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ADS Chapter 412

Reemployment Rights

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 ADS Chapter 412 – Reemployment Rights
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Table of Contents

<u>412.1</u>	<u>OVERVIEW</u>	<u>3</u>
<u>412.2</u>	<u>PRIMARY RESPONSIBILITIES</u>	<u>3</u>
<u>*412.3</u>	<u>POLICY DIRECTIVES AND REQUIRED PROCEDURES</u>	<u>4</u>
<u>*412.3.1</u>	<u>Reemployment Rights</u>	<u>4</u>
<u>412.3.2</u>	<u>Granting Reemployment Rights</u>	<u>5</u>
<u>412.3.3</u>	<u>Duration of Entitlement to Reemployment Rights</u>	<u>6</u>
<u>412.3.4</u>	<u>Exercising Reemployment Rights</u>	<u>6</u>
<u>412.3.5</u>	<u>Reemployment after Termination of Limited Foreign Service Appointment</u>	<u>7</u>
<u>412.3.6</u>	<u>Waiver of Reemployment Rights</u>	<u>7</u>
<u>412.3.7</u>	<u>Right of Appeal if Reemployment Rights are Denied</u>	<u>8</u>
<u>412.4</u>	<u>MANDATORY REFERENCES</u>	<u>8</u>
<u>412.4.1</u>	<u>External Mandatory References</u>	<u>8</u>
<u>*412.4.2</u>	<u>Internal Mandatory References</u>	<u>8</u>
<u>412.4.3</u>	<u>Mandatory Forms</u>	<u>9</u>
<u>412.5</u>	<u>ADDITIONAL HELP</u>	<u>9</u>
<u>412.5.1</u>	<u>Optional Forms</u>	<u>9</u>
<u>412.6</u>	<u>DEFINITIONS</u>	<u>9</u>

**An asterisk and yellow highlight indicate that the adjacent material is new for this chapter or substantively revised.*

ADS Chapter 412 – Reemployment Rights

412.1 OVERVIEW

Effective Date: 03/09/1997

This chapter provides the regulations governing the reemployment rights of Civil Service (CS) employees of USAID or other agencies who accept a Foreign Service (FS) limited appointment with USAID (under Section 310 of the 1980 Foreign Service Act, as amended and codified as 22 USC 3950). This chapter also covers the reemployment rights of USAID employees who accept Foreign Service limited appointments with other Foreign Affairs agencies, or of the Peace Corps.

412.2 PRIMARY RESPONSIBILITIES

Effective Date: 03/09/1997

- a. The **Head or a designee of the employee's parent agency** is responsible for deciding whether reemployment rights will be granted to the employee who is accepting a limited Foreign Service (FS) appointment with USAID.
- b. The **Office of Human Resources (OHR)** is responsible for deciding whether reemployment rights will be granted to USAID employees who wish to accept a limited Foreign Service appointment with USAID, any other Foreign Affairs agency, or the Peace Corps.
- c. The **Office of Human Resources, Personnel Operations Division (OHR/POD)**, when the USAID employee or assignment falls under its jurisdiction, is responsible for:
 1. Contacting the Office of Human Resources of the employee's parent agency prior to the employee's entry on duty with USAID to find out whether that agency has granted the employee reemployment rights;
 2. Receiving a Standard Form (SF) 50, Notification of Personnel Action or other appropriate documentation from the employee's parent agency that reflects whether or not the employee is granted reemployment rights; and
 3. Processing the Standard Form 50 to document the USAID assignment and whether the employee has reemployment rights with the employee's parent agency.

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d. The **Office of Human Resources, Executive Management Staff (OHR/EM)**, when the USAID employee or the assignment falls under its jurisdiction, is responsible for:

1. Contacting the Office of Human Resources of the employee's parent agency prior to the employee's entry on duty with USAID to find out whether that agency has granted the employee reemployment rights;
2. Receiving the Notification of Personnel Action (Standard Form 50) or other appropriate documentation from the employee's parent agency that reflects whether or not the employee is granted reemployment rights; and
3. Processing the Standard Form 50 to document USAID assignment and whether the employee has reemployment rights with employee's parent agency.

e. The **employee** is responsible for:

1. Identifying the limited Foreign Service assignment to USAID and obtaining written approval from the employee's parent agency's Office of Human Resources regarding the granting of reemployment rights; and
2. Identifying the limited Foreign Service assignment with USAID, any other Foreign Affairs agency, or the Peace Corps, and obtaining in writing the granting of reemployment rights.

