



19671
Schwimer
UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

In Reply
Refer to: B-203811(DAS)

September 30, 1981

Ms. Cathey Balistreri
2804 Chablis Circle
Woodbridge, Virginia 22192

Dear Ms. Balistreri:

This letter responds to your letter of June 17, 1981, in which you ask for the effect of the Civil Service Reform Act of 1978 upon retained pay for employees who were downgraded to enter formal career development programs.

The Civil Service Reform Act of 1978 repealed 5 U.S.C. § 5337 which was the former saved pay statute. In its stead, Congress enacted a new subchapter VI of chapter 53 of title 5 which provides broader authority for grade and pay retention incident to a change of position or downward reclassification occurring after January 11, 1979. Since you entered a career development program on June 29, 1980, the provisions of the Civil Service Reform Act are applicable to you.

The Office of Personnel Management has promulgated regulations on grade and pay retention and they are contained in 5 C.F.R. part 536. Under these regulations an employee who is placed in a formal employee development program is entitled to pay retention under 5 U.S.C. § 5363 but is not entitled to grade retention under 5 U.S.C. § 5362. See 5 C.F.R. § 536.104(6) (1981).

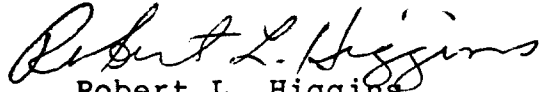
Therefore you are only covered by the provisions of law concerning pay retention. Under these provisions you are entitled to a basic rate of pay equal to your former rate of basic pay plus 50 percent of the amount of each increase in the highest step of your new, lowered grade (GS-5, step 10).

018784

B-203811

Therefore, it appears that the Department of the Army was correct in its interpretation of the pay retention statute as it applies to you.

Sincerely yours,

A handwritten signature in cursive script that reads "Robert L. Higgins".

Robert L. Higgins
Assistant General Counsel