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**CHAPTER 352. REEMPLOYMENT RIGHTS**

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## **CHAPTER 352. REEMPLOYMENT RIGHTS**

**(To Be Used With 5 CFR Part 352)**

### **1. SCOPE**

This chapter applies to all VA employees not specifically excluded by law or Office of Personnel Management regulation based on law from entitlement to reemployment following service with other Federal agencies and certain public international organizations under the conditions specified in law, Executive order, and 5 CFR Part 352. (Provisions for assignment to a position in the United States following oversea service with the VA are in chapter 301, this part. Restoration after service with the Armed Forces is covered in ch. 353, of this part and 5 CFR Part 352.)

### **2. POLICY**

It is the policy of the VA to cooperate fully with overall Government efforts to meet emergency situations affecting the welfare of the Nation and to support public international organizations in which the U.S. Government participates, VA personnel at all levels will assist other Federal or international organizations whose missions are related to defense of the United States or overall Government foreign assistance programs by:

- a. Taking positive steps to assist such organizations to obtain properly qualified U.S. citizen candidates for employment.
- b. Encouraging able VA employees to accept such assignments by granting reemployment rights consistent with law and regulation and by giving proper recognition to the training and career advancement advantages of such employment.
- c. Continuing employer contributions toward Federal retirement and insurance benefits during service with non-Federal agencies when arrangements for such contributions are not made by the employing organization.

### **3. SEPARATIONS, DETAILS, AND TRANSFERS WITH REEMPLOYMENT RIGHTS**

Except as provided below, the appointing authority for the position held by the employee at the time of his detail, separation, or transfer with reemployment rights is responsible for approving or disapproving the request for transfer or separation with reemployment rights, for negotiating with the new activity on the effective date and arrangements for the new employment; for advising the employee concerning his benefits and responsibilities and any decisions he must make; and for re-employing the employee when the requirements for such action have been met. If the employee is leaving a position for which employment matters are centralized to the Secretary, the prior approval of the Deputy Assistant Secretary for Human Resources Management is required.

a. If a request for separation or transfer with reemployment rights is received from a public international organization not listed by OPM consistent with 5 CFR, section 352-304, any request to the Office of Personnel Management for approval of the proposed personnel action will be sent through channels to the Deputy Assistant Secretary for Human Resources Management for decision as to whether Office of Personnel Management approval will be requested.

b. Requests for details to public international organizations will be forwarded through normal channels to the Deputy Assistant Secretary for Human Resources Management who is delegated authority to approve or disapprove such requests for the Secretary. If approval is recommended, the appointing authority will include information concerning whether the detail is to be on a reimbursable or nonreimbursable basis, the estimated cost, if any, of the action to the VA, and whether funds which may be required are available. If the detail is approved, the appointing authority will take such other action as may be required to complete the detail and return to duty and to make other required administrative arrangements.

#### **4. ACTION WHEN THE EMPLOYEE LEAVES**

The human resources management office will assure that the employee fully understands the arrangements, benefits, and requirements concerning his detail, separation, or transfer and subsequent reemployment. Each employee will be advised, in writing, how and when he must apply to the appointing authority for reemployment. In addition, the official description of his position will be reviewed and updated, if necessary, and a copy furnished to him if he does not already have a current copy.

#### **5. FILLING VACATED POSITIONS**

a. The positions vacated by employees who separated or transferred with reemployment rights under the provisions of 5 CFR Part 352 are not "obligated" unless the transfer is to a defense agency during an emergency and is taken under Office of Personnel Management Regulation 352, subpart B. There is not authority for changing the retention standing of a career employee from group I to group II except when he is assigned to an obligated position.

b. Executive Order No. 9932 provides that positions vacated by employees assigned to the Foreign Service can only be filled on a temporary basis, pending the former employee's reemployment. Temporary appointments not to exceed 1 year may be made to such positions or they may be filled by the temporary promotion or reassignment of a VA employee. (See 5 CFR Part. 335 and chapter 335 of this part.)

c. All other positions vacated by employees are filled under normal procedures. However, if the employee is expected to return within 1 year, authority in 5 CFR Part 316 may be used to make temporary appointments.

## 6. HONORING REEMPLOYMENT RIGHTS

The obligation to reemploy a former employee who meets the requirements and requests reemployment or reinstatement under rights granted by statute is a positive and absolute agency-wide responsibility. Administration heads are responsible for monitoring the assignment of employees whose former stations are unable to reemploy them in positions of the same, corresponding, or higher grade, rank, and salary as the VA position they left. If the position was not under an administration, the Headquarters and Executive Resources Team will monitor the assignment for the Deputy Assistant Secretary for Human Resources Management.

a. The returning employee will first be considered for placement in vacancies at the station he left at the grade level he holds at the time he applies for reemployment or that held at the time he left, whichever is higher.

b. If such a position is not available, he will be considered as on duty in his former position and reduction-in-force procedures will be used to place him in the VA position he last held or one of corresponding grade, salary, and rank. If such an assignment cannot be made at the station he left, the administration (or Headquarters and Executive Resources Team if the position is not under an administration's appointing authority) will be notified and will take such action as may be required to honor the reemployment obligation. If the administration is unable to place him at the grade, salary, and rank last held, the Deputy Assistant Secretary for Human Resources Management will be notified and assure that such action as may be required to fulfill VA's obligation to the employee is taken.