***412.3** **POLICY DIRECTIVES AND REQUIRED PROCEDURES**
Effective Date: 03/09/1997

The statements contained within the .3 section of this ADS chapter are official Agency policies and required procedures.

***412.3.1** **Reemployment Rights**
Effective Date: 03/09/1997

***For information on Reemployment of Civilian Retirees, please see the [Mandatory Reference, 412maa, Reemployment of Civilian Retirees Under the National Defense Authorization Act for Fiscal Year 2010.](#)**

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The Agency's Reemployment Rights apply to Federal employees who accept a limited Foreign Service appointment under Section 310 of the Foreign Service Act of 1980, as amended (22 USC 3950) and prior to accepting the limited Foreign Service appointment where serving in positions in the Federal Government who were:

1. In the competitive service under career or career-conditional appointments;
2. In the excepted service under career candidate and non-career appointments with USAID;
3. In non-USAID excepted service positions without specific time limitations; and
4. In the Career Senior Executive Service

This chapter does not apply to:

1. Reinstatement rights of Administratively Determined (AD) personnel (See [ADS 413](#));
2. Reemployment rights of USAID employees serving with international organizations (See [ADS 434](#));
3. Reemployment rights of personnel appointed to USAID Civil Service positions (See [ADS 413](#)); and
4. Reemployment rights of Senior Foreign Service officers serving on presidential appointments under section 302(b) of the Foreign Service Act of 1980, as amended (See [ADS 422](#)).

412.3.2 Granting Reemployment Rights

Effective Date: 03/09/1997

The Deputy Assistant Administrator, Office of Human Resources, DAA/OHR, shall decide for USAID employees whether to grant reemployment rights prior to the employee accepting a limited Foreign Service appointment with USAID, any other Foreign Affairs agency, or the Peace Corps.

The Office of Human Resources, Executive Management Staff (OHR/EM) and the Office of Human Resources, Personnel Operations Division (OHR/POD) shall ascertain whether a non-USAID employee is granted reemployment rights prior

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to the employee's entry on duty. (See [Sample Reemployment Rights Memorandum](#))

The Agency shall also adhere to the policy and procedures as stated in 22 USC 3950 (See [22 USC 3950](#))

When reemployment rights are granted by the employee's parent agency, OHR/EM or OHR/POD, as appropriate, shall advise the employee about the benefits and limitations of reemployment rights, and the procedure for exercising these rights.

When reemployment rights are granted to a USAID employee by the Deputy Assistant Administrator for Human Resources or a designee, OHR/EM and OHR/POD must advise the employee about the benefits and limitations of reemployment rights, and the procedure for exercising these rights. OHR/EM and OHR/POD must notify the employee in writing, if the Deputy Assistant Administrator for Human Resources denies reemployment rights.

A Notification of Personnel Action, SF-50, must be used to document the granting of reemployment rights and to specify the duration of those rights.

412.3.3 Duration of Entitlement to Reemployment Rights

Effective Date: 03/09/1997

A Federal employee who accepts a limited appointment in the USAID Foreign Service retains granted reemployment rights for the duration of the limited appointment. Reemployment rights must not exceed five years.

A USAID employee who accepts a limited Foreign Service appointment with USAID, any other Foreign Affairs agency, or the Peace Corps retains granted reemployment rights for the duration of the appointment, and must not exceed five years.

412.3.4 Exercising Reemployment Rights

Effective Date: 03/09/1997

Reemployment at a higher grade than the former position is subject to merit promotion procedures.

The Agency shall also adhere to the policy and procedures as stated in 5 USC 3597. (See [5 USC 3597](#))

Upon being notified of the pending termination of the employee's limited Foreign Service appointment with USAID, employees must update their employment

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record (Optional Application for Federal Employment, OF-612 or Resume) at the time they apply for reemployment.

An employee who wishes to exercise reemployment rights at the employee's parent agency must apply directly to that agency for reemployment. The Reemployment process must be complete as soon as possible, but no later than 30 days after separation from USAID.

1. OHR/EM or OHR/POD, as appropriate, notifies the employee's former agency, in writing, at least 90 days before the employee's proposed separation date.
2. When an employee's duty station is USAID/W, OHR/EM or OHR/POD, as appropriate, will advise the employee, in writing, about the intended separation at least 60 days prior to the employee's last day of active duty.
3. When an employee's duty station is overseas, the head of the overseas post will advise the employee, in writing, about the intended separation at least 60 days prior to the employee's last day of active duty.

