



## **REFERENCE GUIDE**

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**A REFERENCE GUIDE FOR PERSONNELISTS:  
SPECIAL PROVISIONS FOR  
LAW ENFORCEMENT OFFICERS (LEOs)  
and  
FIREFIGHTERS (FFs)**

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<b>INTRODUCTION</b>
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The purpose of this reference guide is to provide human resources specialists a simple, clear document of the various sections of the retirement law dealing with the special retirement provisions dealing with law enforcement officers and firefighters. It is developed as a tool that can be used for quick reference to the major provisions in law and regulation. It is not intended to be a complete, all-encompassing reference document. For this reason, we have included a reference chart of all statutory and regulatory cites that can be used by the human resources specialist who has to answer questions or counsel employees in the course of their day to day responsibilities.

We designed this reference guide as a starting point when researching questions or issues about the LEO/FF provisions of the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). If you have any questions, we invite you to call our office for information from one of our FAS Advisors. We will be glad to assist you with these issues.

This reference guide is divided into seven (7) parts as described in the Table of Contents. Dividing the material this way facilitates the customers' receiving "just enough/just in time" over the facsimile equipment. All seven parts, however, should be reviewed to grasp or enhance understanding of the subject matter.

If you have any suggestions or comments concerning this reference guide, please call us and let us know.

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<p style="text-align: center;"><b>Legislative History of Law Enforcement Officers (LEOs) and Firefighters (FFs)</b></p>
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**Public Law 80-168 (July 11, 1947)**

***Congress extended to agents and similar employees of the Federal Bureau of Investigation (FBI) preferential retirement provisions***

- Retirement eligibility at age 50 after at least 20 years of service in certain positions.
- Incentive for employees to remain in Federal service rather than leave for higher paying jobs in private industry.
- Reward special agents for their arduous, hazardous work not unlike the favorable legislation enacted for certain Foreign Service officers.
- Encouraging experienced agents to continue in service would benefit the government yet a vigorous youthful workforce would be maintained.
- Maintain a young and vigorous staff of law enforcement officers.
- Government would not lose highly qualified agents through early retirement, because the Attorney General would only approve the applications of those individuals who could not operate at their former levels of efficiency;
- Many State and local governments provided liberalized benefits of this nature for their law enforcement officers.

**Annuity of an FBI employee eligible for early retirement**

- 2% of basic salary for the five years immediately preceding retirement for each year of service performed.
- maximum annuity of 60% of average salary.
- annuities of all other retirees were determined on an actuarial basis, with a maximum of 80%.

*(At that time, Federal employees were generally eligible to retire at age 55 (there was a reduction in the amount of annuity at age 55, with 30 years of service), or age 60, after 30 years of service, or at age 62 after 15 years of service.)*

**Public Law 80-879 (July 2, 1948)**

- Extended the benefits for FBI agents to other Federal employees in similar positions with similar duties.
- Employees covered were those whose primary duties were the investigation, apprehension or detention of persons suspected or convicted of offenses against the criminal laws of the United States, including any officer or employee engaged in such activity who had been transferred to a supervisory or administrative position.
- The head of each agency was responsible for recommending, on an individual basis, applications for the preferential retirement.
- The Civil Service Commission, in turn, was to determine whether each applicant's duties satisfied the criteria set forth in law. (Under Reorganization Plan No. 2 of 1978, effective

January 1, 1979, the Office of Personnel Management--OPM or "Office"--succeeded the Civil Service Commission in administering the Civil Service Retirement laws.)

- In arriving at these determinations, full consideration was to be given to the degree of hazard to which the officer or employee was subjected in the performance of his or her duties, rather than the general duties of the class of position held by the officer or employee.

**Public Law 81-235 (August 16, 1949)**

- Provided for a law enforcement officer's average salary to be computed over a period of any five consecutive years of Federal Service. (Previously, the average salary had been based on the last five years of service.)
- Made the retirement system easier to administer, affected few employees, and benefited those employees who were demoted to lower grade positions when impaired health might have precluded level of performance as law enforcement officers.

**Public Law 84-854 (July 31, 1956)**

- "Detention" was construed to include the duties of most non-guard prison personnel in the Federal civilian service.
- 80% limitation imposed for all other civil service retirees was made applicable to law enforcement officers eligible for retirement under the liberalized provision. Limitation of 60% of average pay for law enforcement officers retiring under the special provisions was repealed.

**Public Law 92-382 (August 14, 1972)**

- Federal firefighters granted the same benefits which had previously been available only to law enforcement officers.

**Public Law 93-350 (July 12, 1974)**

- Hazard as a criterion for entitlement was deleted.
- Benefits were computed on a formula of:  
2 1/2% of high-three years` average salary ("high-3") for the first 20 years of service  
**PLUS**  
2% of average salary for each year exceeding 20 years.
- Allows employees to retire at age 50 after 20 years` service as law enforcement officer and/or firefighter personnel, **regardless of the employee's job at the time of retirement.** (Previously, only those persons actually serving in law enforcement/ firefighter positions at the time the eligibility criteria were satisfied were eligible under this provision.)
- Rate of retirement deductions for employees serving in covered law enforcement or firefighter positions was increased by 1/2%, effective January 1, 1975.
- Annual premium pay for administratively uncontrollable overtime (AUO) received by law enforcement officers was included in average salary for annuity computation purposes.
- Effective January 1, 1978, law enforcement officers and firefighters became subject to automatic separation at age 55 provided they had completed 20 years of qualifying service.

An agency head, however, is authorized to exempt an employee from retirement until age 60 if the public interest so requires.

- Agency heads were authorized, with the concurrence of the Office, to establish the minimum and maximum limits of age within which an original appointment might be made to a position as a law enforcement officer or firefighter (as respectively defined in 5 U.S.C. 8331(20) and (21)).

### **December, 1987**

- Any employee who believed he/she had service that could be considered law enforcement officer or firefighter service as defined by Federal statute and regulation could submit a request to their personnel offices for review.
- Personnel office would then forward to claim to OPM for a final determination.
- Requests were required to be submitted by September 30, 1989.
- Requests received after September 30, 1989 would require agency review of only 1 year prior to the date of the request.

### **December 7, 1993**

- Determinations of position coverage, individual service credit determinations and individual position coverage requests were delegated to the Agency heads.
- OPM has a regulatory oversight function.

