

FAQs on Pay During DRP Administrative Leave

Q: Are there any types of pay that would not continue during the administrative leave granted to Deferred Resignation Program (DRP) participants?

A: Most types of regular payments may continue during DRP administrative leave at the same rate paid during regular work status. However, to continue certain payments at the same rate, agencies must not change an employee's official position or official worksite during DRP administrative leave in a manner that would affect the entitlement to payments that are linked to an employee's official position and/or official worksite. Consistent with law and regulations, the following types of pay may not continue during DRP administrative leave:

- Sunday premium pay (5 U.S.C 5544 and 5546 or any other law providing a premium payment for Sunday work—see Public Law 105-277, division A, §101(h) [title VI, §624], Oct. 21, 1998);
- Nonforeign area post differentials (5 U.S.C. 5941) after an employee has been away from the post differential area for 42 consecutive calendar days (5 CFR 591.237(b));
- Retention incentive (5 U.S.C. 5754) if an agency determines that continued payment cannot be justified under the regulations (5 CFR 575.311(a)(2) and 575.311(f)), or is not permitted under a service agreement* (5 CFR 575.310(d)-(e) and 575.311(b));
- Supervisory differential (5 U.S.C. 5755) if reduction or termination is required due to a change in the continuing pay of the supervisor's highest paid non-GS subordinate (5 CFR 575.406(b)-(d)) or if continued payment is not permitted under established agency procedures* governing supervisory differentials (5 CFR 575.406(a));
- Extended assignment incentive (5 U.S.C. 5757) if not permitted under the employee's service agreement* under conditions that apply to the employee (5 CFR 575.510(e), 575.512(a), and 575.513(b)(2)) or if the payments would cause an employee to exceed the statutory 5-year limit (5 U.S.C. 5757(a)(3) and 5 CFR 575.508).

* Agency legal counsel may determine that an agreement or agency procedures may be modified with the employee's consent in the unique circumstances associated with the DRP.

The Department of State is responsible for providing guidance on the continuation of foreign area post differentials, cost-of-living allowances, and danger pay allowances during periods of paid leave, including DRP administrative leave.

Q: What matters must an agency consider to continue various types of pay during DRP administrative leave?

A: See the table below that addresses various payments in addition to base pay that may continue during paid leave.

| Type of pay | Considerations related to continuing payment during DRP administrative leave |
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| Locality pay** 5 U.S.C. 5304 5 CFR part 531, subpart F | Do not change the employee's official worksite in a manner that would change the locality pay entitlement. For a remote worker whose home is the official worksite, an agency may retain the official worksite location in effect immediately before the start of DRP administrative leave, even if the employee's residence changes. (The "where the employee regularly performs his or her duties" criterion does not apply if an employee is on extended nonwork leave status prior to the scheduled DRP separation.) |
| Special rate supplement** 5 U.S.C. 5305 5 CFR part 530, subpart C | Do not change the employee's official position or official worksite in a manner that would change the special rate entitlement. For a remote worker whose home is the official worksite, an agency may retain the official worksite location in effect immediately before the start of DRP administrative leave, even if the employee's residence changes. (The "where the employee regularly performs his or her duties" criterion does not apply if an employee is on extended nonwork leave status prior to the scheduled DRP separation.) |
| Nonforeign area cost-of-living allowance (COLA) 5 U.S.C. 5941 5 CFR part 591, subpart B Note: Applies in Alaska, Hawaii, and various U.S. territories/possessions. | Do not change the employee's official worksite in a manner that would change the COLA entitlement. If the employee leaves the COLA area with no intent to return, invoke an exception under 5 CFR 591.237 based on public interest (given the purpose of the DRP to support Government workforce optimization) to allow continuation of COLA. |
| Post differential 5 U.S.C. 5941 5 CFR part 591, subpart B Note: Applies in Guam, American Samoa, Sand Island & Midway Islands, Commonwealth of the No. Mariana Islands, Wake Island. | Do not change the employee's official worksite in a manner that would change the post differential entitlement. If the employee leaves the post differential area with no intent to return, invoke an exception under 5 CFR 591.237 based on public interest (given the purpose of the DRP to support Government workforce optimization) to allow continuation of the post differential for 42 days. |
| Physician comparability allowance (PCAs)** 5 U.S.C. 5948 5 CFR part 595 | Do not change the employee's position in a manner that would eliminate the PCA entitlement. Ensure that nothing in the service agreement would bar continued payment of the PCA (5 CFR 595.106). Consider modifying the agreement if necessary. |
| Recruitment and relocation incentives 5 U.S.C. 5753 | Keep the service agreement in place until the scheduled DRP separation date. (Termination of agreement is required only for certain circumstances, such as a rating of record below Fully Successful. See |

