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**SPECIAL RETIREMENT PROVISIONS FOR
LAW ENFORCEMENT OFFICERS,
FIREFIGHTERS AND
AIR TRAFFIC CONTROLLERS**

A Guide for Human Resources Specialists

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Introduction

The purpose of this module is to provide human resources specialists a simple, clear document dealing with the special retirement provisions for law enforcement officers (LEOs), firefighters (FFs) and air traffic controllers (ATCs). This module should be 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 the statutory and regulatory references that can be used by the human resources specialist to answer questions or counsel employees in the course of their day-to-day responsibilities.

The bulk of this module is devoted to LEOs and FFs because of the complexity of the program and the number of positions involved. A LEO or FF is an employee who occupies a position designated by the Agency Head (or designee) as a LEO or FF position. Employees in these positions pay an extra ½ percent salary deduction to the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) because of the special retirement coverage. The special retirement provisions for LEOs and FFs allow these individuals to receive special retirement benefits after meeting the age and service requirements. Generally, employees covered under these special retirement provisions may retire at an earlier age with fewer years of service. However, these positions have a mandatory separation based on age as well. Issues involving law enforcement and FF coverage and eligibility are often complex. This module provides information to assist in resolving these issues.

Only two Federal agencies have ATC positions, the Department of Defense (DoD) and the Department of Transportation. There are less than 1,200 ATC employees in DoD. In Defense, the Component Heads have the authority to determine whether an ATC position meets the requirements for special retirement coverage. ATCs under CSRS and FERS can retire early and are subject to mandatory separation provisions, but there are differences in each retirement system. Under CSRS, ATCs are not required to pay extra retirement deductions and their retirement annuity is computed using the CSRS general formula, with a guaranteed minimum provision. Under FERS, ATCs pay an extra ½ percent into the retirement fund and if the employee has at least 20 years of ATC service, the annuity is computed using the Special Retirement Formula. An employee with at least five years of frontline ATC service (actively engaged in the separation and control of air traffic) may receive an enhanced annuity (see page 49 for more information).

If you have any questions, we invite you to contact our office for information from one of our Benefits and Entitlements (B&E) advisors: by email benefits@cpms.osd.mil; by telephone (703) 696-6301, DSN 426-6301; or by fax (703) 696-4705, DSN 426-4705.

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Section I – Law Enforcement Officers and Firefighters

Background

The legislative intent behind the special retirement provisions for LEOs and FFs was to provide for their early retirement based on a determination that these positions should be composed, insofar as possible, of young men and women physically capable of meeting the vigorous demands of occupations that are far more physically taxing than most in the Federal service.

The special retirement provisions allow LEOs and FFs to retire early with enhanced annuities. Under CSRS and FERS, LEOs and FFs can retire at age 50, if they have completed 20 years of service as a LEO/FF. FERS also provides that LEOs/FFs may retire at any age, if they have at least 25 years of LEO/FF service. Under CSRS, the retirement annuity formula for LEOs/FFs is 2.5 percent of their high-3 average salary for the first 20 years of LEO/FF covered service, and 2 percent of their high-3 average salary for any years of service over 20 years and other than LEO/FF service. Under FERS, the retirement annuity formula is 1.7 percent of their high-3 average salary for the first 20 years of LEO/FF covered service, and 1 percent of their high-3 average salary for any years of service over 20 years. Under both CSRS and FERS, the retirement system deductions for LEOs/FFs are ½ percent more than for regular employees.

To meet the goal of maintaining a young and vigorous LEO/FF work force, a mandatory separation provision was added to the law. This provides that LEOs and FFs will be separated at age 57, if they have 20 years of LEO and/or FF covered service. Employees, who do not have 20 years of LEO/FF service at age 57, are separated at the end of the month in which they attain 20 years of LEO/FF service. However, if an employee with 20 years of LEO/FF covered service is no longer in a LEO/FF covered position, the mandatory separation provisions do not apply. The law also allows Federal agencies to establish maximum entry ages for LEO/FF positions. Within DoD, the maximum entry age for LEOs/FFs is age 37.

When a new position is created or when an existing position description is rewritten within DoD, the employing office can request a **position determination** (a request, that if approved, allows all employees in the position to be covered under the special retirement provisions for LEO/FF). Prior to Dec 7, 1993, all employing offices were required to write to the Office of Personnel Management (OPM) in Washington, D.C., for position determinations. An employee who had service in a position that was not approved for special retirement coverage, could request that their agency submit their **individual service credit determination** to OPM (a request, that if approved, would allow that employee to receive credit for service under the special retirement provisions

for LEO/FF). If OPM denied the request, the employee could then appeal the decision to the Merit Systems Protection Board (MSPB).

The Federal Employees Retirement System Act of Jun 6, 1986, provided that agency heads approve coverage for all FERS positions. This was later amended to allow agency heads to designate an agency official no more than one level below to make these decisions.

On Dec 7, 1993, OPM delegated the authority for approving special retirement coverage for CSRS positions to the **Agency Head** (Secretary of each Federal agency), or their designee. Within DoD, this authority has been delegated to the Under Secretary of Defense (USD), Personnel and Readiness (P&R). Requests for special retirement coverage (position determinations and individual service credit determinations) must first be submitted to the local employing office. The requests are sent up through channels within the **Component** (Army, Navy, Air Force, Defense Field Activities, and Defense Agencies) headquarters. If the Component recommends approval, the request comes to our office, Civilian Personnel Management Service (CPMS), Field Advisory Services (FAS). After our office reviews the request, it continues up through channels to the **Agency Head**, USD (P&R).

The head of the Component (or their designee) may disapprove requests that do not satisfy the requirements under CSRS and FERS. If a request for an individual service credit determination is denied by the Component, the employee will have the right to appeal that decision to the MSPB, www.mspb.gov.

Legislative History

Public Law 80-168 (Jul 11, 1947)

- Congress extended preferential retirement provisions to agents and similar employees of the Federal Bureau of Investigation (FBI).
- Retirement at age 50 after at least 20 years of service in certain positions.
- Incentive for agents to remain in Federal service rather than leave for higher paying jobs in private industry.
- Reward agents for their arduous, hazardous work (not unlike the favorable legislation enacted for certain Foreign Service officers).
- Encourage experienced agents to continue in service to benefit the government and maintain a vigorous youthful workforce.
- Provide liberalized benefits similar to state and local governments for their LEOs.
- Enhanced annuity formula: Two percent of average basic salary for the five years immediately preceding retirement for each year of service performed. (Maximum annuity of 60 percent of average salary.)