<p style="text-align: center;"><b>SPECIAL RETIREMENT PROVISIONS FOR LAW ENFORCEMENT OFFICERS (CSRS)</b></p>
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**REFERENCES**

*United States Code: 5 U.S.C. 8331 (20); 8335 (b); 8336 (c)*

*Code of Federal Regulations: 5 CFR 831, Subpart I*

*The CSRS and FERS Handbook for Personnel and Payroll Offices (Chapter 46)*

<p style="text-align: center;"><b>DEFINITIONS</b></p>
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**“Law Enforcement Officer”** means an employee in a position whose duties 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 moves directly to a secondary position.

The definition does NOT include an employee whose primary duties involve maintaining law and order, protecting life and property, guarding against or inspecting for violations of law, or investigating persons other than persons who are suspected or convicted of offenses against the criminal laws of the United States.

**“Primary Duties”** are those duties of a position that -

1. Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;
2. Occupy a substantial portion of the individual’s working time over a typical work cycle; and
3. Are assigned on a regular and recurring basis.

**NOTE:** Duties that are of an emergency, incidental, or temporary nature cannot be considered “primary” even if they meet the substantial portion of time criterion.

**“Primary Position”** means a position whose primary duties are investigating, apprehending, or detaining individuals suspected or convicted of offenses against the criminal laws of the United States.

**“Secondary Position”** means a position that -

1. Is in the law enforcement field;
2. Is in an organization having a law enforcement mission; and
3. Is either:

*Supervisory*, that is, a position whose primary duties are those of a first-level supervisor of law enforcement officers in primary positions; or

*Administrative*, that is, an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary law enforcement position, or equivalent experience outside the Federal government, is a mandatory prerequisite.

## **DETERMINATION OF COVERAGE**

### **CONDITIONS FOR COVERAGE**

#### **PRIMARY POSITION DETERMINATIONS**

- An employee's service in a position that has been determined by the Agency head to be a primary position is covered under the special group provisions for law enforcement officers.

#### **SECONDARY POSITION AND COVERAGE DETERMINATIONS**

- An employee's service in a position that has been determined by the Agency head to be a qualifying secondary position is covered under the special provision, if all the following requirements are met:
  1. The employee, while covered under the special provision, moves directly (that is, without a break in service exceeding 3 days) from a primary position to a secondary position; and
  2. If applicable, the employee has been continuously employed in a secondary position or positions since moving from a primary position without a break in service exceeding 3 days.

#### **INDIVIDUAL REQUESTS FOR PAST SERVICE CREDIT**

- An employee or former employee who believes that a period of service in an unapproved position qualifies as service in a primary or secondary position may request a determination that the service is creditable under the special provisions for law enforcement officers.
- Law enforcement credit for past service generally will not be granted for a period greater than 1 year prior to the date that the request was received from the individual.
- The employee bears the burden of proof with respect to credit under the special provisions covering law enforcement officers.
- For law enforcement officers, the request may be submitted from the employee to the personnel or human resources office. Documentation may include a list of the provisions of Federal criminal law the incumbent was responsible for enforcing, arrests made, investigative reports, etc.

- An employee may appeal the final Agency decision for individual credit determinations to the MSPB.

## **RETIREMENT ELIGIBILITY**

### **ELIGIBILITY REQUIREMENTS**

- CSRS law enforcement officers may retire at an early age with entitlement to a special annuity computation, however, the employee must be at least age 50 at the time of separation and have at least 20 years of service as a law enforcement officer.
- The employee must also be separated from a position covered by retirement deductions and meet the “one-out-of-two” requirement.

## **MANDATORY SEPARATION**

- The standard mandatory separation age for law enforcement officers is age 57 unless the employee does not have the required 20 years of service. In these instances the employee must be separated on the last day of the month in which he or she completes 20 years of service.

**NOTE:** The employing agency must notify the employee in writing of the date of separation at least 60 days in advance of the separation date.

**NOTE:** Employees who are eligible for retirement under the special provisions but who are not currently occupying a law enforcement officer position, are not required to retire and are not subject to mandatory separation.

**NOTE:** Although maximum entry ages were generally not officially established under CSRS, officials should be aware of the conditions of employment to ensure there is no adverse impact on activity missions.

<b>SPECIAL RETIREMENT PROVISIONS FOR LAW ENFORCEMENT OFFICERS (FERS)</b>
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**REFERENCES**

*United States Code: 5 U.S.C. 8401 (17); 8412 (d); 8425*

*Code of Federal Regulations: 5 CFR 842, Subpart H*

*The CSRS and FERS Handbook for Personnel and Payroll Offices (Chapter 46)*

<b>DEFINITIONS</b>
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**“Law Enforcement Officer”** means an employee occupying a rigorous position whose primary duties are the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or the protection of officials of the United States against threats to personal safety. (This includes certain officers in the U.S. Park Police and in the Uniformed Division of the Secret Service.)

The definition **does NOT include** an employee whose primary duties involve maintaining law and order, protecting life and property, guarding against or inspecting for violations of law, or investigating persons other than persons who are suspected or convicted of offenses against the criminal laws of the United States.

**“Primary Duties”** are those duties of a position that -

1. Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;
2. Occupy a substantial portion of the individual’s working time over a typical work cycle; and
3. Are assigned on a regular and recurring basis.

**NOTE:** Duties that are of an emergency, incidental, or temporary nature cannot be considered “primary” even if they meet the substantial portion of time criterion.

**“Rigorous Position”** means a position the duties of which are so rigorous that employment opportunities should, as soon as reasonably possible, be limited (through establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals whose primary duties are investigating, apprehending, or detaining individuals suspected or convicted of offenses against the criminal laws of the United States or protecting the personal safety of United States officials.

**“Secondary Position”** means a position that -

1. Is in the law enforcement field;

2. Is in an organization having a law enforcement mission; and
3. Is either:

*Supervisory*, that is, a position whose primary duties are those of a first-level supervisor of law enforcement officers in primary positions; or

*Administrative*, that is, an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary law enforcement position, or equivalent experience outside the Federal government, is a mandatory prerequisite.

<b>DETERMINATION OF COVERAGE</b>
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**CONDITIONS FOR COVERAGE**

**RIGOROUS POSITION DETERMINATION**

- An employee's service in a position that has been determined by the Agency head to be a qualifying rigorous position is covered under the special group provisions for law enforcement officers.

