



Empowering Our
Greatest Asset

Special Retirement Coverage: Requirements and Enhanced Benefits

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Special Retirement References

Statutory References:

- Title 5 U.S.C. Chapter 83
- Title 5 U.S. C. Chapter 84

Regulations:

5 CFR 831

5 CFR 842

Congressional Intent

To Maintain a Young and Vigorous
Force of Law Enforcement, Firefighter
and Air Traffic Control Personnel by
Mandating:

- Maximum entry age
- Voluntary early retirement
- Enhanced annuity computation

Approved Positions

LEO/FF Positions

- All Law Enforcement/Firefighter Positions **must be approved** for special retirement coverage by the head of the Departmental Agency, or his designee no more than one level lower
- Secretary of Defense is the Departmental Agency Head for DoD
- Authority has been delegated to the Under Secretary of Defense for Personnel and Readiness.

Approved Positions

Air Traffic Controller positions

The Secretary of Transportation and the Secretary of Defense are authorized to determine that an employee's service in a position is service as an air traffic controller. Also, the designee of one of these Secretaries may make this determination.

OPM accepts the certification of the Secretary (or designee) in determining the amount of service performed as an air traffic controller retiring under the special provisions.

CSRS Legal Definition - 5 U.S.C. 8331(20)

Law Enforcement Officers are:

Employees, the duties of whose position are **primarily the investigation, apprehension or detention** of individuals suspected or convicted of offenses against the **criminal laws of the United States**, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

FERS Legal Definitions - 5 U.S.C. 8401(17)(D)

Law enforcement officer (LEO) means an employee the duties of whose position are **primarily the investigation, apprehension, or detention** of individuals suspected or convicted of offenses against the **criminal laws of the United States**, or

(FERS Only) the protection of officials of the United States against the threats to personal safety; and

FERS Legal Definitions - 5 U.S.C. 8401(17)(D)

Positions “are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the head of the employing agency.”

FERS/CSRS Definition

Definition of Air Traffic Controller –

- Civilian employee of the Department of Transportation or Department of Defense in an air traffic control facility or flight service station facility who is actively engaged in the separation and control of air traffic or in providing preflight, inflight, or airport advisory service to aircraft operators, OR who is the immediate supervisor of such an employee
- Effective 2/20/2003 (FERS Only):
Also included is the immediate supervisor of a person who is described under 5 U.S.C. 2109(1(B), (i.e., a second level supervisor, as provided by 5 U.S.C. 8401(35)(B).

Primary vs. Secondary

Primary Position:

Law Enforcement Officer – duties are primarily:

- Investigation, apprehension or detention of individuals suspected or convicted of offenses against the criminal law of the United States
- **(FERS ONLY)** – First level Supervisors whose duties qualify

Primary vs. Secondary

Primary Position:

Firefighters – a position whose primary duties are:
To perform work directly connected with controlling, and extinguishing fires or maintaining and using firefighter apparatus and equipment

(FERS Only) - First-level supervisors whose duties qualify

Primary vs. Secondary

Secondary Positions means a position that –

- Is clearly in the law enforcement or firefighting field;
- Is in an organization having a law enforcement or firefighting mission; and is either:
 - Supervisory
 - Administrative

Primary vs. Secondary Positions

- Special Retirement coverage in a secondary position is based upon service in a primary position
- Secondary Transfer Requirements:
 - Move Directly with no break in service
 - FERS Only: Must have 3 years service in a primary position (See 5 CFR 842.803)
 - Continuous Coverage in the Secondary position

No time limit under CSRS for movement to secondary positions

Primary vs. Secondary

Air Traffic Controller Primary/Secondary Positions *

- Applies only under FERS
- Air Traffic Controllers and immediate supervisors are primary
- Supervisors of ATC supervisors are secondary

* Secondary ATC Effective 2/20/2003

Position vs. Individual Coverage

Position Coverage – position is approved and individuals who are assigned to the position are covered if they meet the qualifications

Individual Coverage – individual's service in a position is covered because of agency or judicial determination

Eligibility for Special Retirement Annuity

CSRS

- Age 50 with a 20 years of approved LEO/FF service
- Age 50 with 20 years of approved ATC Service, or any age and 25 years of ATC service

FERS

- Age 50 with 20 years of approved LEO/FF/ATC service
- Any age with 25 years of approved LEO/FF/ATC service

Special Retirement Approvals

- Pre 1987 - All Positions Approved by OPM
- Post 1987 – FERS Positions Approved by Agency Head or Designee
- 1993 -OPM Delegates Authority to Approve CSRS positions to Agency Head or Designee

FERS Transfer Requirement

- To retain coverage, an employee:
 - must move directly (without a break in service exceeding 3 days) from covered rigorous/primary position to secondary position, AND,
 - Employee must have completed 3 years of service in a rigorous/primary position, including service during which no FERS deductions were withheld, and, if applicable.....