- At that time, annuities of all other retirees were determined on an actuarial basis, with a maximum of 80 percent. Federal employees were generally eligible to retire at age 55 with a reduction or age 60 after 30 years of service or at age 62 after 15 years of service.

Public Law 80-879 (Jul 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, determined whether each applicant's duties satisfied the criteria set forth in law. (NOTE: Under Reorganization Plan No. 2 of 1978, effective Jan 1, 1979, OPM succeeded the Civil Service Commission in administering the Civil Service Retirement laws).
- In arriving at these determinations, full consideration was given to the degree of hazard to which the officer or employee was subjected in the performance of their duties, rather than the general duties of the class of position held by the officer or employee.

Public Law 81-235 (Aug 16, 1949)

- Provided for LEO'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.
- Benefited those employees who were demoted to lower grade positions when impaired health might have affected the level of performance as LEO.

Public Law 84-854 (Jul 31, 1956)

- "Detention" was construed to include the duties of most non-guard prison personnel in the Federal civilian service.
- Limitation of 60 percent of average pay for LEOs retiring under the special provisions was repealed. The annuity limit for LEOs changed to 80 percent (same as other CSRS retirees).

Public Law 92-382 (Aug 14, 1972)

Federal FFs granted the same benefits, which had previously been available only to LEOs.

Public Law 93-350 (Jul 12, 1974)

- Hazard requirement deleted.
- Annuity formula changed:
 - 2.5 percent of high-three average salary (“high-3”) for the first 20 years of LEO/FF service, *plus*
 - 2 percent of high-three average salary for each year exceeding 20 years.
- Allowed retirement at age 50 after 20 years of LEO/FF service, regardless of the employee's job at the time of retirement. Previously, employees had to be serving in LEO/FF positions to be eligible for special retirement.
- Effective Jan 1, 1975, the retirement deductions for employees serving in LEO/FF positions was increased by ½ percent.
- Premium pay for administratively uncontrollable overtime (AUO) was included in LEOs basic pay for high-3 average salary.
- Effective Jan 1, 1978, LEOs/FFs became subject to mandatory separation at age 55, provided they had completed 20 years of qualifying service. An agency head, however, was authorized to exempt an employee from retirement until age 60 if the public interest so required.
- Agency heads were authorized, with the concurrence of OPM, to establish the minimum and maximum limits of age within an original appointment that might be made to a LEO/FF position (as defined in 5 U.S.C. 8331(20) and (21)).

Public Law 99-336, Jun 6, 1986 (FERS)

Special retirement positions covered under FERS were approved by Agency head or their designee.

Dec 1987

- Any employee who believed they had service that met the definitions of LEO/FF service could submit a request to their employing offices for review (i.e. an individual service credit request).
- Employing office would forward the request to OPM for a final determination.
- Sep 30, 1989, was the deadline for submission of requests to OPM.
- Requests received after Sep 30, 1989, would be reviewed by the agency. If LEO/FF credit was approved by the agency, credit was limited to one year prior to the date of the request (unless the timeliness requirement was waived by the agency head).

Jan 19, 1988

- Transfer requirements and conditions for coverage in secondary positions published on Dec 17, 1987, were effective Jan 19, 1988. Under prior regulations published on Jan 4, 1980, (now superseded) LEOs and FFs who were employed on or after Dec 31, 1979, were deemed to have met the transfer requirement for all subsequent employment in secondary positions (except as reemployed annuitants) if the initial transfer from a primary position met the requirements.

- Do not count a break in employment in secondary positions that began before Jan 19, 1988, or a break that was based on an involuntary separation (not for cause) within the meaning of 5 U.S.C. 8336(d) in determining whether service in secondary positions is continuous for this purpose.

Nov 1990

The mandatory separation age for LEOs changed from age 55 to age 57.

Dec 7, 1993

- The authority to determine special retirement coverage or credit (i.e., agency requests for position coverage, individual service credit requests, and individual position coverage requests) under CSRS was delegated from OPM to the Agency heads.
- OPM maintains a regulatory oversight function.

Public Law 105-277 (Oct 11, 1998)

Firefighter Overtime Pay Reform Act (FFOPRA) was enacted on Oct 21, 1998, and was effective for the DoD on Oct 11, 1998. The Act significantly altered the way in which FF pay entitlements were calculated. Since modifications to the Department's standard civilian pay system could not be put in place immediately, an interim solution was developed to pay approximately 80 percent of the new entitlements, without intentionally causing overpayments. The interim solution used pre-FFOPRA calculations and was effective from Oct 11, 1998, until Aug 14, 1999.

Public Law 107-27 (Aug 20, 2001)

Federal Firefighters Retirement Age Fairness Act changed the mandatory separation age for FFs from age 55 to age 57.

Public Law 107-67 (Nov 12, 2001)

- Section 640 of the Treasury and General Government Appropriations Act, 2002 changed the CSRS mandatory separation provision for ATCs to allow ATC to reach retirement eligibility.
- ATCs shall be separated from the service on the last day of the month in which they become 56 years of age or complete the age and service requirements for an annuity under section 8336, whichever occurs later.

Public Law 108-7 (Feb 20, 2003)

- Section 648 of the Consolidated Appropriations Resolution, 2003 changed the CSRS mandatory separation provision for ATCs to allow ATCs to reach special retirement eligibility under 5 U.S.C. 8336(e). The change was effective Jan 1, 2003.
- ATCs shall be separated from the service on the last day of the month in which they become 56 years of age or complete the age and service requirement for a special ATC annuity under section 8336(e), whichever occurs later.

Public Law 108-176 (Dec 12, 2003)

- Section 226 of the Vision 100-Century of Aviation Reauthorization Act amended Chapters 83 (CSRS) and 84 (FERS) of title 5 U.S.C. to add the definition of an ATC to each cited chapter. The new definition includes the class of employees traditionally considered to be ATC and expands the definition to include second-level supervisors. In addition, 5 U.S.C. 8335(a) is amended to exempt this class of employees (second-level supervisors) from mandatory retirement (similarly amends 8425(a)).
- Effective Feb 10, 2004, second-level ATC service performed before Feb 10, 2004 is creditable as ATC service for CSRS and FERS retirement purposes when retirement eligibility is based on a separation that occurred on or after Feb 10, 2004. **FERS** ATC second-level supervisors must pay a deposit to make the service creditable. **CSRS** ATC second-level supervisors are not required to make a deposit to make the service creditable.
- FERS Employees who retire or die on or after Feb 10, 2004, are eligible for an enhanced annuity if they have at least five years of frontline (actively engaged in the separation and control of air traffic) ATC service. The annuity computation for the five plus years of frontline ATC service will be credited at the 1.7 percent rate rather than the 1.0 percent or the 1.1 percent rate otherwise payable.