**SECONDARY POSITION AND COVERAGE DETERMINATION**

- An employee's service in a position that has been determined by the Agency head to be a qualifying secondary position is covered under the special provision, if all the following requirements are met:
  1. The employee, while covered under the special provision, moves directly (that is, without a break in service exceeding 3 days) from a rigorous position to a secondary position; and
  2. The employee has completed 3 years of service in a rigorous position, including any such service during which no FERS deductions were withheld; and
  3. If applicable, the employee has been continuously employed in a secondary position or positions since moving from a primary position without a break in service exceeding 3 days.

**INDIVIDUAL REQUESTS FOR POSITION APPROVAL**

- If an employee is not in an approved law enforcement officer position (rigorous or secondary), the employee may, within 6 months after entering the position or within 6 months after any significant change in the position, formally seek a determination from the employing agency regarding his or her position. The individual's request must be in writing to the personnel or human resources office.

- If the employee does not request a position determination within 6 months the Agency head's determination that the service was not covered under the special group provisions at the time the service was performed is presumed to be correct. This presumption may be rebutted by a preponderance of the evidence that the employee was unaware of his or her status or was prevented by cause beyond his or her control from requesting that the official status be changed at the time the service was performed.
- In response to the individual request for approval of a position as a law enforcement officer, the agency must issue a written decision.
- An employee may appeal the final agency decision regarding a position determination to the Merit Systems Protection Board.

## **RETIREMENT ELIGIBILITY**

### **ELIGIBILITY REQUIREMENTS**

- FERS law enforcement officers may retire at an early age with entitlement to a special annuity computation; however, the employee must be at least age 50 at the time of separation and have at least 20 years of service as a law enforcement officer, or may retire before age 50 if they have 25 years of service.
- The employee must also be separated from a position covered by retirement deductions.

## **TRANSITIONAL PROVISIONS**

- Any service as a law enforcement officer under CSRS definitions that was performed before the date on which an employee becomes subject to FERS, is included in determining the employee's length of law enforcement service under FERS for the purpose of retirement eligibility and mandatory separation.

## **MANDATORY SEPARATIONS**

- The standard mandatory separation age for law enforcement officers is age 57 unless the employee does not have the required 20 years of service. In these instances the employee must be separated on the last day of the month in which he or she completes 20 years of service.

**NOTE:** The employing agency must notify the employee in writing of the date separation at least 60 days in advance of the separation date.

**NOTE:** Employees who are eligible for retirement under the special provisions but who are not currently occupying a law enforcement officer position, are not required to retire and are not subject to mandatory separation.

<b>SPECIAL RETIREMENT PROVISIONS FOR FIREFIGHTERS (CSRS)</b>
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**REFERENCES**

*United States Code: 5 U.S.C. 8331 (21); 8335 (b); 8336 (c)*

*Code of Federal Regulations: 5 CFR 831, Subpart I*

*The CSRS and FERS Handbook for Personnel and Payroll Offices (Chapter 46)*

<b>DEFINITIONS</b>
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**“Firefighter”** means an employee in a position whose duties are primarily to perform work directly connected with the control and extinguishment of fire or the maintenance and use of firefighting apparatus and equipment. Also included in this definition is an employee who moves directly from a primary firefighter position to a secondary position.

**NOTE:** An employee whose primary duty is the performance of routine fire prevention inspections is excluded from this definition.

**“Primary Duties”** are those duties of a position that -

1. Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;
2. Occupy a substantial portion of the individual’s working time over a typical work cycle; and
3. Are assigned on a regular and recurring basis.

**NOTE:** Duties that are of an emergency, incidental, or temporary nature cannot be considered “primary” even if they meet the substantial portion of time criterion.

**“Primary Position”** means a position whose primary duties are to perform work directly connected with controlling and extinguishing fires or maintaining and using firefighter apparatus and equipment.

**“Secondary Position”** means a position that -

1. Is in the firefighting field;
2. Is in an organization having a firefighting mission; and
3. Is either:

**Supervisory**, that is, a position whose primary duties are those of a first-level supervisor of firefighters in primary positions; or

*Administrative*, that is, an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary firefighting position, or equivalent experience outside the Federal government, is a mandatory prerequisite.

## **DETERMINATION OF COVERAGE**

### **CONDITIONS FOR COVERAGE**

#### **PRIMARY POSITION DETERMINATIONS**

- An employee's service in a position that has been determined by the Agency head to be a primary position is covered under the special group provisions for firefighters.

#### **SECONDARY POSITION AND COVERAGE DETERMINATIONS**

- An employee's service in a position that has been determined by the Agency head to be a qualifying secondary position is covered under the special provision, if all the following requirements are met:
  1. The employee, while covered under the special provision, moves directly (that is, without a break in service exceeding 3 days) from a primary position to a secondary position; and
  2. If applicable, the employee has been continuously employed in a secondary position or positions since moving from a primary position without a break in service exceeding 3 days.

#### **INDIVIDUAL REQUESTS FOR PAST SERVICE CREDIT**

- An employee or former employee who believes that a period of service in an unapproved position qualifies as service in a primary or secondary position may request a determination that the service is creditable under the special provisions for firefighters. Firefighter credit for past service generally will not be granted for a period greater than 1 year prior to the date that the request was received from the individual.
- The employee bears the burden of proof with respect to credit under the special provisions covering firefighters.
- For firefighters, the request may be submitted to the personnel or human resources office. Documentation may include the number of fires fought, names of fires fought, dates of fires, and position occupied while on firefighting duty.
- An employee may appeal the final Agency decision for individual credit determinations to the MSPB.

## **RETIREMENT ELIGIBILITY**

### **ELIGIBILITY REQUIREMENTS**

CSRS firefighters may retire at an early age with entitlement to a special annuity computation, however, the employee must be at least age 50 at the time of separation and have at least 20 years of service as a firefighter.

- The employee must also be separated from a position covered by retirement deductions and meet the “one-out-of-two” requirement.

## **MANDATORY SEPARATION**

- The standard mandatory separation age for firefighters is age 55 unless the employee does not have the required 20 years of service. In these instances the employee must be separated on the last day of the month in which he or she completes 20 years of service.

**NOTE:** The employing agency must notify the employee in writing of the date of separation at least 60 days in advance of the separation date.

**NOTE:** Employees who are eligible for retirement under the special provisions but who are not currently occupying a firefighter position, are not required to retire and are not subject to mandatory separation.

