-30-6 (State dislocated worker program), **3-A-30-7** (local governmental unit) and **3-A-30-8** (OPM Service Center) must include: (5 CFR 351.803(c))

- (a) The number of employees that the agency will separate by reduction in force and, if applicable, broken down by geographic area or other basis specified by OPM; (5 CFR 351.803(c)(1))
 - (b) The effective date of the separations; (5 CFR 351.803(c)(2)), and
 - (c) Any other information required by OPM, including information needs identified from consultation between OPM and the Department of Labor to facilitate delivery of placement and related services. (5 CFR 351.803(c)(3))
-

3-A-30-6

Notify State Dislocated Worker Program

- ① The agency must provide a notice with the information in paragraph **3-A-30-5** above to the appropriate State program authorized by the Workforce Investment Act of 1998. (5 CFR 351.803(b)(1))
-

3-A-30-7

Notify Local Governmental Official

- ① The agency must provide a notice with the information in paragraph **3-A-30-5** above to the chief elected governmental official of local government(s) within which 50 or more employees will separate by reduction in force. (5 CFR 351.803(b)(2))
-

3-A-30-8

Notify OPM

The agency should provide the OPM Service Center with jurisdiction over the worksite with the information in covered in paragraph **3-A-30-5** above. (5 CFR 351.803(b)(3))

Section 31, Requesting an Exception to the Minimum Reduction in Force Notice Period

Introduction This section covers the procedures an follows to request an OPM exception to the general statutory requirement for a 60 days minimum reduction in force notice period.

Contents This section contains the following topics:

Topic	See Paragraph
OPM Approval Required for Reduction in Force Notice of Less Than 60 Days	3-A-31-1
Request From Agency's Headquarters for OPM Approval of Reduction in Force Notice of Less Than 60 Days	3-A-31-2
Content of Agency's Request to OPM	3-A-31-3
OPM Address For Submitting a Request	3-A-31-4

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 31, Requesting an Exception to the Minimum Reduction in Force Notice Period

3-A-31-1 OPM Approval Required for Reduction in Force Notice of Less Than 60 Days

When a reduction in force is caused by unforeseeable circumstances, an agency may request OPM to authorize a notice period of less than 60 days. (5 CFR 351.801(b))

- The agency is still required to provide at least 30 full days notice before the effective date of the reduction in force action. (5 CFR 351.801(b))
-

3-A-31-2 Request From Agency's Headquarters for OPM Approval of Reduction in Force Notice of Less Than 60 Days

An agency's request for an exception to the minimum 60-day specific notice period must be signed by the head of the agency or a specific designee in the headquarters. (5 CFR 351.801(b))

3-A-31-3 Content of Agency's Request to OPM

An agency's request to OPM for a shorter reduction in force notice period must cover:

- (a) Identification of the organization and geographic location for which an exception is requested; (5 CFR 351.801(b)(1))
- (b) The effective date of the reduction in force; (5 CFR 351.801(b)(1))
- (c) The number of employees who will be issued reduction in force notices; (5 CFR 351.801(b)(1))
- (d) The number of days that the agency requests the notice period be shortened; (5 CFR 351.801(b)(2))
- (e) The reasons why a shorter reduction in force notice period is

needed; (5 CFR 351.801(b)(3)), and

- (f) The name, telephone number, and title of an agency contact person in the event OPM needs additional information on the request. (5 CFR 351.801(b)(4))
-

3-A-31-4

OPM Address For Submitting a Request

Agencies must submit a request for a shorter reduction in force notice period to:

U.S. Office of Personnel Management
Associate Director for Employment
Room 6566
1900 E Street, NW
Washington, DC 20415

- An agency may FAX a request to:

U.S. Office of Personnel Management
Office of Employment Policy
Workforce Restructuring Policy Division
Room 6551
Washington, DC 20415

- FAX- 202-606-2329; telephone- 202-606-0960.
-

Section 32, Certification of Expected Separation

Introduction This section covers the “Certification of Expected Separation” (CES). At its option, an agency may issue a CES to an employee who is likely to be reached for reduction in force separation within 6 months. The CES provides a surplus employee with selection priority within the agency, and with early eligibility for programs administered by the Department of Labor.