Special Retirement Provisions for Law Enforcement Officers (LEOs)		
TOPIC	CSRS	FERS
References	United States Code: 5 U.S.C. 8331 (20); 8335(b); 8336(c) Code of Federal Regulations: 5 C.F.R. 831, Subpart I The CSRS and FERS Handbook for Personnel and Payroll Offices: Chapters 46, 54, 61 and 70 DoD CPM Subchapter 336	United States Code: 5 U.S.C. 8401 (17); 8412(d); 8425 Code of Federal Regulations: 5 C.F.R. 842, Subpart H The CSRS and FERS Handbook for Personnel and Payroll Offices: Chapters 46, 54, 61 and 70 DoD CPM Subchapter 336
Rules and When They Apply	The CSRS definitions of LEO apply to any service performed before 1987. After 1986 and before an employee first becomes subject to FERS deductions, if that service was either: <ul style="list-style-type: none"> • Covered by CSRS deduction at the time it was performed, or • Not subject to retirement 	The FERS definitions of LEO apply 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 Jan 1, 1989,

Special Retirement Provisions for Law Enforcement Officers (LEOs)

TOPIC	CSRS	FERS
<p>Rules and When They Apply <i>(continued)</i></p>	<p>deductions but creditable in the CSRS component of a FERS annuity.</p> <p>Service under the CSRS Interim or Offset provision is subject to the CSRS definition although the service may become creditable under FERS for annuity entitlement and computation purposes. The determination as to whether any service meets the CSRS definitions of LEO must be made under CSRS rules.</p>	<p>is not creditable under FERS. (NOTE: The service can be used for meeting the FERS 3-year rigorous transfer requirement.)</p>
<p>Law Enforcement Officer (LEO) Definitions</p>	<p>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. Also included is an employee engaged in this activity who moves directly to a secondary position.</p>	<p>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.) Also included is an employee engaged in this activity who moves directly to a secondary position.</p>
<p><u>NOT</u> Included in the LEO Definitions</p>	<p>The LEO definition does NOT include an employee whose primary duties involve:</p> <ul style="list-style-type: none"> • 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. 	
<p>Primary Duties Definition</p>	<p>Those duties of a position that:</p> <ul style="list-style-type: none"> • Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position; 	

Special Retirement Provisions for Law Enforcement Officers (LEOs)

TOPIC	CSRS	FERS
<p>Primary Duties Definition <i>(continued)</i></p>	<ul style="list-style-type: none"> • Occupy a substantial portion of the individual’s working time over a typical work cycle; <i>and</i> • Are assigned on a regular and recurring basis. <p>Duties that are of an emergency, incidental, or temporary nature <i>cannot</i> be considered “primary” even if they meet the substantial portion of time criterion.</p>	
<p>Primary (CSRS) and Rigorous (FERS) Definitions</p>	<p>A position whose <u>primary duties are</u>:</p> <p>Investigating, apprehending, or detaining individuals suspected or convicted of offenses against the criminal laws of the United States.</p> <p>NOTE: Although CSRS regulations do not label positions as “rigorous” or require employees to be “young and physically vigorous”, maximum entry age and physical qualification standards apply to CSRS primary positions.</p>	<p>A position in which the duties are so rigorous that employment opportunities should be limited through establishment of a <i>maximum entry age and physical qualifications</i>, to young and physically vigorous individuals, whose <u>primary duties are</u>:</p> <p>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.</p>
<p>Secondary Position Definitions</p>	<p>A position that:</p> <ul style="list-style-type: none"> • Is in the LEO field; • Is in an organization having a LEO mission; and • Is either: <ul style="list-style-type: none"> – <i>Supervisory</i>, that is, a position whose primary duties are those of a first-level supervisor of LEOs in primary positions; or – <i>Administrative</i>, that is, an executive, managerial, technical, semiprofessional, or professional position for which experience in a primary LEO position, or equivalent experience outside the Federal government, is a mandatory prerequisite. 	
<p>Conditions for Coverage - Primary (CSRS) and Rigorous (FERS)</p>	<p>An employee’s service in a position that has been determined by the Agency Head to be a <i>primary position</i> is covered under the special group provisions for LEOs.</p>	<p>An employee’s service in a position that has been determined by the Agency Head to be a <i>qualifying rigorous position</i> is covered under the special group provisions for LEOs.</p>

Special Retirement Provisions for Law Enforcement Officers (LEOs)

TOPIC	CSRS	FERS
<p>Conditions for Coverage – Secondary Positions</p> <p><i>“TRANSFER REQUIREMENT”</i></p>	<p>An employee’s service in a position that has been determined by the Agency Head to be a <i>qualifying secondary position</i> is covered under the special provision, if all the following requirements are met:</p> <ul style="list-style-type: none"> • 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 • 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. 	<p>An employee’s service in a position that has been determined by the Agency Head to be a <i>qualifying secondary position</i> is covered under the special provision, if all the following requirements are met:</p> <ul style="list-style-type: none"> • 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 • The employee has completed 3 years of service in a rigorous position, including any such service during which no FERS deductions were withheld; and • 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.
<p>Requests from Employees or Individuals</p>	<p>An employee or former employee (or survivor of a 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 LEOs. LEO credit for past service generally will not be granted for a period greater than one year prior to the date that the request was received from the individual.</p>	<p>If an employee is not in an approved LEO 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 and in writing seek a determination from the employing agency regarding their position.</p> <p>If the employee does not request a position determination within 6 months, the Agency Head’s</p>

Special Retirement Provisions for Law Enforcement Officers (LEOs)