**NOTE:** Although maximum entry ages were generally not officially established under CSRS, officials should be aware of the conditions of employment to ensure there is no adverse impact on activity missions.

<b>SPECIAL RETIREMENT PROVISIONS FOR FIREFIGHTERS (FERS)</b>
--

**REFERENCES**

*United States Code: 5 U.S.C. 8401 (14); 8412 (d); 8425*  
*Code of Federal Regulations: 5 CFR 842, Subpart H*  
*The CSRS and FERS Handbook for Personnel and Payroll Offices (Chapter 46)*

<b>DEFINITIONS</b>
--------------------

**“Firefighter”** means an employee occupying a rigorous position whose primary duties are to perform work directly connected with the control and extinguishment of fires. Also included in this definition is an employee occupying a rigorous firefighter position who moves directly to a secondary position.

**NOTE:** An employee whose primary duties are the performance of routine fire prevention inspection duties is excluded from this definition.

**NOTE:** In contrast to the CSRS definition of “firefighter”, the FERS definition does not include employees in positions in which duties are primarily to maintain or use firefighting apparatus and equipment.

**“Primary Duties”** are those duties of a position that -

1. Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position;
2. Occupy a substantial portion of the individual’s working time over a typical work cycle; and
3. Are assigned on a regular and recurring basis.

**NOTE:** Duties that are of an emergency, incidental, or temporary nature cannot be considered “primary” even if they meet the substantial portion of time criterion.

**“Rigorous Position”** means a position the duties of which are so rigorous that employment opportunities should, as soon as reasonably possible, be limited (through establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals whose primary duties are to perform work directly connected with controlling and extinguishing fires.

**“Secondary Position”** means a position that -

1. Is in the firefighting field;

2. Is in an organization having a firefighting mission; and
3. Is either:

*Supervisory*, that is, a position whose primary duties are those of a first-level supervisor of firefighters in rigorous positions; or

*Administrative*, that is, an executive, managerial, technical, semiprofessional, or professional position for which experience in a rigorous firefighting position, or equivalent experience outside the Federal government, is a mandatory prerequisite.

## **DETERMINATION OF COVERAGE**

### **CONDITIONS FOR COVERAGE**

#### **RIGOROUS POSITION DETERMINATIONS**

- An employee's service in a position that has been determined by the Agency head to be a qualifying rigorous position is covered under the special group provisions for firefighters.

#### **SECONDARY POSITION AND COVERAGE DETERMINATIONS**

- An employee's service in a position that has been determined by the Agency head to be a qualifying secondary position is covered under the special provision, if all the following requirements are met:
  1. The employee, while covered under the special provision, moves directly (that is, without a break in service exceeding 3 days) from a rigorous position to a secondary position; and
  2. The employee has completed 3 years of service in a rigorous position, including any such service during which no FERS deductions were withheld; and
  3. If applicable, the employee has been continuously employed in a secondary position or positions since moving from a primary position without a break in service exceeding 3 days.

#### **INDIVIDUAL REQUESTS FOR POSITION APPROVAL**

- If an employee is not in an approved firefighter position (rigorous or secondary), the employee may, within 6 months after entering the position or within 6 months after any significant change in the position, formally seek a determination from the employing agency regarding his or her position. The individual's request must be in writing to the personnel or human resources office.

- If the employee does not request a position determination within 6 months the Agency head's determination that the service was not covered under the special group provisions at the time the service was performed is presumed to be correct. This presumption may be rebutted by a preponderance of the evidence that the employee was unaware of his or her status or was prevented by cause beyond his or her control from requesting that the official status be changed at the time the service was performed.
- In response to the individual request for approval of a position as a firefighter, the agency must issue a written decision.
- An employee may appeal the final agency decision regarding a position determination to the Merit Systems Protection Board.

## **RETIREMENT ELIGIBILITY**

### **ELIGIBILITY REQUIREMENTS**

- FERS firefighters may retire at an early age with entitlement to a special annuity computation, however, the employee must be at least age 50 at the time of separation and have at least 20 years of service as a firefighter, or may retire before age 50 if they have 25 years of service.
- The employee must also be separated from a position covered by retirement deductions.

## **TRANSITIONAL PROVISIONS**

- Any service as a firefighter under CSRS definitions that was performed before the date on which an employee becomes subject to FERS is included in determining the employee's length of firefighter service under FERS for the purpose of retirement eligibility and mandatory separation.

## **MANDATORY SEPARATIONS**

The standard mandatory separation age for firefighters is age 55 unless the employee does not have the required 20 years of service. In these instances the employee must be separated on the last day of the month in which he or she completes 20 years of service.

**NOTE:** The employing agency must notify the employee in writing of the date of separation at least 60 days in advance of the separation date.

**NOTE:** Employees who are eligible for retirement under the special provisions but who are not currently occupying a firefighter position, are not required to retire and are not subject to mandatory separation.

**ELIGIBILITY  
AGE AND SERVICE REQUIREMENTS  
CSRS**

<b>CSRS EMPLOYEES</b>		
<b>Retirement</b>	<b>Age</b>	<b>Years of Service</b>
<b>Optional</b>	<b>50</b>	<b>20</b>
<b>Mandatory (Age for FFs)</b>	<b>55</b>	<b>20</b>
<b>Mandatory (Age for LEOs)</b>	<b>57</b>	<b>20</b>

**Minimum Requirements:**

1. At least 20 years of creditable service as a law enforcement officer (LEO) or firefighter (FF) or any combination of such service totaling at least 20 years.
2. Must meet 1 out of the 2 years before separation on which retirement is based.
3. Must be subject to CSRS on the day of separation.
4. Do not have to separate from a “covered” position.
5. Unused sick leave cannot be used for minimal eligibility requirements.
6. Additional deductions of 1/2% must be withheld from pay for covered/creditable service after 7-1-75.

*Excluded from this provision is any employee who is separated from service by removal for cause on charges of misconduct or delinquency.*

**ELIGIBILITY  
AGE AND SERVICE REQUIREMENTS  
FERS**

<b>FERS EMPLOYEES</b>		
<b>Retirement</b>	<b>Age</b>	<b>Years of Service</b>
<b>Optional</b>	<b>50</b>	<b>20</b>
	<b>Any</b>	<b>25</b>
<b>Mandatory (Age for FFs)</b>	<b>55</b>	<b>20</b>
<b>Mandatory (Age for LEOs)</b>	<b>57</b>	<b>20</b>

**Minimum Requirements:**

1. Any age with 25 years of creditable law enforcement officer (LEO) or firefighter (FF) service.
2. One out of two requirement does not exist under FERS.
3. Must be separated from a position subject to FERS.
4. Do not have to separate from “covered” position.
5. Additional deductions of 1/2% must be withheld from pay for covered/creditable service.