Contents This section contains the following topics:

Topic	See Paragraph
Purpose of Certification of Expected Separation	3-A-32-1
Maximum Time Limit for Certification of Expected Separation	3-A-32-2
Conditions for Agencies to Use the Certification of Expected Separation	3-A-32-3
Content of Certification of Expected Separation	3-A-32-4
A Certification of Expected Separation Is Not a Reduction in Force Notice	3-A-32-5
No Right To Appeal a Certification of Expected Separation	3-A-32-6
Employees' Eligibility for Additional Outplacement Assistance After Receiving a Certification Of Expected Separation	3-A-32-7

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.
--

Section 32, Certification of Expected Separation

3-A-32-1

Purpose of Certification of Expected Separation

The "**Certification of Expected Separation**" (**CES**) allows otherwise eligible employees to participate in dislocated worker programs under the State "**Workforce Investment Act**" programs administered by the U.S. Department of Labor. (5 CFR 351.807(a))

- Public Law 105-220, approved August 7, 1998, authorized the "**Workforce Investment Act.**"
-

3-A-32-2

Maximum Time Limit for Certification of Expected Separation

An agency may issue a Certification of Expected Separation up to 6 months prior to the expected effective date of a reduction in force. (5 CFR 351.807(a))

3-A-32-3

Conditions for Agencies to Use the Certification of Expected Separation

At its option, an agency may issue a Certification of Expected Separation to a competing employee only when the agency determines: (5 CFR 351.807(b))

- (a) There is a good likelihood that the employee will be separated by reduction in force; (5 CFR 351.807(b)(1))
 - An agency may not issue a Certification of Expected Separation on the basis of an employee's possible separation as the result of a geographic move resulting from reassignment, transfer of function, realignment, change of duty station, or similar action.
- (b) Employment opportunities in the same or similar position in the local commuting area are limited or nonexistent; (5 CFR 351.807(b)(2))
- (c) Placement opportunities within the employee's own or other

Federal agencies in the local commuting area are limited or nonexistent; (5 CFR 351.807(b)(3)), and

- (d) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire. (5 CFR 351.807(b)(4))
-

3-A-32-4 **Content of Certification of Expected Separation**

A Certification of Expected Separation must: (5 CFR 351.807(c))

- (a) Be addressed to each individual eligible employee;
 - (b) Be signed by an appropriate agency official;
 - (c) Contain the expected date of reduction in force;
 - ① (d) Contain a statement that each factor covered in paragraph **3-A-29-3** has been met; and,
 - (e) Contain a description of available Job Training Partnership Act Programs, the agency's Reemployment Priority List, and OPM's Interagency Placement Program,
 - ①
 - Unit 3-D ("**Samples**") contains a sample Certification of Expected Separation and other downsizing-related notices.
-

3-A-32-5 **A Certification of Expected Separation Is Not a Reduction in Force Notice**

An agency may not use a Certification of Expected Separation to meet any of the reduction in force notice requirements covered in Section **3-A-29**. (5 CFR 351.807(d)).

3-A-32-6 **No Right To Appeal a Certification of Expected Separation**

An employee may not appeal an agency determination of eligibility for a Certification of Expected Separation to OPM, or to the Merit Systems Protection Board. (5 CFR 351.807(e))

3-A-32-7 **Employees' Eligibility for Additional Outplacement Assistance
After Receiving a Certification Of Expected Separation**

An agency may provide selection priority to an employee who has received a Certification of Expected Separation through the:

- (a) **"Career Transition Assistance Plan";** (5 CFR 330.604(i)(3)),
and
 - ① • Restructuring Information Handbook Module 7 covers the
 "Career Transition Assistance Plan."

 - ① (b) **"Reemployment Priority List."** (5 CFR 330.203(a)(3))
 - Restructuring Information Handbook Module 6 covers the
 "Reemployment Priority List."
-

Section 33, Reduction in Force Appeals

Introduction This section covers the basic right of an employee who is separated or demoted to file a reduction in force appeal to the Merit Systems Protection Board.