TOPIC	CSRS	FERS
<p>Requests from Employees or Individuals <i>(continued)</i></p>	<p>The employee (former employee or survivor) bears the burden of proof with respect to credit under the special provisions covering LEOs.</p> <p>The request may be submitted to the current or former employing office or OPM. Documentation may include a list of the provisions of Federal criminal law the incumbent was responsible for: enforcing and arrests made, investigative reports, etc.</p> <p>An employee (former employee or survivor) may appeal the final Agency decision to the MSPB.</p>	<p>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 their status or was prevented by cause beyond their control from requesting that the official status be changed at the time the service was performed.</p> <p>In response to the individual request for approval of a position as a LEO, the agency must issue a written decision.</p> <p>An employee may appeal the final Agency decision to the MSPB.</p>
<p>Retirement Code</p>	<p>CSRS = 6 (code eff. Oct 1, 1980) CSRS-Offset = E</p>	<p>FERS = M</p>
<p>Retirement Contributions</p>	<p>Additional deductions of ½ percent must be withheld from pay for covered/creditable service on/after Jan 1, 1975.</p>	<p>Additional deductions of ½ percent must be withheld from pay for covered/creditable service.</p>
<p>Retirement Eligibility Requirements</p>	<p>Age 50 with 20 years of LEO service.</p> <p>The employee does not need to separate from a LEO position to be eligible for special retirement.</p> <p>The employee must be separated from a position covered by retirement deductions and meet the CSRS “one-out-of-two” requirement.</p>	<p>Age 50 with 20 years of LEO service, <i>or</i> Any age with 25 years of LEO service.</p> <p>The employee does not need to separate from a LEO position to be eligible for special retirement.</p> <p>The employee must be separated from position covered by FERS.</p>

**Special Retirement Provisions for
Law Enforcement Officers (LEOs)**

TOPIC	CSRS	FERS
<p>Annuity Computations</p>	<p>2.5 percent X High-3 Average Salary X 20 Years of LEO Service <i>plus</i> 2 percent X High-3 Average Salary X Additional years of creditable service exceeding 20 years (LEO & non-LEO)</p> <p>Detailed examples of annuity computations can be found in CSRS & FERS Handbook, Chapter 54, Section 54 C</p>	<p>1.7 percent X High-3 Average Salary X 20 Years of LEO Service <i>plus</i> 1 percent X High-3 Average Salary X Additional years of creditable service exceeding 20 years (LEO & non-LEO)</p> <p>A retiree annuity supplement is payable before age 62 in addition to the basic annuity.</p> <p>The FERS 1.1 percent formula does not apply to individuals who, at the time of the separation on which retirement is based, are LEOs.</p> <p>Detailed examples of annuity computations can be found in CSRS & FERS Handbook, Chapter 54, Section 54 C</p>
<p>Transitional Provisions (FERS)</p>	<p>N/A</p>	<p>Any service as a LEO 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.</p>
<p>Mandatory Separation</p>	<p>Standard mandatory separation age for LEOs is <i>age 57</i> 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 they complete 20 years of service.</p> <p>NOTES: 1) The employing office must notify the employee in writing of the date</p>	

Special Retirement Provisions for Law Enforcement Officers (LEOs)

TOPIC	CSRS	FERS
<p>Mandatory Separation <i>(continued)</i></p>	<p>of separation at least 60 days in advance of the separation date; if not, employee is separated at the end of the month that occurs 60 days after the date of the notice.</p> <p>2) Employees who are eligible for retirement under the special provisions but who are not currently occupying a LEO position are not required to retire and are not subject to mandatory separation.</p> <p>3) Potentially creditable civilian service, even though a deposit is not paid, counts in determining the 20 years for mandatory separation.</p>	
<p>Disability Retirement</p>	<p>The disability formula for CSRS will be used.</p> <p>If the employee has completed 20 years of CSRS LEO service, the special retirement formula will be used, regardless of the employee's age at retirement (BAL 02-104).</p>	<p>The disability formula for FERS will be used.</p> <p>The special retirement formula will be used to compute the earned annuity only if the employee is eligible for special retirement (i.e., age 50 with 20 years of LEO service; or any age with 25 years of LEO service).</p>
<p>Death in Service</p>	<p>The spousal survivor annuity will be computed using the enhanced special retirement formula if:</p> <ul style="list-style-type: none"> • The employee was a LEO at the date of death, and • The employee had completed at least 20 years of LEO service as of the date of death. <p>If the employee was not a LEO at the date of death, the special formula for LEOs would be used only if the employee was eligible to retire under the special retirement provisions (age 50 with 20 years of LEO service).</p> <p>If the requirements stated above were not met, the spousal annuity would be computed under the CSRS general formula.</p>	<p>The enhanced special retirement formula would be used to calculate the survivor benefit <u>only</u> if the employee would have been eligible to retire under the special retirement provisions:</p> <ul style="list-style-type: none"> • The employee was age 50 with at least 20 years of LEO service; or • The employee was any age with at least 25 years of LEO service. <p>If, at the date of death, the employee did not meet the age and/or service requirements for LEO retirement, the spousal survivor annuity would be computed under the FERS general formula.</p>

Special Retirement Provisions for Firefighters (FFs)

TOPIC	CSRS	FERS
References	United States Code: 5 U.S.C. 8331 (21); 8335(b); 8336(c) Code of Federal Regulations: 5 C.F.R. 831, Subpart I The CSRS and FERS Handbook for Personnel and Payroll Offices: Chapters 46, 54, 61 and 70	United States Code: 5 U.S.C. 8401 (14); 8412(d); 8425 Code of Federal Regulations: 5 C.F.R. 842, Subpart H The CSRS and FERS Handbook for Personnel and Payroll Offices: (Chapters 46, 54, 61 and 70)
Firefighter (FF) Definitions	An employee in a position whose <u>duties are primarily</u> to perform work: Directly connected with the control and extinguishment of fires <i>or</i> the maintenance and use of firefighting apparatus and equipment. Includes an employee who moves directly from a primary FF position to a secondary position.	An employee occupying a rigorous position whose <u>primary duties</u> are to perform work: Directly connected with the control and extinguishment of fires. Includes an employee occupying a rigorous FF position who moves directly to a secondary position.
<u>NOT</u> Included in the FF Definition	An employee whose primary duty is the performance of routine fire prevention inspections is <i>excluded</i> from this definition.	
Primary Duties Definition	Those duties of a position that: <ul style="list-style-type: none"> • Are paramount in influence or weight; that is, constitute the basic reasons for the existence of the position; • Occupy a substantial portion of the individual’s working time over a typical work cycle; and • Are assigned on a regular and recurring basis. <p>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.</p>	
Primary (CSRS) and Rigorous (FERS) Definitions	A position whose <u>primary duties</u> are - <ul style="list-style-type: none"> • To perform work directly connected with controlling and extinguishing fires <i>or</i> • Maintaining and using FF apparatus and equipment. 	A position in which the duties are so rigorous that employment opportunities should be limited through establishment of a <i>maximum entry age and physical qualifications</i> , to young and physically vigorous individuals, whose <u>primary duties</u> are:

Special Retirement Provisions for Firefighters (FFs)