*Excluded from this provision is any employee who is separated from service by removal for cause on charges of misconduct or delinquency.*

<b>At A Glance...Service Credit Tips</b>
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## **DETAILS OR TEMPORARY PROMOTIONS**

### **CSRS/FERS**

Employee's *position of record* determines whether his or her service is covered under special retirement.

## **NON DEDUCTION SERVICE**

### **CSRS**

Service not subject to CSRS deductions (i.e. Temp Appt.) may be creditable *if*:

- the position is approved
- the service was performed on or after October 1, 1982, the employee made a deposit equal to 7.5% of basic pay, with interest, for the service. (If the service was performed before October 1, 1982, no deposit is required for this purpose.)

### **FERS**

Service not subject to FERS deductions (i.e., Temp. Appt.), that is performed before 1989, may be creditable as LEO/FF *if*:

- the position is an approved position
- the employee made a deposit equal to 1.3% of basic pay, with interest, for the service.

## **CSRS RULES AND WHEN THEY APPLY**

*The CSRS definitions of LEO/FF apply to any service performed:*

- before 1987
- after 1986 and before an employee first becomes subject to FERS deductions, if that service was either:
  1. covered by CSRS deductions at the time it was performed, or
  2. nondeduction service that is creditable in a CSRS component of a FERS annuity.

- service under the CSRS Interim or Offset provisions is subject to the CSRS definitions even though that service becomes creditable under FERS for annuity entitlement and computation purposes, when the employee becomes covered under FERS.
- the determination as to whether any service meets the CSRS definitions of LEO/FF must be made under CSRS rules.

### **FERS RULES AND WHEN THEY APPLY**

*The FERS Definitions apply to LEO/FF to any service performed*

- after 1986 and
- subject to FERS deductions, or
- nondeduction service before or after becoming covered by FERS that is creditable under FERS annuity computation rules
- nondeduction service performed on or after January 1, 1989, is not creditable under FERS. (NOTE: The service can be used for meeting the FERS 3-year rigorous requirement)

### **ADDITIONAL NOTES ON SERVICE CREDIT**

- Credit for any service as a LEO/FF under CSRS definitions that was performed before the date on which an employee becomes subject to FERS, is included in determining the employee's length of law enforcement and firefighter service under FERS for the purposes of retirement eligibility and mandatory separation.
- An employee who met the direct transfer requirement under CSRS is considered to have met the FERS direct transfer requirement.
- An employee who became covered by FERS while serving in a secondary LEO/FF position under CSRS, service in a primary position can be counted as service in a rigorous position for purposes of the 3-year requirement.
- For employees who became covered by FERS while serving in a secondary LEO/FF position under CSRS, the 3-year rigorous service requirement is deemed to have been met.
- The employee is NOT covered as a FERS LEO/FF in a secondary position if he or she had a break in CSRS coverage as a LEO/FF exceeding 3 days immediately before becoming subject to FERS (for this purpose, do not count as a break in coverage in secondary

positions occurring before the individual became subject to FERS, if the break began with an involuntary separation not for cause)

**ANNUITY FORMULA FOR SPECIAL LEO/FF COMPUTATIONS**

*Reference: Chapter 54, CSRS and FERS Handbook for Personnel and Payroll*

**(Detailed examples of annuity computations can be found in Section 54 C of Chapter 54)**

**CSRS**

The basic annuity for employees eligible to retire under the special provisions for LEOs and FFs is computed under the following basic formula:

2.5% X Hi-3 Average Salary X Total Service not to exceed 20 years
PLUS
2% X Hi-3 Average Salary X Additional years of creditable service exceeding 20 years

**The basic annuity may be reduced for:**

- Failure to pay a deposit for nondeduction service performed prior to 10-1-82
- Failure to pay a redeposit of a refund based on a period of service ending before 10-1-90
- Election of (or court-ordered) survivor benefits for a current spouse and/or former spouse
- Election of a survivor benefit for a person with an insurable interest
- Election of the alternative annuity
- An offset amount for offset employees who are entitled to Social Security benefits.

**FERS**

The basic annuity for employees eligible to retire under the special provisions for LEOs and FFs is computed under the following basic formula:

1.7% X Hi-3 Average Salary X 20

PLUS

1% X Hi-3 Average Salary X any additional creditable service

**The basic annuity may be reduced for:**

- Election of (or court-ordered) survivor benefits for a current spouse and/or former spouse
- Election of a survivor benefit to a person with an insurable interest
- Election of the alternative annuity

***For FERS employees:***

A retiree annuity supplement is payable before age 62 in addition to the basic annuity.

The 1.1 % formula does not apply to individual who, at the time of the separation on which retirement is based, are LEOs or FFs.

**Employees with a CSRS Component**

The CSRS rules for creditability of service, calculation of length of service, average salary, reduction for unpaid CSRS deposits(s) and redeposit(s) and voluntary contributions annuity apply to the CSRS component of a FERS benefit.

AGENCY LETTERHEAD

**CERTIFICATION LETTER**  
**SAMPLE (CSRS)**

<b>NAME:</b> Harley Firefighter
<b>DOB:</b> 00-00-00
<b>SSN:</b> 000-000-000

This letter certifies that Mr. Harley Firefighter qualifies for special retirement under 8336 (c) of CSRS. We have verified 20 years of creditable service for Mr. Firefighter as a firefighter.

Additional retirement deductions of 1/2 % have been withheld from Mr. Firefighter's pay since 1-1-75 for all covered or creditable firefighter service.

The following chronology of covered service has been verified:

<u>AGENCY</u>	<u>SERVICE</u>	<u>POSITION</u>	<u>CATEGORY OF COVERAGE</u>
Air Force	2-6-73 (CC Appt.)	Firefighter, GS 081-3	Primary
Air Force	2-10-75 (Prom)	Firefighter, GS 081-4	Primary
Air Force	2-15-76 (Prom)	Firefighter, GS 081-5	Primary
	9-20-78 (Resig)		
Navy	6-4-79 (CC Appt.)	Firefighter, GS 081-5	Primary
Navy	7-16-80 (Prom)	Lead FF, GS 081-6	Primary
Navy	3-10-82 (Prom)	Fire Prot. Insp., GS 081-7	Secondary
Navy	12-4-85 (Prom)	Fire Prot. Insp., GS 081-9	Secondary
Navy	11-26-90 (Prom)	Asst. Fire Chief, GS 085-11	Secondary
	12-24-95 (Retired)		

If you have any questions, please contact Ms. Lange at 000-000-0000.

