

## **What are Return Rights?**

Return rights are given to employees hired from stateside DoD activities to overseas positions per 10 U.S. Code § 1586 - Rotation of career-conditional and career employees assigned to duty outside the United States

### **Return rights**

- Apply only to current employees recruited from non-foreign areas for employment outside of CONUS
- Employees have return rights to their original position for five years and must exercise those return rights unless forfeited or formally extended.
- Employees lose return rights when taking a new position outside of DOD or non-appropriated funds positions.
- When an employee exercises their return rights they shall be placed in the position that they held prior to their assignment outside of the United States.
- If position will be abolished due to RIF or reorg, the employee must be notified. Upon return, the employee shall be placed in an equivalent position for which they are qualified, in the same grade they held prior to going overseas.
- With employee's consent, they may be placed into a different position for which they are qualified, at the same grade held prior to going overseas. If employee does not consent, contact your HRO immediately.
- If eligible and qualified for a higher grade position, and with the employee's consent, management has the option to place the employee into a higher-grade position than the position the employee held prior to going overseas.
- If the employee voluntarily stays overseas for longer than five years, they will forfeit their return rights unless the home command formally agrees to extend the return rights.
- If the employee voluntarily returns to a different position in CONUS, return rights are automatically forfeited.
- Any employee who leaves government service automatically forfeits their return right

**To assist managers better understand return rights the below FAQs and examples are provided:**

**My employee has accepted a federal position overseas. What options do I have to fill their position while they're gone?**

- If your position unique or one of a kind, it is recommended that you fill the position on a temp or term basis.
- If you have multiple employees on the same positions description, and attrition is expected, you may be able to absorb an extra employee and may want to consider filling the position on a permanent basis.
- If the position must be filled on a permanent basis, you must advertise the position as encumbered.

- You can leave the position vacant, but normally, this is not recommended and could have impacts to your manning levels. Contact your Manpower Office.

My employee is returning from an overseas tour. I'm a great manager, so I'm ready and excited for his/her return. What are my responsibilities as the gaining manager?

- You should have been keeping in contact on a recurring basis but if you have not then re-establish a line of communication as soon as possible
- Notify and coordinate with your Manpower Office and HRO
- Take responsibility for your returning employee, don't assume that things are in place with HRO, security, IT, etc., and take appropriate actions as needed.

As a manager, where would I look for guidance on overseas tours?

- Department of Defense Instruction Number 1400.25, Volume 1230, dated July 26, 2012; Subject: DoD Civilian Personnel Management System: Employment in Foreign Areas and Employee Return Rights
- Department of Navy, Office of Civilian Human Resources, Interim Guidance for Foreign Area Employment-Overseas Tours, dated January 2013

Will I be responsible for any expenses for my returning employee?

- While you are not responsible for PCS, which is paid by the losing command, the gaining command may pay TQSE per local policy and is recommended as a best practice to encourage those continued overseas employment to support our forward deployed commands.

How do I account for my returning employee's time spent moving?

- Normal moving activities, such as packing and receiving household goods, for employees executing a PCS back to the home command, are covered as official duties and recorded as regular time.
- Excused absence may be granted, at the supervisor's discretion, for accomplishing personal tasks relating to the move and complying with PCS requirements.

I just found out that I have an employee returning from overseas, but the position has been permanently backfilled. What should I do?

- This can be a challenge, but there are several options. If you have multiple positions on the same PD, and you have a vacancy, you return the employee to that position. If this position is unique, you can identify similar positions or other positions for which the employee is qualified and with the employee's consent, return the employee to that position. Contact your Manpower Office and your servicing HRO.

While overseas my employee accepts a NAF position. Does my employee retain their return rights if they accept a NAF position?

-NO

While overseas my employee accepts a position outside of DoD (other federal) or contractor, do they retain their return rights?

-NO

Can return rights be exercised at any time during the initial tour?

- There are a variety of reasons that may require an employee to return prior to the end of the initial tour and return rights can be exercised. If an employee requests a curtailment prior to the end of the initial tour, the overseas Command must approve the request. Generally, tour curtailments are approved for family or medical reasons. If tour curtailment is approved, the overseas Command may pay return transportation and PCS costs if the employee has served at least one year of their tour.

I have an encumbered position, i.e. encumbered due to an employee that signed a 3 year overseas employment agreement. I'm really counting on this employee returning to the command after 3 years. I've just learned this employee wants to extend overseas for an additional 2 years. Do I as a manager, have any decision making authority on this extension?

- No, employees may extend an additional 2 years beyond the initial 3 year tour with no impact to return rights.

As a follow on to the last question, what if at the end of 5 years the employee again wants to extend. Do I have any say in this extension?

- Yes, you can decide to extend or not extend return rights. If you do not extend return rights, the employee can either decide to stay in the overseas position (and forfeit return rights) or return to the stateside position.

When an employee under my supervision accepts an overseas assignment, I have to manage an encumbered billet to which the employee has return rights. Why am I not afforded the opportunity to review, sign and keep a copy of the Rotation Agreement for the employee?

- The authority for return rights is granted from DOD regulations, and is an agreement between the employee and the Component. A copy can be provided upon request from the home HRO.

I had an employee exercise return rights early; completing only 26 months out of the 36 months described on the rotation agreement. When will this employee be eligible to accept another overseas assignment?

- It depends. Since they were not overseas for a full 5 years, they could possibly be eligible immediately, contact your HRO. If they were overseas for 5 or more years, they need 24 months of physical presence in the U.S. before starting another overseas tour.

I was just informed that the overseas activity commander has directed the return of an employee that is assigned to my division. The employee has only been at the overseas location for 13 months. I understood this employee would be overseas for at least 3 years. Why would an assignment be curtailed and more importantly why haven't I been officially informed of the reason for the return?

- There are a variety of reasons why an employee would return early, it may be at the request of the employee or by the order of the overseas Command. The reason for return is between the employee and the overseas Command.

When an employee is exercising their return rights does the reassignment action become effective when they are in transit back to CONUS or when they actually arrive at the command?

- The action becomes effective when the employee arrives back at the home command.