TOPIC	CSRS	FERS
Primary (CSRS) and Rigorous (FERS) Definitions <i>(continued)</i>	NOTE: Although CSRS regulations do not label positions as “rigorous” or require employees to be “young and physically vigorous”, maximum entry age and physical qualification standards apply to CSRS primary positions.	To perform work directly connected with controlling and extinguishing fires.
Secondary Position Definitions	<p>A position that:</p> <ul style="list-style-type: none"> • Is in the firefighting field; • Is in an organization having a firefighting mission; and • Is either: <ul style="list-style-type: none"> – <i>Supervisory</i>, that is, a position whose primary duties are those of a first-level supervisor of FFs in primary positions; or – <i>Administrative</i>, 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. 	
Conditions for Coverage – Primary (CSRS) and Rigorous (FERS)	An employee’s service in a position that has been determined by the Agency head to be a <i>primary position</i> is covered under the special group provisions for FFs.	An employee’s service in a position that has been determined by the Agency head to be a <i>qualifying rigorous position</i> is covered under the special group provisions for FFs.
Conditions for Coverage - Secondary Positions “TRANSFER REQUIREMENT”	<p>An employee’s service in a position that has been determined by the Agency head to be a <i>qualifying secondary position</i> is covered under the special provision, if all the following requirements are met:</p> <ul style="list-style-type: none"> • The employee, while covered under the special provision, <i>moves directly</i> (that is, without a break in service exceeding 3 days) from a primary position to a secondary position; and • If applicable, the employee has been <i>continuously employed</i> in 	<p>An employee’s service in a position that has been determined by the Agency head to be a <i>qualifying secondary position</i> is covered under the special provision, if all the following requirements are met:</p> <ul style="list-style-type: none"> • The employee, while covered under the special provision, <i>moves directly</i> (that is, without a break in service exceeding 3 days) from a rigorous position to a secondary position; and • The <i>employee has completed 3 years of service in a rigorous</i>

Special Retirement Provisions for Firefighters (FFs)

TOPIC	CSRS	FERS
<p>Conditions for Coverage - Secondary Positions</p> <p>“TRANSFER REQUIREMENT” (continued)</p>	<p>a secondary position or positions since moving from a primary position without a break in service exceeding 3 days.</p>	<p><i>position</i>, including any such service during which no FERS deductions were withheld; and</p> <ul style="list-style-type: none"> • If applicable, the employee has been <i>continuously employed</i> in a secondary position or positions since moving from a primary position without a break in service exceeding 3 days.
<p>Requests from Employees or Individuals</p>	<p>An employee or former employee (or survivor of a 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 FFs.</p> <p>FF 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.</p> <p>The employee (former employee or survivor) bears the burden of proof with respect to credit under the special provisions covering FFs.</p> <p>The request may be submitted to the current or former employing office or OPM. Documentation may include the number of fires fought, names of fires fought, dates of fires, and position occupied while on firefighting duty.</p>	<p>If an employee is not in an approved FF 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 and in writing seek a determination from the employing agency regarding their position.</p> <p>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 their status or was prevented by cause beyond their control from requesting that the official status be changed at the time the service was performed.</p> <p>In response to the individual</p>

Special Retirement Provisions for Firefighters (FFs)

TOPIC	CSRS	FERS
Requests from Employees or Individuals <i>(continued)</i>	An employee may appeal the final Agency decision for individual credit determinations to the MSPB.	request for approval of a position as a FF, the agency must issue a written decision. An employee may appeal the final agency decision regarding a position determination to the MSPB.
Retirement Code	CSRS = 6 (code eff. Oct 1, 1980) CSRS-Offset = E	FERS = M
Retirement Contributions	Additional deductions of ½ percent must be withheld from pay for covered/creditable service after Jan 1, 1975.	Additional deductions of ½ percent must be withheld from pay for covered/creditable service.
Retirement Eligibility – Requirements	Age 50 with 20 years of FF service The employee does not need to separate from a FF position to be eligible for special retirement. However, the employee must be separated from a position covered by retirement deductions and meet the CSRS “one-out-of-two” requirement. Unused sick leave cannot be used for minimal eligibility requirements.	Age 50 with 20 years of FF service, <i>or</i> Any age with 25 years of FF service The employee does not need to separate from a FF position to be eligible for special retirement. The employee must be separated from a position covered by FERS retirement deductions.
Annuity Computations	2.5 percent X High-3 Average Salary X 20 Years of FF Service <i>plus</i> 2 percent X High-3 Average Salary X Additional years of creditable service exceeding 20 years (FF & non-FF) Detailed examples of annuity computations can be found in CSRS & FERS Handbook, Chapter 54, Section 54 C	1.7 percent X High-3 Average Salary X 20 Years of FF Service <i>plus</i> 1 percent X High-3 Average Salary X Additional years of creditable service exceeding 20 years (FF & non-FF) A retiree annuity supplement is payable before age 62 in addition to the basic annuity. The 1.1 percent formula does not apply to individuals who, at the time of the separation on which

Special Retirement Provisions for Firefighters (FFs)

TOPIC	CSRS	FERS
Annuity Computations <i>(continued)</i>		retirement is based, are FFs. Detailed examples of annuity computations can be found in CSRS & FERS Handbook, Chapter 54, Section 54 C
Transitional Provisions (FERS)	N/A	Any service as a 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 FF service under FERS for the purpose of retirement eligibility and mandatory separation.
Mandatory Separation	<p>The standard mandatory separation age for FFs 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 they complete 20 years of service.</p> <p>NOTES:</p> <ol style="list-style-type: none"> 1) The employing office must notify the employee in writing of the date of separation at least 60 days in advance of the separation date. 2) Employees who are eligible for retirement under the special provisions but who are not currently occupying a FF position are not required to retire and are not subject to mandatory separation. 3) 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. 4) Potentially creditable civilian service, even though a deposit is not paid, counts in determining the 20 years for mandatory separation. 	
Disability Retirement	The disability formula for CSRS will be used. If the employee has completed 20 years of CSRS FF service, the special retirement formula will be used to compute the earned annuity, regardless of the employee's age at retirement (BAL 02-104).	The disability formula for FERS will be used. The special retirement formula will be used to compute the earned annuity only if the employee is eligible for special retirement (i.e., age 50 with 20 years of FF service; or any age with 25 years of FF service).