Sincerely,

Ms. K.M. Lange  
Personnel Specialist

AGENCY LETTERHEAD

**CERTIFICATION LETTER**  
**SAMPLE (FERS)**

<b>NAME:</b> Harley Firefighter
<b>DOB:</b> 00-00-00
<b>SSN:</b> 000-000-000

This letter certifies that Mr. Harley Firefighter qualifies for special retirement under 8412(d) of FERS. We have verified **(20/25)** years of creditable service for Mr. Firefighter as a firefighter.

Additional retirement deductions of 1/2 % have been withheld from Mr. Firefighter's pay.

The following chronology of covered service has been verified:

<u>AGENCY</u>	<u>SERVICE</u>	<u>POSITION</u>	<u>CATEGORY OF COVERAGE</u>
Air Force	2-6-70 (CC Appt.)	Firefighter, GS 081-3	Primary
Air Force	2-10-73 (Prom)	Firefighter, GS 081-4	Primary
Air Force	2-15-75 (Prom)	Firefighter, GS 081-5	Primary
Navy	6-4-77 (CC Appt.)	Firefighter, GS 081-5	Primary
Navy	7-16-80 (Prom)	Lead FF, GS 081-6	Primary
Navy	3-10-82 (Prom)	Fire Prot. Insp., GS 081-7	Secondary
Navy	12-4-85 (Prom)	Fire Prot. Insp., GS 081-9	Secondary
Navy	2-20-86 (Resig)		
Navy	3-1-86 (Rehired) (Became FERS)	Fire Prot. Insp., GS 081-9	Secondary
Navy	11-26-90	Asst. Fire Chief, GS 085-11	Secondary
Navy	12-24-95 (Retired)		

If you have any questions, please contact Ms. Lange at 000-000-0000.

Sincerely,

Ms. K.M. Lange  
Personnel Specialist

## SAMPLE LETTER FOR MANDATORY RETIREMENTS (LAW ENFORCEMENT OFFICERS & FIREFIGHTERS)

*Employing offices must notify law enforcement officers and firefighters in writing 60 days in advance of the date of mandatory separation. The following letter provides samples for use in the various situations which warrant a mandatory separation for law enforcement officers and firefighters.*

### AGENCY LETTERHEAD

Office Symbol

Date

Employee's Name

Address

Dear (Employee's Name:)

A review of your records indicates that you will (\* select the applicable statement below). As a law enforcement officer/firefighter who has 20 years of creditable covered service and has reached the mandatory retirement age you must be separated from Federal Service on (date of mandatory separation) as directed in Title 5 United States Code Section (8335 (b) for CSRS or 8425 (b) for FERS).

Please contact (name and telephone number of retirement counselor) as soon as possible to complete your retirement application. The retirement counselor will also provide you an annuity estimate and assist you in obtaining information necessary for making decisions about your retirement benefits and entitlements.

Your term of service at (name of installation or activity) has been marked by conscientious, efficient and dedicated devotion to your job and your fellow (law enforcement officers or firefighters).

This is an involuntary separation. A mandatory separation is NOT an adverse action under 5 CFR Part 752 or a removal action under 5 CFR Part 359, and therefore is not an action that can be appealed to a higher level.

Please let us know if we may be of any further assistance to you before your retirement.

Sincerely,

Personnel Officer (or designee)

### **CSRS/FERS covered employees in firefighter positions**

\* have 20 years of firefighter service on **(date)** and have already attained 55 years of age.

***Or***

- become age 55 on **(date)** and have already attained at least 20 years of firefighter service.

### **CSRS/FERS covered employees in law enforcement officer positions**

\* have 20 years of law enforcement officer service on (**date**) and have already attained 57 years of age.

*Or*

\* become age 57 on (**date**) and have already attained at least 20 years of law enforcement officer service.

<b>Special Retirement Provisions for Law Enforcement Officers and Firefighters</b>
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*Some Frequently Asked Questions...*

**1. Q: What does “special retirement coverage” for LEOs and FFs mean?**

A: It means that LEOs/FFs can retire early as indicated below:

A LEO/FF can retire under 5 U.S.C. 8336 (c)/CSRS after becoming 50 years of age and completing 20 years of service as a LEO or FF, or any combination of LEO/FF service totaling at least 20 years.

A LEO/FF can retire under 5 U.S.C 8412 (d) /FERS after completing 25 years of service as a LEO or FF or any combination of such service totaling 25 years; or after becoming age 50 and completing 20 years of service as a LEO or FF, or any combination of such service totaling 20 years.

**1. Q: If an LEO/FF position is approved for coverage under the special retirement provisions in the “primary”/”rigorous” category, what does that mean?**

A: For CSRS LEO/FF positions, it means that the position’s primary duties are: (a) to perform work directly connected with controlling and extinguishing fires, or maintaining and using firefighter apparatus and equipment; or (b) investigating, apprehending, or detaining individuals suspected or convicted of offenses against the criminal laws of the United States (see 5 CFR 831.902). An employee’s service in a primary position is automatically covered under the special retirement provisions of 5 U.S.C. 8336 (c). For FERS LEO/FF positions, it means that the duties of the position are so rigorous that employment opportunities are limited to the young and vigorous.

Primary duties for CSRS and FERS positions are those duties of a position that: (a) are paramount in influence or weight; (b) occupy a substantial portion of the individual’s working time over a typical work cycle; and (c) are assigned on a regular and recurring basis.

**2. Q: If an LEO/FF position is approved for coverage under the special retirement provisions in the “secondary” category, what does that mean?**

A: It means that the CSRS/FERS position is: (a) clearly in the law enforcement or firefighting field; (b) is in an organization having a law enforcement or firefighting mission; and (c) is either: (1) supervisory or (2) administrative. If administrative, experience in the law enforcement or firefighting field is a mandatory prerequisite.

An employee’s service in a secondary position is covered under the special retirement provisions of 5 U.S.C. 8336 (c) (CSRS) if the employee transferred directly, without a break in service exceeding 3 days, from a primary position to the secondary position (see 5 CFR 831.904).