FERS Transfer Requirement (Cont)

- Been continuously employed in a secondary position(s) since moving from a primary position (without a break in service exceeding 3 days); with one exception
- In determining whether service is continuous for secondary service, do not count a break in employment that was based on an involuntary separation (not for cause)

FERS 3 Year Rigorous Service Requirement

- Position must be approved as rigorous/primary
- Retirement contributions are not required to be counted
 - Temporary or intermittent service may be counted
 - Post-1988 non-deduction service may be counted
 - Service performed under other retirement systems for Federal employees can be counted

FERS 3 Year Rigorous Service Requirement (Cont)

- Primary service under CSRS can be counted
- Employee who elects FERS or is automatically covered while in a CSRS secondary position is deemed to have met the 3-year rigorous requirement, **UNLESS**, more than a 3 day break occurs immediately before the election or automatic coverage (except involuntary, not for cause)

Retirement Contributions

- Employees serving in covered FF/LEO positions must have the additional .5% retirement contributions withheld
 - CSRS currently 7.5%
 - CSRS Offset currently 1.3%, 7.5% for base pay not subject to FICA
 - FERS currently 1.3%

FERS Non-Deduction Service

- Service not subject to FERS deductions performed prior to 1/1/89 may be creditable for both eligibility and computation **only** if:
 - The position is approved; and,
 - The employee makes a deposit equal to 1.3% of basic pay, plus interest

Reemployed Annuitants

- A retired FF who was retired on a mandatory separation is barred from reemployment in a primary position after reaching age 60.
 - Not barred from reemployment in a secondary position or any other position.
- Service by a reemployed annuitant is not covered by the special retirement provisions
 - Agency must withhold the required deductions (additional .5%).

FERS Retirement Eligibility

<u>TYPE OF SEPARATION</u>	<u>COVERED SERVICE</u>	<u>AGE</u>
Optional	20 years 25 years	50 Any
Mandatory	20 years	57

FERS Retirement Eligibility (Cont)

- Must meet age and service requirements
- Must be separated from position subject to FERS
- Does **not** have to be separated from a covered FF position
- Unused Sick leave **cannot** be used to meet service eligibility requirements

FERS Mandatory Retirement

- Mandatory separation on the last day of the month in which the FF meets **both** the age and service requirement
- The agency must notify the employee in writing at least 60 days before the date of mandatory separation
 - Separation is not effective, without the consent of the employee, until the last day of the month in which the 60 day period expires

FERS Mandatory Retirement

- Mandatory separation may be exempted up to age 60 by the Agency Head
- Mandatory separation exemption after age 60 must be approved by the President

FERS Retirement Computation

- Must meet FF retirement eligibility
- Enhanced formula
 - 1.7% of the high-3 average salary multiplied by the total service not to exceed 20 years; plus
 - 1% of the high-3 average salary multiplied by any additional years of creditable service exceeding 20 years.
 - Annuity supplement is payable before age 62 in addition to the basic annuity.

FERS With CSRS Component Retirement Computation

- Must meet FF retirement eligibility
- Enhanced formula
 - Service performed under CSRS computed under CSRS rules
 - Service performed under FERS computed under FERS rules
 - FF service performed prior to FERS transfer does not count toward the 20-year limit on the 1.7% part of the formula

Retirement Computation in Disability and Death in Service Cases

- Court decision – Springer v. Adkins
 - Prior decisions limited special computations to FFs who retired on disability or died in service with 20 years of service but were under age 50
 - Adkins allows special computations to all FFs who retire on disability or die in service

When to Submit Positions For Approval?

- New Positions Not Covered By Global Authorities
- Individually Approved Position Changes to:
 - Major Duties
 - Duty Percentages
 - Grade
 - Title

Overview of the DoD Approval Process



Issue At Hand

- March 2004 – OPM issued new 081 Classification Standard
- Firefighter positions reclassified with some upgrades
- Newly classified were positions no longer covered by global authorities
- Components and Agencies failed to submit new positions for approval of special retirement coverage
- Employees lost coverage despite continuing to make the additional .5% retirement contributions

Problems That Delay Approval Process

- Poorly written Job Descriptions
 - Physical Training Requirements
 - Clearly Defined Duties
- Incorrect Requests for Primary or Secondary Coverage
- Unsigned Position Descriptions
- Incorrect Position Description Numbers on SF50s

Next Steps

- Continue to work with Components to expedite existing cases
- Prioritize cases in which employees are at or near retirement eligibility
- Monitor newly established PDs to ensure that coverage is obtained
 - Quarterly review process
 - Encourage the use of standard position descriptions
 - Develop automatic flag in DCPDS

Where To Obtain Assistance

- Local Human Resource Office
- Component Level Benefits Office
- FAS, Benefits & Entitlements Branch
 - 703-696-6301, press 1 for Benefits
 - benefits@cpms.osd.mil