412.3.5 Reemployment after Termination of Limited Foreign Service Appointment

Effective Date: 03/09/1997

If the reemployment of the returning USAID employee requires a reduction-in-force (RIF), the employee is placed on the RIF retention register appropriate to the position that the employee held immediately before entering the Foreign Service.

412.3.6 Waiver of Reemployment Rights

Effective Date: 03/09/1997

An employee waives reemployment rights upon accepting either a position with any Federal agency other than the employee's parent agency or a career Foreign Service appointment, or if the employee fails to exercise reemployment rights with the employee's parent agency within 30 days from the termination date of the limited Foreign Service appointment.

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412.3.7 Right of Appeal if Reemployment Rights are Denied

Effective Date: 03/09/1997

If an employee is notified by the employee's parent agency that the application for reemployment is denied on grounds of ineligibility, or reemployment is not effective within the prescribed time, the employee may appeal the decision to the Merit Systems Protection Board.

1. The appeal must be made within 15 calendar days after the employee receives the parent agency's decision or after the time limit for reemployment expires. The appeal must be sent to the Merit Systems Protection Board, 8th Floor, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.
2. The employee may obtain additional information on appeal rights from the personnel office of the employee's parent agency.
3. USAID employees who previously held a Civil Service bargaining unit position must grieve through the Civil Service negotiated grievance procedure.

412.4 MANDATORY REFERENCES

412.4.1 External Mandatory References

Effective Date: 03/09/1997

- a. [5 USC 3597](#)
- b. [22 USC 3949](#)
- c. [22 USC 3950](#)
- d. [Section 310 of the Foreign Service Act of 1980 \(FSA\)](#), as amended.

***412.4.2 Internal Mandatory References**

Effective Date: 03/09/1997

- *a. [ADS 412maa, Reemployment of Civilian Retirees Under the National Defense Authorization Act for Fiscal Year 2010](#)
- b. [ADS 413, Civil Service Appointments and Employment](#)

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- c. [ADS 422, Personnel Operations: Senior Foreign Service](#)
- d. [ADS 434, Details and Transfers to International Organizations – Civil Service and Foreign Service](#)
- e. [Sample Reemployment Rights Memorandum](#)

412.4.3 Mandatory Forms
Effective Date: 03/09/1997

- a. [Standard Form \(SF\) 50, Notification of Personnel Action](#)

412.5 ADDITIONAL HELP
Effective Date: 03/09/1997

There are no Additional Help Documents for this chapter.

412.5.1 Optional Forms
Effective Date: 03/09/1997

- a. [Optional Application for Federal Employment, OF-612](#)

412.6 DEFINITIONS
Effective Date: 03/09/1997

The terms and definitions listed below have been incorporated into the ADS Glossary. See the [ADS Glossary](#) for all ADS terms and definitions.

Administratively Determined (AD) Personnel

An appointment action under which personnel may be appointed, compensated, and removed by the Administrator without regard to the provisions of any other law. (Chapter 412)

career appointment

A permanent appointment in which the employee has competitive status. (Chapter 412)

career candidate

Appointments are appropriate for persons who aspire to a long-term USAID Foreign Service career and whose qualifications meet a continuing requirement. (Chapter 412)

career conditional appointment

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An appointment which gives competitive status upon completion of a probationary period and which automatically converts to a career appointment upon completion of 3 years of creditable service. (Chapter 412)

career senior executive service

Executives appointed by the Administrator under the Civil Service Reform Act of 1978 in conformance with the established rules and regulations applicable to other Civil Service employees. (Chapter 412)

competitive service

Consists of all civil service positions in the executive branch, except positions which are specifically excepted from the competitive service by or under statute; positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs; positions in the Senior Executive Service; positions in the District of Columbia which are specifically included in the competitive service by statute. (Chapter 412)

excepted service

Consists of those civil service positions that are not in the competitive service. The Excepted Service includes all positions in the executive branch of the Federal Government that are specifically excepted from the competitive service pursuant to statute, by the President or by the Office of Personnel Management (OPM) under Section 6.1 of Civil Service Rule VI or Section 9.20 of Civil Service Rule IX. (Chapter 412)

foreign service limited appointment

An appointment, either as a career or non-career employee, of a specified duration from one to five years. (Chapter 412)

non-career candidate

Appointments are appropriate when the knowledge skills required for a particular program or project in AID Foreign Service cannot reasonably be provided by career employees. Appointments are limited to short-term, specific operational needs overseas, and may be of variable duration as established at the time of appointment not to exceed five years. (Chapter 412)

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