

RIF Appeals

Where an employee can challenge a RIF action, by when, and what your agency has to be able to show

U.S. Office of Personnel Management
Workforce Policy & Innovation
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91 FR 54796 (Aug. 25, 2026) | corrected typographical and citation errors

Housekeeping items

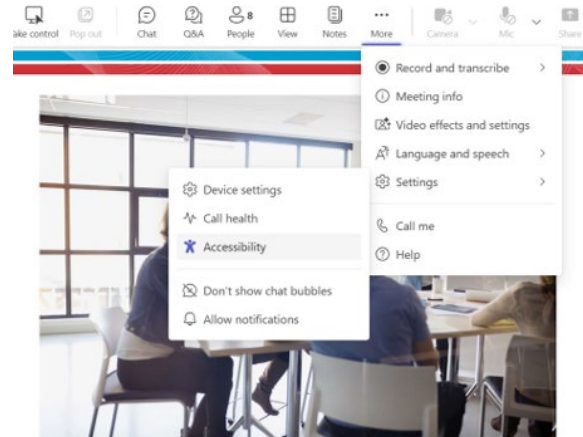
- A copy of this presentation is posted on OPM's Reductions in Force (RIF) page: opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force-rif
- Ask questions in the Q&A, but please wait until a topic is covered so you are not posting a question that has already been answered.
- Time is built in at appropriate points to take questions.

BEFORE WE START

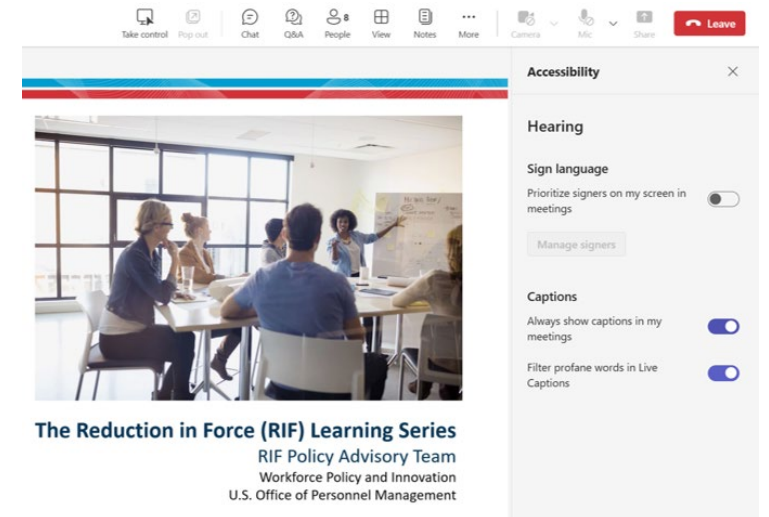
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The Reduction in Force (RIF) Learning Series
RIF Policy Advisory Team
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M4

Module 4 recap

RIF notices - the document an appeal starts from

What Module 4 covered

Step 8 of the nine-step process. Module 5 is step 9.

1 The eight elements

Action, reasons, effective date, ranking data, access to rules and records, assignment rights, exceptions used, and appeal rights.

2 Ranking data is new

The notice now states the competitive area and level, veterans subgroup, tenure group and subgroup, service date, and three ratings.

3 Sixty days, on a calendar

Start the day after receipt, do not count the effective date and do not end the minimum period on a Saturday, Sunday, or holiday.

4 Thirty is the floor

OPM may approve a shorter period for unforeseeable circumstances, never below 30 full days. Requests go to WPIntake@opm.gov.

5 New notice or amended

A more severe action needs a new 60-day notice. A later effective date or a better offer needs only an amended notice.

6 Parallel notices, same day

The union every time, higher-standing employees reached for release, and three outside notifications at 50 or more separations.

What to carry into Module 5

Four things from Module 4 that an appeal turns on.

1 The notice is what an appeal starts from

Everything Module 4 required in the notice is what an employee reads before deciding to appeal, and what the agency then has to stand behind.

2 Appeal rights are notice content

The forum, the filing deadline in 5 CFR 351.902(b) and the electronic filing system all belong in the notice you drafted in Module 4.