Contents This section contains the following topics:

Topic	See Paragraph
Basic Employee Right To Appeal a Reduction in Force Action	3-A-33-1
Time Limits for Filing an Appeal	3-A-33-2
Notice of Appeal Rights	3-A-33-3
Corrective Action on Appeal-Action Reversed or Modified	3-A-33-4
Corrective Action on Appeal-Action Reversed or Modified With Interim Relief	3-A-33-5

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-33-1-(d)	3-B-33-1-(d)
3-A-33-4	3-B-33-4
3-A-33-5	3-B-33-5

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

<p>① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.</p>

Section 33, Reduction in Force Appeals

3-A-33-1 Basic Employee Right To Appeal a Reduction in Force Action

An employee has a basic right to file a reduction in force appeal to the Merit Systems Protection Board (MSPB) under the provisions of the Board's regulations if, under authority of OPM's 5 CFR Part 351 reduction regulations, the employee was:

- (a) Separated; (5 CFR 351.901); (5 CFR 1201.3(a)(10))
- (b) Demoted; (5 CFR 351.901); (5 CFR 1201.3(a)(10)), or
- (c) Furloughed for more than 30 days. (5 CFR 351.901); (5 CFR 1201.3(a)(10))
- (d) An employee who accepts an offer of assignment to another position at the same representative rate may not appeal the reduction in force action to the Board. (5 CFR 351.901); (5 CFR 1201.3(a)(10))

B [See subparagraph **3-B-33-1-(d)** for additional guidance.]

ⓘ (e) As covered in Section **3-A-34**, an employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude reduction in force must use the negotiated grievance procedure, and may not appeal the reduction in force action to the Board unless, as provided in 5 U.S.C. § 7121(d), the employee alleges discrimination. (5 CFR 1201.3(c))

ⓘ • Paragraphs **3-A-34-3** through **-5** cover this exception.

3-A-33-2 Time Limits for Filing an Appeal

An employee may file an appeal with the Board during the 30-day period beginning with the day after the effective date of the action being appealed. (5 CFR 1201.22(b))

- (a) The Board will not accept an appeal that is filed on or before the effective date of the action. (5 CFR 1201.3(a)(10))

- (b) The Board has the right to waive the 30-day time period for filing an appeal if the agency did not advise the employee of the right to appeal an action, if the agency employee coerced the employee into separation or downgrading, or a similar reason.
-

3-A-33-3

Notice of Appeal Rights

When an agency issues a decision notice to an employee on a matter appealable to MSPB, the agency must provide the employee with the following information:

- (a) Notice of the time limits for appealing to the Board; (5 CFR 1201.21(a))
- (b) Any applicable limits on the employee's right to file an appeal because of a bargaining agreement; (5 CFR 1201.21(a))
- (c) If (b) is applicable, the right of the employee to elect whether to file a reduction in force appeal to the Board based on discrimination in lieu of a grievance; (5 CFR 1201.21(a))
- (d) Notice of any applicable right of the employee to file a grievance. (5 CFR 1201.21(d))
- (e) The address of the appropriate Board office where the employee should file the appeal; (5 CFR 1201.21(a))
- (f) A copy, or access to a copy, of the Board's regulations found in 5 CFR part 1201; (5 CFR 1201.21(b))
- Agencies should consult the Board's current regulations (found in 5 CFR Part 1201) prior to a reduction in force in order to have necessary information on the appeals process ready for distribution to affected employees.
- (d) A copy of the appeal form found in 5 CFR Part 1201-Appendix I of the Board's regulations. (5 CFR 1201.21(c)).
- The appeal form is "**Optional Form 283, MSPB.**"
 - The address for the Board's website, with complete information on filing an appeal, is <www.mspb.gov>.

3-A-33-4 **Corrective Action on Appeal-Action Reversed or Modified**

In adjudicating a reduction in force appeal, the Board determines whether the agency has correctly applied OPM's regulations; if the Board finds an error, the Board may direct appropriate corrective action. (5 CFR 1201.111(a)(5))

B [See paragraph **3-B-33-4** for additional guidance.]

3-A-33-5 **Corrective Action on Appeal-Action Reversed or Modified With Interim Relief**

If the appellant is the prevailing party in an initial appeal to the Board, the initial decision provides interim relief under 5 U.S.C. 7701(b)(2) to the appellant unless the Board's administrative judge determines that the granting of interim relief is not appropriate. (5 CFR 1201.111(c))

- Interim relief is effective upon the date of the initial decision, and remains in effect until the date of the final order of the Board on any petition for review. (5 CFR 1201.111(c))

B [See paragraph **3-B-33-5** for additional guidance.]