Special Retirement Provisions for Firefighters (FFs)

TOPIC	CSRS	FERS
Death in Service	<p>The spousal survivor annuity will be computed using the enhanced special retirement formula if:</p> <ul style="list-style-type: none"> • The employee was a FF at the date of death, and • The employee had completed at least 20 years of FF service as of the date of death. <p>If the employee was not a FF at the date of death, the special formula for FFs would be used only if the employee was eligible to retire under the special retirement provisions (age 50 with 20 years of FF service).</p> <p>If the requirements stated above were not met, the spousal annuity would be computed under the CSRS general formula.</p>	<p>The enhanced special retirement formula would be used to calculate the survivor benefit <u>only</u> if the employee would have been eligible to retire under the special retirement provisions:</p> <ul style="list-style-type: none"> • The employee was age 50 with at least 20 years of FF service; or • The employee was any age with at least 25 years of FF service. <p>If, at the date of death, the employee did not meet the age and/or service requirements for FF retirement, the spousal survivor annuity would be computed under the regular FERS general formula.</p>

Service Credit Tips

Details or Temporary Promotions

CSRS/FERS – The employee’s *position of record* determines whether the service is covered under special retirement.

Nondeduction Service

CSRS - Service not subject to CSRS deductions (i.e., temporary, TERM, TAPER appointments, etc.) is always creditable service for eligibility to retire as a LEO/FF *if*:

- The position is approved (LEO/FF) and the employee would have been covered under the special retirement provisions, if their appointment was not excluded from retirement coverage,

- However, if the service was performed on or after Oct 1, 1982, the employee must make a deposit equal to 7.5 percent of basic pay, with interest, for the service to be creditable for the computation of the annuity.

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

- The position is an approved position and the employee would have been covered under the special retirement provisions, if their appointment was not excluded from retirement coverage, and
- The employee made a deposit equal to 1.3 percent of basic pay, with interest, for the service.

Additional Notes on Service Credit

- Length of Service: 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, even though a deposit is not paid, is included in determining the employee's length of LEO/FF service under FERS for the purposes of retirement eligibility and mandatory separation.
- Direct Transfer: An employee who met the direct transfer requirement for coverage in a secondary position under CSRS is considered to have met the FERS direct transfer requirement.
- Three Year Rule: CSRS service in a primary position can be counted as service in a rigorous position for purposes of the FERS 3-year transfer requirement.
- Three Year Rule: If an employee, serving in a secondary position under CSRS special retirement provisions, elects FERS (without a break in service greater than 3 days) the 3-year rigorous service transfer requirement is deemed to have been met.

<p>Steps for Determining CSRS & CSRS-Offset Special Retirement Coverage Law Enforcement Officers and Firefighters</p>
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1. Is the employee assigned to a position that has been approved for special retirement coverage?

- A. Don't know? Code the employee as CSRS (code 1) or CSRS Offset (code C). Contact the special retirement section at your **Component** headquarters. They maintain a list of all approved positions and can tell you whether the position has been approved. Find out whether the position is approved as a primary position or

a secondary (supervisory or administrative) position. When the position approval status has been verified, continue with the special coverage determination for the employee.

B. Yes. *Continue to question 2.*

C. No. The employee will be CSRS (code 1) or CSRS-Offset (code C). The information below discusses the agency actions to request position approval and employee actions to request individual service credit.

Position Approval: The employing office may request approval of special retirement coverage for the position. Chapter 830 of the Civilian Personnel Manual (DoD 1400.25M) outlines the procedure for requesting coverage. Your **Component** headquarters special retirement section can provide additional guidance to help you submit the request. If the position is approved for coverage by the **Agency Head**, continue with the coverage determination for the employee (start over at question 1).

Individual Service Credit: If the employing office does not request position approval or if the position approval has already been denied, the employee may request an individual service credit determination. The employing office is not required to issue the employee a notice informing them of the right to request individual service credit.

An employee's request for individual service credit determinations is governed by the regulations in 5 C.F.R. 831.906. The employee has the burden of proving that their position meets the legal definition of LEO or FF. The definitions can be found in 5 C.F.R. 831.902. If the employee is able to prove that their position (or past service in a position) should be covered under the special retirement provisions, they will be granted special retirement credit, but the credit may be limited. Credit will not be granted for a period greater than 1 year prior to the date of the employee's request. The agency will enforce this time limit unless the employee proves that they were prevented from circumstances beyond their control from submitting the request within the time limit. Only the **Agency Head**, Under Secretary of Defense for Personnel and Readiness, USD (P&R), has the authority to waive the time limit.

Requests that do not satisfy the requirements under CSRS and FERS are disapproved by the head of the **Component** (or their designee). If a request for an individual service credit determination is denied by the Component, the employee will have the right, under 5 C.F.R. 831.910, to appeal that decision to the MSPB, www.mspb.gov.

Employees that are granted individual service credit (by the **Agency Head** or MSPB) are not coded under the special retirement provisions. They are coded as CSRS (code 1) or CSRS Offset (code C). If service credit is approved by the **Agency Head**, it will specify the period of service for which special retirement credit is granted. If service credit is granted by MSPB, an agency memo must be prepared to document the amount of service credit granted by the MSPB order. Procedures within your **Component** will dictate whether this agency memo is written by the **Component** headquarters special retirement division or by the employing office. The memo from the agency and the MSPB decision are permanently filed in the employee's Official Personnel Folder (OPF). The agency must collect the additional ½ percent retirement contributions for the period of service granted by the **Agency Head** or MSPB. At the time the employee retires, the **Agency Head** memo and/or the MSPB decision is used to verify the special retirement service.

2. You've verified that the employee's position is approved for special retirement coverage. Was the position coverage approved under the primary category or the secondary (administrative or supervisory) category?

A. Don't know. If you have an approval memo (from OPM or the **Agency Head**), it will state whether the approval is under the primary or secondary category. If you don't have the approval memo, contact your **Component** headquarters special retirement division to find out whether the position is approved as primary or secondary. Continue with the special coverage determination when you find the answer.

B. Primary position: code the employee as CSRS Special (code 6) or CSRS Offset Special (code E). Stop.

C. Secondary position: the employee must satisfy the transfer requirements to be covered under the special retirement provisions. *Continue to question 3.*

3. You've verified that the employee's position is approved for special retirement under the secondary category. Now, you need to determine whether the employee meets (or has met) the transfer requirements for coverage in a secondary position.

Was the employee transferred, reassigned, or appointed to this secondary position directly from a primary position? "Directly" means without a break greater than 3 days.

- A. Yes, the employee moved directly from a primary position to this secondary position. Continue to question 4.
- B. No, the employee did not move directly from a primary position to this secondary position.
 - (1) If the employee's previous position was an approved secondary position, continue to question 5.
 - (2) If the employee's previous position was not an approved secondary position, the employee does not meet the transfer requirements for coverage (5 C.F.R. 831.904). The employee's service history should fall within one of these categories: the employee has never served in an approved primary position; or the employee has served in a primary position, but there has been a break greater than 3 days. Code the employee as CSRS (code 1) or CSRS Offset (code C). Stop.