3 Records access follows the notice

A noticed employee may inspect the register and any other register for a level they could have been assigned to under 5 CFR 351.701(b).

4 Errors found must be corrected

Correcting retention standing before the action takes effect is far cheaper than defending it on appeal.

WHERE MODULE 5 PICKS UP

Module 4 put the decision in writing. Module 5 is step 9: where an appeal goes and by when, what the agency has to produce, and the other routes an employee may use.

What you will be able to do

Step 9 of the nine-step process, plus everything that keeps you out of trouble in steps 1 through 8.

1 Identify the right forum

Say where an appeal goes based on the date the notice was issued.

2 Know who may appeal

Recognize which actions are appealable and which employees have no appeal right.

3 Write the appeal-rights advisory

Include the time limits, the election right, and filing information.

4 Assemble the record

Know what the agency has to be able to produce, and for how long.

5 Recognize a curable error

Correct retention standing errors when you find them, rather than defending them later.

6 Route the other complaints

EEO, OSC, RPL appeal, USERRA - know which is which.

Where the appeal goes

The notice date decides the forum, just as it decides which substantive rules apply.

Notice issued before September 2, 2026

- Appeal goes to the Merit Systems Protection Board
- If a negotiated grievance procedure is the exclusive procedure for RIF actions, the employee must use that instead
- An employee alleging discrimination may choose the grievance or an MSPB appeal - not both
- If the negotiated procedure excludes RIF actions, the employee cannot grieve and may appeal to the Board
- MSPB regulations are at 5 CFR part 1201; forms and procedures at www.mspb.gov

Notice issued on or after September 2, 2026

- Appeal goes to OPM
- A RIF noticed on or after that date is appealable to OPM under subpart I, not through the grievance chapter
- Filing information is at www.opm.gov/compliance/adjudications/
- Your notice must include electronic filing information including the site <https://opmefile.opm.gov/>
- State the filing deadline in § 351.902(b) and the electronic filing system in the notice. Absent an exception, eFile is the only acceptable filing method.

Who may appeal and applicable deadlines

Not every consequence of a RIF is an appealable action.

1 Appealable actions

Separation, demotion, or furlough for more than 30 consecutive calendar days or more than 22 discontinuous workdays - but not more than one year.

2 Who cannot appeal the action

An employee who accepts an offer of assignment to another position at the same representative rate and those not covered under subpart I procedures (e.g. SES). Additionally, an agency determination of eligibility for certification may not be appealed.

3 Excluded employees released for a RIF reason

They appeal through this process; their modified notice states their rights. A temporary appointment that simply expires is not covered. The issue on appeal is whether the exclusion was applied correctly.

4 Thirty days to file

The 30-day period in 5 CFR 351.902(b) begins the day after the effective date of the action. An appeal filed on or before the effective date will not be accepted. If the last day for filing falls on a Saturday, Sunday, or Federal holiday, the filing period will include the first workday after that date.

5 When a late filing may still be accepted

When the appellant demonstrates good cause for the delay. Factors relevant include circumstances beyond the appellant's control, whether the appellant acted reasonably and in good faith, and the length and nature of the delay. An appeal may also be filed late when a collateral-matter has been decided by another forum.

What the appeal-rights paragraph must say

An incomplete or inaccurate paragraph may be treated as a quality control error.

1 The time limits

The filing period which is within 30 calendar days from the effective date of the action. An appeal is deemed timely when it is electronically filed by 11:59 p.m. Eastern Time on the 30th calendar day after the effective date of the action.

2 How to file

For notices issued on or after September 2, 2026, the appeal goes to OPM under subpart I - no grievance election and no bargaining agreement limit to recite. Include the electronic filing information in the notice.

Other arenas still stand. A subpart I appeal does not displace an EEO complaint, an OSC filing, an RPL appeal, USERRA rights, or other avenues that may be available under § 351.901(c)(3).

3 RPL rights too

Tell separated employees about the RPL when you issue the separation notice, including RPL appeal rights - and again if you use an exception to fill a position from outside the agency.

4 Prepare in advance

Pull the current appeals information before notices issue, so it is ready to go out with them rather than assembled under pressure.

Questions

What you have to be able to show

If it is not in the file, you cannot prove it happened.