An employee’s service in a secondary position is covered under the special retirement provisions of 5 U.S.C. 8412 (d) (FERS) if the employee transferred directly, without a break in service exceeding 3 days, from a rigorous position to the secondary position; the employee has completed 3 years of service in a rigorous position; and the employee has been continuously employed in a secondary position or positions since transferring from a rigorous position (see 5 CFR 842.803).

**NOTE:** If a CSRS LEO/FF has a voluntary break in service from a secondary position after January 19, 1988 he/she must occupy a primary position before transferring to a secondary position. For example: John transferred from a FF GS-06 position to a Supervisory GS-07 position and resigned June 1, 1989. He returned to work as a Fire Chief, GS-09 on July 6, 1990. John is not covered by the special retirement provisions since he did not transfer directly from a primary position to the Fire Chief position, which is secondary.

**4. Q: If a person was hired, not transferred, in a secondary position prior to 1975 would they be covered under the special retirement provisions?**

A: No, the transfer requirement discussed in question 3 above applies.

**5. Q: Generally, are guard and police officer positions covered under the special retirement provisions?**

A: No. The guard and police officer positions do not meet the definition of LEO as defined in 5 CFR 831.902 and 842.802.

**6. Q: Are positions in detention facilities covered under the special retirement provisions?**

A: Under CSRS all positions inside of the detention facilities meet the definition of “detention duties” as defined in 5 CFR 831.902 and 842.802. Under FERS the

definition is more restricted to include the definition of “rigorous”.

**7. Q: Are Fire Protection/Prevention (FP) positions covered under the special retirement provisions?**

A: Yes. The FP positions can be covered under secondary supervisory/administrative). FP positions must meet the requirements for secondary coverage discussed in number 3 above. Experience in the firefighting field is a mandatory prerequisite.

**8. Q: Does the X-118 handbook prove that experience in the law enforcement or firefighting field is a mandatory prerequisite for FP positions? If not, what evidence is required?**

A: It does not. The X-118 states that for Fire Protection Inspector and Fire Protection Specialist positions, excess inspection or protection specialist experience may be substituted for the required firefighting experience. Evidence that firefighting experience is a mandatory prerequisite can be provided by one of the following: (1) a vacancy announcement for the FP positions that specifically states that firefighting experience is a mandatory prerequisite, (2) a statement in the position description that specifically states that firefighting experience is a mandatory prerequisite, (3) duties in the position description that require firefighting, or (4) a written statement that experience is a primary/rigorous firefighting positions is required for the FP position and an explanation as to why it is required.

**9. Q: Who approves LEO/FF positions for coverage under the special retirement provisions of the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS)?**

A: CSRS and FERS LEO/FF positions must be approved for coverage under 5 U.S.C. 8336 (c) for CSRS and 5 U.S.C. 8412 (d) and (e) for FERS by the Secretary of Defense or his or her designee.

**10. Q: Do LEOs/FFs make additional contributions to the retirement fund?**

A: Yes. CSRS employees occupying approved LEO/FF/ positions must contribute an extra 1/2 percent of salary to the retirement fund. FERS employees occupying approved LEO/FF positions must contribute an extra 1/2 percent of salary to the retirement fund.

**11. Q: Are LEOs/FFs subject to mandatory separation?**

A: Yes. The standard mandatory separation age for firefighters is age 55 unless the employee does not have the required 20 years of service. In these instances the employee must be separated on the last day of the month in which he or she completes 20 years of service. (References: 5 U.S.C. 8335 (b) and 5 U.S.C. 8425 (b))

The standard mandatory separation age for law enforcement officers is age 57 unless the employee does not have the required 20 years of service. In these instances the employee must be separated on the last day of the month in which he or she completes 20 years of service. (References: 5 U.S.C. 8335 (b) and 5 U.S.C. 8425 (b))

**NOTE:** The maximum retention age was changed from 55 to 57 for LEOs by P.L. 101-509, Federal Employee's Pay Comparability Act of 1990, enacted 5 November 1990.

**NOTE:** A 60-day advance written notice is required before the LEO/FF can be separated under mandatory retirement.

***12. Q: Can employees request an exemption from mandatory separation?***

A: A request for an exemption is submitted by management and must be approved by the Agency head. This exemption must meet certain strict regulatory criteria.

**NOTE:** If an exemption is approved, the LEO/FF must continue making the 1/2 percent contribution even though the extra contribution will not increase his/her annuity.

***13. Q: Can LEO/FF retire under early/discontinued service retirement provisions of 5 U.S.C. 8414 and 8336 (d) based on involuntary separation?***

A: LEO/FF under CSRS are not specifically excluded from the early retirement provisions of 5 U.S.C. 8336 (d). However, if they are eligible to retire but do not meet the requirements of 5 U.S.C. 8336 (c) (see question 1) when they apply for retirement, their annuity will be computed under 5 U.S.C. 8339 (a) and not 5 U.S.C.8339 (d) which is the more generous formula.

***14. Q: Can a CSRS/FERS LEO/FF who is eligible for optional retirement (age 55 with 30 years of service) but only has 18 years of LEO/FF service, retire and have their annuity computed under the special provisions?***

A: No, they must have at least 20 years of service as a LEO/FF in order for their annuity to be computed under the special provisions. Additionally, the extra 1/2 percent employee contribution would not be refunded.

***15. Q: How is the annuity for LEO/FF computed?***

A: The annuity for LEO/FF under CSRS is computed under 5 U.S.C. 8339 (d), i.e. 2.5 percent of average pay multiplied by total service that does not exceed 20 years plus 2 percent of average pay multiplied by service exceeding 20 years.

The annuity for LEO/FF under FERS is computed under 5 U.S.C. 8415 (d), i.e. 1.7 percent of average pay multiplied by total service that does not exceed 20 years plus 1 percent of average pay multiplied by service exceeding 20 years.

**NOTE:** Average pay means the largest annual rate resulting from averaging an employee's rates of basic pay in effect over any 3 consecutive years of creditable service, see 5 U.S.C. 8331 (4) for CSRS and 5 U.S.C. 8401 (3) and (4) for FERS.

***16. Q: Is the maximum hiring age the same for LEOs and FFs?***

A: Under 5 CFR 842.802, LEO and FF duties under FERS are required to be so rigorous that employment opportunities should be limited to young and physically rigorous individuals. Therefore, a maximum hiring age of 35 was established December 29, 1988 (DOD Directive 1402.4) for original entry (first appointment, i.e., permanent or temporary) into LEO/FF positions under FERS.