4. You've determined that the employee's previous position was a primary position. Was the employee covered under the special retirement provisions while in the primary position, CSRS Special (code 6) or CSRS Offset Special (code E)?

NOTE: Employees serving in an approved primary position under a permanent appointment would be coded under the special retirement provisions (code 6 or code E). Employees serving in an approved primary position under non-permanent appointments (i.e., temporary or TERM) would be covered under FICA only.

- A. Yes, the employee was covered under the special provisions while serving in the primary position and transferred directly to the secondary position. The employee would continue to be covered under the special provisions while in the secondary position. Code the employee CSRS Special (code 6) or CSRS Offset Special (code E). Stop.
- B. No, the employee was serving in a primary position, but did not have special retirement coverage (i.e. the employee was serving under a non-permanent appointment, temporary or TERM, and was coded as FICA only). The employee does not meet the transfer requirements for coverage in the secondary position. Code the employee as CSRS (code 1) or CSRS Offset (code C). Stop.

5. You've determined that the employee's previous and current positions are approved secondary positions.

Did the employee have special retirement coverage in the previous secondary position?

- A. Don't know. Review the employee's service history. Follow the steps in the special retirement determination process to determine whether the employee had met the transfer requirements for coverage in the previous position(s). Continue with the coverage determination steps when you have the answer.
- B. Yes, the employee was covered under the special retirement provisions in the previous secondary position.

(1) Has the employee been continuously employed (see note) in secondary positions since transferring from a primary position?

Note - continuously employed:

- service is continuous if there are no breaks greater than 3 days
- don't count breaks beginning before Jan 19, 1988
- don't count breaks which began with an involuntary separation, unless the involuntary separation was a removal for cause on charges of misconduct or delinquency

(a) Yes, the employee has been continuously employed in secondary positions since transferring from a primary position. The employee remains covered under the special retirement provisions. Code the employee as CSRS Special (code 6) or CSRS Offset Special (code E). Stop.

(b) No, the employee has not been continuously employed in secondary positions since transferring from a primary position. The employee does not meet the transfer requirements for coverage in the secondary position. Code the employee as CSRS (code 1) or CSRS Offset (code C). Stop.

<p style="text-align: center;">Steps for Determining FERS Special Retirement Coverage Law Enforcement Officers and Firefighters</p>
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1. Is the employee assigned to a position that has been approved for special retirement coverage?

- A. Don't know? Code the employee as FERS (code K). Contact the special retirement section at your **Component** headquarters. They maintain a list of all approved positions and can tell you whether the position has been approved. Find out whether the position is approved as a rigorous position or a secondary

(supervisory or administrative) position. When the position approval status has been verified, continue with the special coverage determination for the employee.

B. Yes. *Continue to question 2.*

C. No. The employee will be FERS (code K). The information below discusses the agency and employee actions to request position approval.

Agency Request: The employing office may request approval of special retirement coverage for the position. Chapter 840 of the Civilian Personnel Manual (DoD 1400.25M) outlines the procedure for requesting coverage. Your **Component** headquarters special retirement section can provide additional guidance to help you submit the request. If the position is approved for coverage by the **Agency Head**, continue with the coverage determination for the employee (start over at question 1).

Employee Request: If the employing office does not request position approval or if the position approval has already been denied, the employee may request that the **Agency Head** approve their position for special retirement coverage. The employing office is not required to issue the employee a notice informing them of the right to request position approval.

An employee's request for position approval is governed by the regulations in 5 C.F.R. 842.804(c). The employee has the burden of proving that their position meets the legal definition of LEO or FF. The definitions can be found in 5 C.F.R. 842.802. The employee's request must be submitted, formally and in writing, within 6 months after entering the position or after any significant change in the position. If the employee does not request coverage in a timely manner, the **Agency Head's** determination that the position is not covered is presumed to be correct.

The agency will enforce this time limit unless the employee proves that they were prevented from circumstances beyond their control from submitting the request within the time limit or that the employee was unaware of their status. Only the **Agency Head**, USD (P&R), has the authority to waive the time limit.

Requests that do not satisfy the requirements under CSRS and FERS are disapproved by the head of the **Component** (or their designee). If a request for an individual service credit determination is denied by the Component, the employee will have the right, under 5 C.F.R. 842.807, to appeal that decision to the MSPB, www.mspb.gov.

Employees that are granted rigorous position coverage (by the **Agency Head** or MSPB) are coded under the special retirement provisions (code M). If the position is approved as secondary (supervisory or administrative), the employee must also meet the transfer requirements for coverage. In addition, all employees serving on the same position number would be eligible for special retirement coverage. If position coverage is granted by MSPB, an agency memo must be prepared to document the approval. Procedures within your **Component** will dictate whether this agency memo is written by the **Component** headquarters special retirement section or by the employing office. The memo from the agency and the MSPB decision are permanently filed in the employee's OPF. The agency must collect the additional ½ percent retirement contributions for the period of service granted by the agency head or MSPB. At the time the employee retires, the **Agency Head** memo and/or the MSPB decision is used to verify the special retirement service.

2. You've verified that the employee's position is approved for special retirement coverage. Was the position coverage approved under the rigorous category or the secondary (administrative or supervisory) category?

A. Don't know. If you have an approval memo (from OPM or the **Agency Head**), it will state whether the approval is under the rigorous or secondary category. If you don't have the approval memo, contact your **Component** headquarters special retirement section to find out whether the position is approved as rigorous or secondary. Continue with the special coverage determination when you find the answer.

B. Primary position: code the employee as FERS Special (code M). Stop.

C. Secondary position: the employee must satisfy the transfer requirements to be covered under the special retirement provisions. *Continue to question 3.*

3. You've verified that the employee's position is approved for special retirement under the secondary category. Now, you need to determine whether the employee meets (or has met) the transfer requirements for coverage in a secondary position.

Was the employee transferred, reassigned, or appointed to this secondary position directly from a rigorous position? "Directly" means without a break greater than 3 days.

A. Yes, the employee moved directly from a rigorous position to this secondary position. *Continue to question 4.*

B. No, the employee did not move directly from a rigorous position to this secondary position.

(1) If the employee's previous position was an approved secondary position, continue to question 5.

(2) If the employee's previous position was not an approved secondary position, the employee does not meet the transfer requirements for coverage (5 C.F.R. 842.803). The employee's service history should fall within one of these categories: the employee has never served in an approved rigorous position; or the employee has served in a rigorous position, but there has been a break greater than 3 days. Code the employee as FERS (code K). Stop.