1 The appellant carries the burden of proof

The appellant must prove timeliness, jurisdiction, non-compliance, and prejudice. Your answer is the record: competitive levels, retention standing, service dates, and assignment determinations.

2 Competitive levels rest on the position description

On a competitive level challenge, the key record is the employee's official position of record, including the position description. Make sure the descriptions are current before you build the levels.

3 The register as it stood at the notice date

Retention standing is fixed as of the date the employee receives the notice. Preserve that version of the register - not a regenerated one.

4 Assume the employee has the documents

A noticed employee may review the complete register, including other employees' credit and service dates, plus any other register for a level they could have been assigned to under 5 CFR 351.701(b).

5 Keep everything two years

All registers and records relating to the RIF are preserved at least two years after the specific notice. Know where they live and who controls them.

What the agency files for an appeal

One filing, thirty days from date of acknowledgement letter, certified complete.

1 30 days from acknowledgement letter

The agency has 30 calendar days from the date of the acknowledgement letter to submit the Agency Response File (ARF) through OPM eFile.

2 Identify the action

Appellant and agency names, the action taken and the reasons for it, and the designation and signature of the agency's authorized representative.

3 The whole record

All documents contained in the agency record of the action, filed with the response, plus any other document or response OPM requests.

4 Certify completeness

A certification that the agency has produced the complete agency record of the RIF action. Sign it only if the file really is complete.

5 Serve the appellant

Produce the record to OPM and serve it on the appellant. Redact only what the Privacy Act, privilege, classification, or a protective order requires.

6 File electronically

Use OPM's e-filing system. Serve every submission on the other party at the same time.

The documents you must produce

Build the file during the RIF, not after the appeal.

1 The notice

The specific RIF notice, any amended notice, proof of service or receipt, and documents showing the effective date. 5 CFR 351.903(b)(3) sets this minimum list.

2 Why the RIF happened

Documents supporting the reason: lack of work, shortage of funds, insufficient personnel ceiling, reorganization, or reemployment or restoration rights.

3 Who the employee was

Coverage, position, appointment, tenure group and subgroup, veterans' preference, service computation date, work schedule, and competing status.

4 Area and level

The competitive area and level used, with any required approval, written area justification, org chart, position descriptions, and classification records.

5 Register and release

The applicable retention register, records affecting retention standing, and how the order of release was applied, including ties and exceptions.

6 Assignment and specials

Positions considered, qualification and assessment records, offers and declinations, plus transfer of function, area abolishment, or exclusions.