***17. Q: If the position description of an OSD approved LEO/FF position changes, does it have to be resubmitted for approval of coverage under the special retirement provisions?***

A: Whenever there are significant changes that affect currently approved primary and/or secondary positions, the CPOs are responsible for reviewing the positions to ensure that they still meet the criteria for special retirement coverage.

***18. Q: Would the time spent on the Office of Workers Compensation (OWCP) rolls count towards creditable service under the special retirement provisions for LEO/FF once the individual is reemployed in the Federal government?***

A: Yes, if it is verified that the individual was in receipt of OWCP benefits. Upon return to Federal employment, OWCP recipients must not incur a loss of benefits which they would have received but for the injury (5 U.S.C. 8106). This is true even if the individual is reemployed in a secondary position.

***19. Q: Do LEO/FF receive interim annuity payments from OPM within 45 to 60 days after they retire?***

A: Yes. If the required certification from the CPO is in the retirement package and if the finance records indicating the extra 1/2 percent retirement contribution has been withheld; or if the person is eligible for optional retirement.

No. If OPM must verify their eligibility for the special retirement provisions, i.e. 20 years of service in an approved LEO/FF position. OPM must also verify by the SF 2806/2806-1 that the extra 1/2 percent contributions were deducted commencing with the first

pay period on or after December 31, 1974. This verification can take 2 to 4 months, depending upon the completeness of the original case and the length of time it takes an agency to respond to OPM's request or any a additional information.

**20. Q: *Are LEOs entitled to special pay adjustments?***

A: Yes. Public Law 101-509 provided additional pay entitlements to LEOs, within the meaning of section 8331(20) or section 8401 (17), to whom provisions of chapter 51 of title 5 U.S.C. apply. Section 403 provided special salary rates for grades 3-10. Section 404 provided special pay adjustments (similar to Interim Geographic Adjustments) for LEOs in eight areas. These adjustments are applicable the first pay period beginning on or after January 1, 1992.

**21. Q: *Do the adjustments required by section 403 and 404 affect retirement credits?***

A: Yes. Adjustments which result from implementation of sections 403 and 404 are considered to be part of basic pay for retirement purposes.

**22. Q: *Can adjustments under sections 403 and 404 be processed retroactively?***

A: Yes. OPM has determined that if employees retroactively are granted retirement system coverage, there is no basis for depriving such employees of their pay entitlements under the back pay law. For example: Jane, a FERS employee, has worked since July 1989. Determination of coverage under 8401 (17) had not been completed on January 12, 1992, so Jane is **NOT** entitled to adjustments provided by section 403 and 404. In November 1992 it is determined that Jane was covered under 8401 (17) from the time she entered duty in July 1989. Jane is then entitled to benefits provided by sections 403 and 404 retroactive to January 12, 1992.

**23. Q: *Is adjustment under section 404 restricted to GS/GM employees?***

A: No. Senior executive service and senior level LEO to whom the provisions of chapter 51, 5 U.S.C. apply are also covered.

Under CSRS, service by a reemployed annuitant is not covered by the special retirement provisions. Any reemployed annuitant service credited in the computation of a supplemental or redetermined annuity is treated as regular service even when an individual is employed in an approved LEO/FF position.

Under FERS, a retired LEO or FF is barred from reemployment in a "rigorous" position after reaching age 60. He or she is not barred from reemployment in a secondary position or any other position.

Persons who receive annuities under the DC Police and Firefighter System may not waive their rights to annuity, the service of these retirees is not creditable for leave purposes.

## **SITUATIONAL EXAMPLES**

**Example 1:** A FERS employee occupies a GS-1811 position. The position received secondary coverage approval. The employee in the position had never been in a primary covered position.

***Q: Can the employee be moved to another secondary position?***

A: Yes, but they will not be covered or pay into the special retirement system.

***Q: Can the employee compete for a higher graded position that has secondary coverage?***

A: Yes, but they will not be covered or pay into the special retirement system.

***Q: Can the employee be moved to a primary covered positions?***

A: Yes, they can be moved if they meet the maximum entry age of 35.

***Q: If they are in a position having secondary coverage, are they eligible for the special law enforcement officer compensation?***

A: No, if they never served the required time in a covered primary position.

**Example 2:** You have a FERS employee in a GS-1811 position which was not covered prior to August of 1994. The position received primary coverage approval.

***Q: Can the employee move to another primary covered position?***

A: Yes. They will be covered and they will pay into the special retirement system.

***Q: Can the employee compete for a promotion with primary coverage?***

A: Yes.

***Q: Under FERS, can a person who is in a secondary position at the time coverage was granted be reassigned or promoted to another secondary position?***

A: Yes.

***Q: To a "primary" position?"***

A: Yes, only if they meet the maximum entry age.

**Example 3:** A FERS employee who was in a position at the time coverage was received (“primary”), but who was over the maximum entry age:

***Q: Is the individual eligible for “primary” coverage under FERS?***

A: Yes.

***Q: Can the employee move to another “primary” covered position?***

A: Yes.

***Q: Be promoted to a position that is covered under “secondary” once the 3 year requirement in a “primary” position was met?***

A: Yes.

***Q: Can they be transferred to a “secondary” position?***

A: Yes, but they must meet the 3 year requirement in order to continue coverage under the special provisions.

***Q: Can an employee under FERS be assigned to a “secondary” position” without having first been in a “primary” covered position.***

A: Yes, but will not have coverage, nor will mandatory separation rules apply.

**Example 4:** An individual applies for a “primary covered” position, and is over the maximum entry age.

***Q: If an individual (over the age of 35) was covered by “primary” coverage in the past, (example, for 2 years), left Federal service and came back 10 years later, are they eligible to be placed in a “primary” position?***

A: Yes, you can use the service to offset the age requirement because they’ve already had their initial appointment. (They could be 37, no older, and with the 2 years under the “primary” they would still be eligible for the coverage.)

***Q: Is an employee who is over the maximum entry age and assigned to a “secondary” position when coverage was received eligible for “secondary” coverage? Can they be awarded credit for the required 3 years of “primary” coverage in order them for to be eligible for the special retirement?***

A: No. Employee had never been in a primary position. There are no provisions to award credit for the required service that has not been performed.