

## Reinstatement

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### Definition

Reinstatement is:

- the reemployment of a former employee after a break in service;
  - the reemployment of an employee from leave without pay; or
  - the return to a non-policy-making position of an employee who transferred to or occupied a position designated as policy-making exempt.
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### Covered Employees

The employee is eligible for reinstatement if the former appointment was either permanent, probationary, trainee or time-limited permanent and the new appointment is either permanent, probationary, trainee or time-limited permanent. This applies to full-time and part-time (20 hours or more).

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### Break in Service and Pay Status

A break in service occurs when an employee is in nonpay status for more than thirty-one calendar days. (Leave without pay is not a break in service.)

An employee is in pay status when working, when on paid leave, or when on workers' compensation leave.

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### Determining the Type of Appointment

**After a break in service** - the agency shall determine the appropriate appointment type. Even though the employee may be eligible for reinstatement with a permanent appointment, the agency head may, based on qualifications and previous work history,

**Reinstatement (continued)**

offer reemployment with a probationary appointment; however, if the employee has priority reemployment consideration as a result of reduction in force, the conditions outlined in the Priority Reemployment Consideration for Reduction-in-Force Policy must be met.

**From leave without pay** - the employee shall be reinstated with the same type of appointment held when granted leave without pay. Credit toward a probationary or trainee period stops when the employee goes on leave without pay; and when reemployed, the employee must serve the remainder of the probationary or trainee period.

**Return to non-policy-making position** - reemployment shall be to a permanent appointment. See Priority Reemployment for Exempt Policy-Making /Confidential and Exempt Managerial Employees Policy.

**Salary Rate – Reinstatement within One Year**

When the employee is reinstated within one year, **in addition to adjustments for any legislative increase or other general adjustment in level**, the following shall apply (but not to exceed maximum published in vacancy announcement):

| <b>If reinstated to:</b> | <b>the maximum salary shall be:</b>                         | <b>A lower salary may be paid:</b>                                       | <b>A higher salary may:</b>   |
|--------------------------|---|--|---|
| the same grade,          | the employee's previous salary.                             | if the employee does not have reduction-in-force priority consideration. | not be paid unless justified by intervene-ing employment & equity considerations. |
| a higher grade           | the employee's previous salary plus a promotional increase. | if determined appropriate.   | be paid in accordance with the Promotion Policy.                                  |

**Reinstatement (continued)**

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| a lower grade | the employee's previous salary, not to exceed maximum allowed by the Demotion/ Reassignment Policy. | except for employees with reduction-in-force priority consideration. | not be paid. |
|---------------|---|--|--------------|

**Salary Rate for RIF Priority**

If the employee has reduction-in-force priority consideration, the following shall apply:

| <b>If reinstated to a position at:</b> | <b>the salary shall be:</b>   |
|--|---|
| the same salary grade,                 | at the same salary rate as the employee's previous salary.  |
| a higher salary grade,                 | established the same as any other reinstatement to a higher grade.                                |
| a lower salary grade,                  | at the same rate as the previous position, but not to exceed the maximum of the new salary grade. |

Advisory Note: The agency is not relieved from paying the same salary rate unless the RIF employee voluntarily offers/agrees to accept a lower salary rate and a written "waiver" is obtained in the pre-screening phase of the selection process. Someone other than the supervisor making the selection decision should review the applicant pool before referring to the hiring authority. If a valid waiver is in place, the best practice would be to place the salary conditions in the written waiver agreement.

The agency would be allowed to give an increase(s) up to the previous salary amount should funds become available.

**Salary Rate – Reinstatement after One Year**

When an employee is reinstated after one year from the separation date, the new salary shall be determined as above or in accordance with the New Appointments Policy.

## Reinstatement (continued)

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### Reinstatement from Military Leave

Employee who resigned or were granted leave without pay to serve in the armed services of the United States and are reinstated within the provisions of the Military Leave Policy shall be reinstated to the same position or one of like status, seniority and pay. If, during military service, an employee is disabled to the extent that the duties of the original position cannot be performed, the employee shall be reinstated to a position for which the employee is qualified and in which the employee would be able to perform the essential job functions, if any such position is available.

The employee's salary shall be based on the last salary plus any general salary increase due while on leave. The addition of performance salary increases may be considered by the agency head if appropriate.

If the employee was in trainee status at the time of military leave, the addition of trainee adjustments may be considered if it can be determined that the military experience is directly related to the development in the area of work to be performed.

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### Effective Date

A reinstatement may be made effective on any scheduled workday in the pay period. When the first day of a pay period falls on a nonworkday and the employee begins work on the first workday, the date to begin work shall be shown as the first day of the pay period. However, if the position requires work on such days, the date shall be the day the employee actually begins work.

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### Benefits Reinstated

Sick leave shall be reinstated when reemployed within five years.

Employees who were reduced in force and who had over 240 hours of vacation leave at the time of separation shall have the excess leave reinstated when reemployed within one year.

## Reinstatement (continued)

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Employees shall receive retirement service credit for periods of active duty up to the time the employee was first eligible for discharge if the employee returned to State employment within two years; or any time after discharge if they had completed at least ten years of membership service in the Retirement System. (See Retirement System Handbook for further details.)

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### Qualifications

The employee must possess at least the minimum recruitment standards or their equivalent, as set forth in the class specification of the position to which reinstated. If reinstatement is from leave without pay, the employee is automatically qualified provided employment is in the same classification or in a lower class in the same field of work.

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