

The following is not legal or representational advice and should only be considered a general guide based on the information available as of the date of this correspondence.

This guidance is subject to change.

As of February 4, 2025

## Deferred Resignation Program Frequently Asked Questions



NAGE has significant concerns about this unprecedented offer, both as its legality and the brief consideration period before employees must decide to resign. The administration's guidance has shifted nearly daily since the Deferred Resignation announcement on January 28, 2025. Nevertheless, the decision to resign is an individual design made upon your determination as to what is best for you and your individual circumstances. NAGE encourages you to review available information from OPM, your employing agency, and credible third-party sources, to speak with agency and private benefits representatives such as United Benefits, and to review any agreement to resign carefully, as you may be waiving significant rights related to the resignation and your federal employment.

**Q: Is the Deferred Resignation Program a buyout?**

**A:** No. As of the date of these FAQs, no Agency has been Voluntary Separation Incentive Payment "VSIP" authority.

**Q: Which employees are Eligible for the Deferred Resignation Program?**

**A:** Per OPM's Guidance, not all federal employees may be eligible for the Program. Employees who are critical to national security or those who are specifically prohibited by their agency are not eligible. Large numbers of federal employees were originally given the "fork in the road" email, only to be told later that they were not eligible for the program. The Program does not provide guidance on who is eligible or how to verify if you are eligible. Please refer to your Agency to determine eligibility.

**Q: Will employees who accept the deferred resignation be required to work?**

**A:** Per OPM's Deferred Resignation Program Guidance, employees who accept deferred resignation will have their duties re-assigned or eliminated and be placed on administrative leave until the end of the deferred resignation period unless the agency head determines that it is necessary for the employee to be actively engaged in transitioning job duties.

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Per the Deferred resignation letter employees may have their official duties reduced and they must agree to assist with completing reasonable and customary tasks during their remaining time at the employing agency and may be required to work in rare circumstances.

**Q: Is there a precedent for the duration of Administrative Leave associated with the deferred resignation program?**

A: There is no precedent for a deferred resignation program.

**Q: Can the administration authorize an employee to be on administrative leave for the duration of time outlined in the deferred resignation program?**

A: Perhaps based on the current interpretation of the Administrative Leave Act. As stated above, there is no precedent for this action and the administration's communication has been unclear.

**Q: If a TRO/preliminary injunction/stay is imposed, which results in the program being placed in abeyance, would employees who accepted the deferred resignation be required to return to work?**

A: Possibly.

**Q: Since OPM does not regulate the use of administrative leave and each agency has the authority and discretion to grant administrative leave, could this prevent the implementation of the deferred resignation program?**

A: Possibly. Mixed information has been shared by the OPM/Agencies. Agencies may determine whether some positions are exempt or that additional transition time is needed.

**Q: As a NAGE bargaining Unit Employee if I accept the deferred resignation, and it is later determined to be unlawful or there are issues with the program, will I be entitled to Union Representation?**

A. It depends on the nature and merits of the alleged violation.

**Q: If I accept the deferred resignation and it is later ruled unlawful, can the government issue a debt notice against me? Can the Government garnish my retirement or other income?**

A. We believe so. Typically, an employee is not entitled to unlawful overpayments and the agency could potentially reach into your retirement or earnings to pay back the debt.

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**Q: If I accept the deferred resignation and my position is later abolished, will I be covered by the reduction in force regulations?**

A. Although an OPM FAQ states you will not be, NAGE has not been provided OPM's authority to make this statement.

**Q: The deferred resignation program offer appears to be unprecedented. Will those who accept receive the promised result, which is full pay & benefits while being on administrative leave?**

A. That is to be determined. As stated above, the program is unprecedented.

**Q: Is there a formal agreement I can sign with my agency reflecting the terms of this offer?**

A: Per OPM FAQs, yes. If you are eligible for the deferred resignation program and accept it, your agency can execute paperwork reflecting all the terms. However, there has been no legal basis provided to enforce the terms of the agreement.

Furthermore, a draft of the agreement that NAGE has seen waives significant rights to any claims related to your employment. You are encouraged to review any agreement carefully and, should you desire, seek legal counsel regarding your specific circumstances.

**Q Can I return to work in the federal government?**

A. Per OPM FAQs, a deferred resignation does not affect your ability to apply to work for the federal government in the future.

**Q. Can I take on another job in the Federal Government while I am on administrative leave through my resignation/retirement date?**

A. Per the OPM FAQ's yes. However, current laws, regulations, and policies may prohibit you from accepting another job (occupying two Federal Government positions) while on administrative leave.

**Q. How can I make it clear that I would like to resign AND retire?**

A. Per the OPM FAQ's if you are eligible for retirement on or before December 31, 2025, OPM will process your resignation with retirement as of September 30 OR your actual retirement date (if it is between September 30 and December 31, 2025).

**Q. What happens if I accept the Deferred Resignation and later change my mind?**

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A. Per OPM FAQ's employees have the right to request a rescission of their resignation at any time but it may be denied.

**Q Will I be required to sign a resignation agreement?**

A. It is possible. Drafts of agreement that NAGE has seen waive any claims you may have related to your resignation and federal employment, NAGE encourages you to review all information available to you, include FAQs, Agency and OPM guidance, speak with benefits representatives, including any designated Agency official/s, and review any agreement carefully before signing.

**Q: Can I Be Terminated Before the Resignation Date?**

A: Per OPM FAQ's, no.