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| 5 CFR part 575, subparts A and B | 5 CFR 575.110(d) and 575.111. The DRP is not one of those circumstances.) |
| Retention incentive 5 U.S.C. 5754 5 CFR part 575, subpart C | Determine whether continued payment can be justified under the regulations (5 CFR 575.311(a)(2) and 575.311(f)). Ensure that nothing in the service agreement would bar continued payment of the retention incentive (5 CFR 575.310(d)-(e) and 575.311(b)). Consider modifying the agreement if necessary. |
| Extended assignment incentive 5 U.S.C. 5757 5 CFR part 575, subpart E | Ensure there is no applicable bar on continued payment under the employee's service agreement. (See 5 CFR 575.510(e), 575.512(a), and 575.513(b)(2)). Consider modifying the agreement if necessary. Ensure that the employee is not exceeding the statutory 5-year limit (5 U.S.C. 5757(a)(3) and 5 CFR 550.508). |
| Supervisory differential 5 U.S.C. 5755 5 CFR 575, subpart D | Do not change the employee's official position in a manner that would eliminate the supervisory differential entitlement (e.g., must hold same supervisory position). Ensure that the current continuing pay for the highest paid non-GS subordinate still justifies the differential (5 CFR 575.406(b)-(d)). Ensure that termination or reduction of the differential is not required by agency procedures (5 CFR 575.406(a)). Consider modifying the procedures if necessary. |
| Administratively Uncontrollable Overtime (AUO) pay** 5 U.S.C. 5545(c)(2) 5 CFR 550.151-550.164 | Do not change the employee's position in a manner that would eliminate or change the AUO pay entitlement. (Under 5 CFR 550.162(e), AUO pay continues during leave but only if AUO is payable (i.e., covered position).) Given the unique DRP circumstance, and with DRP administrative leave lasting less than 1 year, agencies do not need to initiate a new AUO hours review during the period of DRP administrative leave. The AUO percentage will be based on the results of the last AUO hours review that preceded the acceptance of the employee's deferred resignation. Continue AUO pay at the established percentage during DRP administrative leave. |
| Law Enforcement Availability Pay (LEAP)** 5 U.S.C. 5545a 5 CFR 550.181-550.187 | Do not change the employee's position in a manner that would eliminate the LEAP entitlement. Continue LEAP during DRP administrative leave (5 CFR 550.185(b) and (d)). Note that use of full days of administrative leave does not affect the computation of average LEAP hours or the meeting of the average 2-hours-per-regular workday requirement (5 CFR 550.183(b)(3)). |
| Standby Duty Premium Pay** 5 U.S.C. 5545(c)(1) 5 CFR 550.141-550.144 and 5 CFR 550.161-550.164 | Do not change the employee's position or assigned regular work schedule in a manner that would eliminate eligibility for standby duty pay or change the standby duty pay percentage. (Under 5 CFR 550.162(e), standby pay continues during leave but only if standby pay is payable (i.e., covered position).) Continue standby duty premium pay at the established percentage and, for FLSA-nonexempt employees, continue the additional FLSA overtime pay for overtime hours in the regular work schedule. |
| Border Patrol overtime supplement** 5 U.S.C. 5550 5 CFR part 550, subpart P | Do not change an employee's position or assigned tour of duty in a manner that would eliminate or change eligibility for the employee's existing Border Patrol overtime supplement. Continue established Border Patrol overtime supplement during DRP administrative leave. (Normal leave usage rules apply (5 CFR 550.1634(a)).) |

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| GS-0081 firefighter regular overtime pay (title 5/FLSA)** 5 U.S.C. 5545b 5 U.S.C. 5542(f) 5 CFR part 550, subpart M | <p>Do not change the employee's position or regular tour of duty in a manner that would eliminate eligibility for the employee's existing regular pay under the firefighter pay laws.</p> <p>Continue regular pay for hours in the firefighter's established regular tour of duty (including overtime pay for overtime hours within the regular tour of duty) during DRP administrative leave.</p> |
| Prevailing wage (blue collar) night shift differential** 5 U.S.C. 5343(f) 5 CFR 534.505 | <p>Do not change the employee's position or regular tour of duty in a manner that would eliminate eligibility for the employee's existing night shift differential. (Under 5 CFR 532.505(e), the differential is paid during a period of paid leave based on the night shift(s) to which the employee is "regularly assigned.")</p> <p>Continue the employee's established night shift differential during DRP administrative leave.</p> |
| Night pay for GS and other white collar employees 5 U.S.C. 5545(a) 5 CFR 550.121-550.122 | <p>Do not change the employee's position or regularly established night tour of duty in a manner that would eliminate eligibility for the employee's existing night pay differential (i.e., no change in number of night hours in assigned shift).</p> <p>Continue the night pay for the employee's established night tour of duty during DRP administrative leave.</p> <p>Note: The 8-hour rule in 5 U.S.C. 5545(a) and 5 CFR 550.122(b) that limits section 5545(a) night pay for certain paid leave hours does not apply to administrative leave.</p> |

** means that the payment is treated as retirement-creditable basic pay. (See 5 U.S.C. 8331(3) and 8401(4); 5304(c)(2) and 5305(j); 8331(3)(C),(D),(E),(F),(H), and (I); 5545a(h); 5545b(c)(2); 5550(d); and 5343(f).) Payments could also be basic pay for certain other purposes, such as life insurance and severance pay.