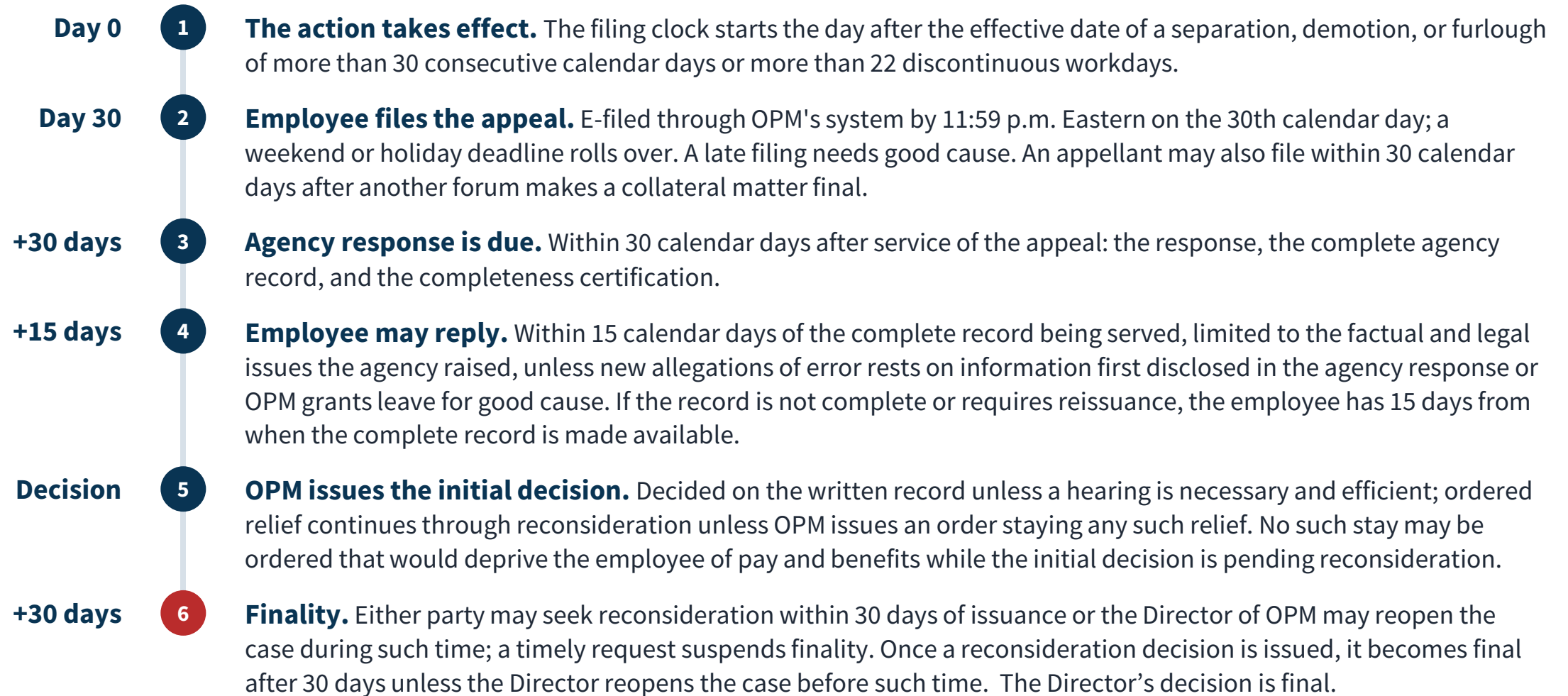
7 Certification – A certification that the agency has produced the complete agency record of the RIF

Questions

TIMELINE

The appeal clock, end to end

Every period is calendar days, not workdays.

- 
- Day 0** **1** **The action takes effect.** The filing clock starts the day after the effective date of a separation, demotion, or furlough of more than 30 consecutive calendar days or more than 22 discontinuous workdays.
 - Day 30** **2** **Employee files the appeal.** E-filed through OPM's system by 11:59 p.m. Eastern on the 30th calendar day; a weekend or holiday deadline rolls over. A late filing needs good cause. An appellant may also file within 30 calendar days after another forum makes a collateral matter final.
 - +30 days** **3** **Agency response is due.** Within 30 calendar days after service of the appeal: the response, the complete agency record, and the completeness certification.
 - +15 days** **4** **Employee may reply.** Within 15 calendar days of the complete record being served, limited to the factual and legal issues the agency raised, unless new allegations of error rests on information first disclosed in the agency response or OPM grants leave for good cause. If the record is not complete or requires reissuance, the employee has 15 days from when the complete record is made available.
 - Decision** **5** **OPM issues the initial decision.** Decided on the written record unless a hearing is necessary and efficient; ordered relief continues through reconsideration unless OPM issues an order staying any such relief. No such stay may be ordered that would deprive the employee of pay and benefits while the initial decision is pending reconsideration.
 - +30 days** **6** **Finality.** Either party may seek reconsideration within 30 days of issuance or the Director of OPM may reopen the case during such time; a timely request suspends finality. Once a reconsideration decision is issued, it becomes final after 30 days unless the Director reopens the case before such time. The Director's decision is final.

Areas that may be appealed

Badges show which module the defect comes from that may cause a prejudice to the employee

M2 Competitive area

Not built on organizational units, not approved at headquarters level, not documented, or changed inside 90 days of notices without OPM approval.

M2 Competitive level

Positions grouped or split on a prohibited basis, or levels built around individuals rather than position descriptions.

M2 Performance credit

A rating used that was not on record, missing-rating math never documented, rules applied unevenly, or extra credit given without published criteria.

M2 Preference and service

Preference or disability percentage not supported in the record, or a service computation date never verified against source documents.

M3 Release and placement

Exceptions stacked or undocumented, grade limits counted from the wrong position, or offers made across work schedules or between services.