Section 34, Reduction in Force Grievances

Introduction This section covers the basic right of certain employees to file a reduction in force grievance under an applicable collective bargaining agreement. This section also covers the conditions under which an employee with a right to file a grievance may instead elect to file a reduction in force appeal to the Merit Systems Protection Board.

Contents This section contains the following topics:

Topic	See Paragraph
Basic Employee Right To Grieve a Reduction in Force Action	3-A-34-1
Time Limits for Filing a Grievance	3-A-34-2
General Exception to the Basic Employee Right to Grieve a Reduction in Force Action	3-A-34-3
Exception to the Basic Employee Right to Grieve a Reduction in Force Action-Election of Procedure	3-A-34-4
Exception to the Basic Employee Right to Grieve a Reduction in Force Action-Time Limits for Election	3-A-34-5
Corrective Action on Grievance	3-A-34-6

Additional Information When appropriate, Restructuring Information Handbook Module 3, Unit B (Guidance) has additional information on material in Unit 3-A.

To find additional information on these key paragraphs in Unit 3-A,	In Unit 3-B see paragraph:
3-A-34-4	3-B-34-4
3-A-34-5	3-B-34-5

<p>B This symbol highlights where you can find additional material in Unit 3-B.</p>
--

U.S. Office of Personnel Management-Division for Strategic Human Resources Policy
Restructuring Information Handbook Module 3
Reduction in Force
Unit A, Required Procedures (December 2002)

① This symbol guides you toward more general references on the subject in Module 3 or in other Modules.

Section 34, Reduction in Force Grievances

3-A-34-1 Basic Employee Right To Grieve a Reduction in Force Action

An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude reduction in force must use the negotiated grievance procedure and may not appeal the reduction in force action to the Merit Systems Protection Board. (5 CFR 1201.3(c)(1))

- ①
 - Paragraph **3-A-34-3** below covers an exception to the basic right of filing a grievance on a reduction in force action.
-

3-A-34-2 Time Limits for Filing a Grievance

The time limits for filing a grievance under a negotiated grievance procedure are spelled out in the applicable collective bargaining agreement. (5 CFR 1201.3(c)(1))

3-A-34-3 General Exception to the Basic Employee Right to Grieve a Reduction in Force Action

- ① Section 5 U.S.C. 7121(d) provides an exception to paragraph **3-A-33-1** above and the basic right of an eligible employee to only file a grievance on a reduction in force action. (5 CFR 1201.3(c)(2))
 - This exception gives an employee the option of filing a reduction in force appeal to the Board, in lieu of filing a grievance under a negotiated grievance procedure, when the employee raises an allegation of discrimination under 5 U.S.C. 2302(b)(1). (5 CFR 1201.3(c)(2))
-

3-A-34-4 Exception to the Basic Employee Right to Grieve a Reduction in Force Action-Election of Procedure

The agency must advise each employee having the right to grieve a reduction in force matter under a negotiated grievance procedure that

the employee has the option of filing a reduction in force appeal to the Board when a discrimination issue is raised. (5 CFR 1201.3(c)(2))

B [See paragraph **3-B-34-4** for additional guidance.]

3-A-34-5 **Exception to the Basic Employee Right to Grieve a Reduction in Force Action-Time Limits for Election**

An employee may not file a reduction in force appeal before the effective date of the reduction in force action, even when the employee's basic right is to file a grievance under a negotiated grievance procedure. (5 CFR 1201.3(a)(1))

B [See paragraph **3-B-34-4** for additional guidance.]

- The employee may then file an appeal with the Board during the 30-day period beginning with the day after the effective date of the action being appealed. (5 CFR 1201.22(b))
 - An employee who chooses to file a grievance follows the provisions of the negotiated procedure. (5 CFR 1201.3(c)(1))
-

3-A-34-6 **Corrective Action on Grievance**

In adjudicating a reduction in force grievance under a negotiated grievance procedure, an arbitrator may determine whether the agency has correctly applied OPM's regulations and, if an error is found, may direct appropriate corrective action.