M4 The notice itself

Missing ranking data, no record-access information, no assignment statement, a miscounted period, or action taken before the effective date.

Fix it, do not defend it

Correction before the action takes effect is far cheaper than a remedy afterward.

1 Retention standing errors must be corrected

When the agency discovers an error in retention standing, it must correct the error and adjust the RIF action to match the employee's proper standing.

2 Moving the date is not a fix

An amended notice that only states a later effective date does not require recalculating retention standing - and does not excuse the agency from correcting a real error.

3 OPM can review your preparations at any stage

If OPM finds preparations contrary to the express provisions, or the spirit and intent, of the regulations, or that they would violate employee rights or equities, OPM may recommend corrective action.

4 RPL mistakes have their own correction duty

If you filled a position without regard to the RPL, missed the 10-day registration processing limit, or failed to notify an employee of RPL rights, consider corrective action - including accepting a late application and reviewing interim appointments.

Questions

The other complaint routes

An unhappy employee rarely has only one avenue. Know which desk each one belongs on.

1 EEO complaint

Discrimination allegations go through the EEO process.

2 Office of Special Counsel

Allegations that the action is a prohibited personnel practice are filed with OSC at www.osc.gov.

3 RPL appeal

An eligible current or former employee may appeal to MSPB if the agency appointed someone ineligible, used an exception to the RPL order, or denied reemployment after injury compensation ceased.

4 CTAP and ICTAP

No MSPB appeal right on a CTAP issue. Employees may use the administrative or negotiated grievance system, the EEO process, or OSC. OPM oversees agency CTAP actions.

5 Restoration and USERRA

Restoration protections operate independently of the RIF appeal. Where the agency cannot reassign the employee, request OPM placement assistance at WPIntake@opm.gov (5 CFR 353.110(a)(1)).

6 Other routes

Inspector General: complaints within the agency IG's independent jurisdiction
DOL-VETS: USERRA complaints
MSPB: matters within its independent jurisdiction

Five mistakes to avoid in this module

Each one traces back to something earlier in the deck.

1 The wrong forum in the notice

Naming MSPB on a notice issued on or after September 2, 2026, or hedging on the forum instead of stating subpart I.

2 Appeal rights left vague

Omitting the filing deadline in 5 CFR 351.902(b), or the electronic filing system. This can extend the employee's filing window.

3 A register that cannot be reproduced

Regenerating the register at appeal time instead of preserving the version that stood at the notice date

4 Errors defended instead of corrected

Leaving a known retention standing error in place, or treating a later effective date as though it cured one.

5 Records that cannot be produced

Not knowing where the RIF records live or who controls them, when everything must be kept at least two years after the specific notice.

Three things to remember

1 The forum follows the notice date

Notices issued on or after September 2, 2026, go to OPM under subpart I; earlier notices go to MSPB, or to the negotiated grievance procedure where it is exclusive.

2 Build every step as though it will be read line by line

The notice now publishes the ranking data, and a noticed employee may inspect the register. Assume the appeal is drafted with your own documents in hand.

3 Correct errors when you find them

You are required to. An agency that corrects a retention standing error before the action takes effect is in a much better position than one defending a defect it already knew about.

END OF TRAINING

That completes the five modules. Keep with you: your agency implementing issuance for part 351, the OPM Workforce Reshaping Handbook and its appendix checklists, and your headquarters policy contact. Program correspondence to OPM: WPIntake@opm.gov.

Contact & Resources

Workforce Policy and Innovation (WPI)

U.S. Office of Personnel Management

RIF policy questions and technical assistance: WPIntake@opm.gov

Key Resources

- **RIF appeal filing, OPM Office of Adjudications** — opm.gov/compliance/adjudications
- **OPM eFile** — <https://opmefile.opm.gov/>
- **RIF Resources and Templates** — opm.gov/workforce-restructuring
- **RIF Quick Reference Guide** — 5 U.S.C. Chapter 35 and 5 CFR Part 351
- **CHCO Council memoranda** — chcoc.gov

Thank You

Please take a moment to complete a short survey to provide your feedback on today's session:

<https://surveys.opm.gov/se/5B5534D46D5487BF>