4. You've determined that the employee's previous position was a rigorous position. Was the employee covered under the special retirement provisions while in the rigorous position, FERS Special (code M)?

NOTE: Employees serving in an approved rigorous position under a permanent appointment would be coded under the special retirement provisions (code M). Employees serving in an approved primary position under non-permanent appointments (i.e., temporary appointment) would be covered under FICA only.

A. Yes, the employee was covered under the special provisions while serving in the rigorous position and transferred directly to the secondary position.

(1) Has the employee served in rigorous positions for at least three years?

Review the employee's service history to make this determination. Be sure to include: nondeduction service in approved CSRS primary or FERS rigorous positions (i.e., covered by FICA only) even if the FERS nondeduction service was performed after Jan 1, 1989, and service in approved CSRS primary positions.

(a) Yes, the employee transferred directly from a rigorous position and the employee has at least 3 years of service in rigorous positions. The employee would continue to be covered under the special provisions while in the secondary position. Code the employee FERS Special (code M). Stop.

(b) No, although the employee transferred directly from a rigorous position, the employee did not have at least 3 years of service in rigorous positions. The

employee does not meet the transfer requirements for special retirement coverage. Code the employee as FERS (code K). Stop.

- B. No, the employee was previously serving in a rigorous position, but did not have special retirement coverage (i.e. the employee was serving under a temporary appointment and was coded as FICA only). The employee does not meet the transfer requirements for coverage in the secondary position. Code the employee as FERS (code K). Stop.

5. You've determined that the employee's previous and current positions are approved secondary positions.

Did the employee have special retirement coverage in the previous secondary position?

- A. Don't know. Review the employee's service history. Follow the steps in the special retirement determination process to determine whether the employee had met the transfer requirements for coverage in the previous position(s). Continue with the coverage determination steps when you have the answer.
- B. Yes, the employee was covered under the special retirement provisions in the previous secondary position.

(1) Has the employee been continuously employed (see note) in secondary positions since transferring from a primary position?

Note - continuously employed:

- service is continuous if there are no breaks greater than 3 days
- don't count breaks which began with an involuntary separation, unless the involuntary separation was a removal for cause on charges of misconduct or delinquency

- (a) Yes, the employee has been continuously employed in secondary positions since transferring from a rigorous position. The employee remains covered under the special retirement provisions. Code the employee as FERS Special (code M). Stop.
- (b) No, the employee has not been continuously employed in secondary positions since transferring from a rigorous position. The employee does not meet the transfer requirements for coverage in the secondary position. Code the employee as FERS (code K). Stop.

Frequently Asked Questions

1. Q: Can a new employee (without any prior Federal civilian service) be hired directly into a secondary position or do they have to serve in an approved primary/rigorous position first? If so, will they have special retirement coverage?

1. A: If an applicant meets the qualifications for position (education/experience), they can be hired directly into an approved secondary/supervisory position, without having served in a primary/rigorous position. If the position is an approved secondary/administrative position the applicant must have experience in a primary/rigorous position or equivalent experience from a position outside the Federal government to qualify for the position (for example: experience as a "front-line" FF for their state or county fire department).

In either case, the employee will **not** have special retirement coverage. Even if the applicant fully qualifies for the secondary position, they cannot be covered under the special retirement provisions because the transfer requirements for special retirement coverage in the secondary position was not met (i.e., moving directly from a primary/rigorous position to the secondary position).

2. Q: Generally, can an employee count military service as a LEO/FF as primary/rigorous experience? Will the military service count towards meeting the transfer requirement for coverage in an approved secondary position? (also read question #17)

2. A: If the military service is determined to be equivalent to experience in a primary/rigorous position, it will count towards meeting the basic qualifications for the secondary position. However, although military service is Federal service, it is not Federal civilian service. The service will not count as primary/rigorous service for meeting the transfer requirements for coverage in a secondary position (i.e., movement directly from a primary/rigorous position to a secondary position). The employee will **not** have special retirement coverage. (See "Conditions for Coverage in Secondary Positions" on page 12 or page 18 for more information on the transfer requirement.)

3. Q: If a CSRS or FERS employee completes 5 years of service, in an approved primary/rigorous position, then separates or moves into a non-covered position, can they be rehired into a secondary position? If so, will they have special retirement coverage?

3. A: As long as they meet the qualification requirements for the position, they can be rehired into a secondary position.

However, the employee will not have special retirement coverage. An employee appointed or assigned to a secondary position must have moved directly from an approved primary/rigorous position to the secondary position (i.e., without a break greater than 3 days). The "direct move" is always required, even if the break between the primary/rigorous and secondary positions was involuntary. The involuntary break rule is applicable only after the employee moves directly from the primary/rigorous position to the secondary position.

If, after the break from the primary/rigorous position, the employee has been appointed or assigned to a primary/rigorous position for any length of time (one day / one pay period), they would be able to retain special retirement coverage when they move into the secondary position.

4. Q: Generally, are guard (GS-085) and police officer (GS-083) positions covered under the special retirement provisions?

4. A: No. DoD has not approved any guard or police officer positions for special retirement coverage. These positions do not meet the definition of LEO as defined in 5 C.F.R. 831.902 and 842.802, because they were created to maintain law and order and protect life and property. They were not created for the primary purpose of investigating, apprehending or detaining criminals or criminal suspects.

5. Q: Generally, are Fire Protection or Fire Prevention positions covered under the special retirement provisions?

5. A: Yes, generally. Most of these positions have been approved under the secondary/administrative category for FFs because experience as a primary/rigorous FF was a mandatory prerequisite for the position.

6. Q: If secondary/administrative positions require that employees/applicants have experience in a primary/rigorous position, is this requirement specified in the *Qualification Standards Operating Manual* (formerly known as the X-118 Handbook)?

6. A: No. The Handbook provides general qualification guidelines and generally allows applicants to substitute education for experience when applying for positions. When recruiting for any approved secondary/administrative position, you must use "selective factors" in the vacancy announcement to ensure that applicants have the background necessary to qualify for the position (i.e., experience in an approved primary/rigorous FF or LEO position, or equivalent service).

7. Q: Who approves LEO/FF positions for coverage under the special retirement provisions?

- 7. A:** The authority to approve positions rests with the **Agency Head** (Secretary of Defense). However, the Under Secretary of Defense for Personnel and Readiness (USD (P&R)) has been delegated the authority to approve positions for special retirement coverage.
- 8. Q: Who can approve a waiver of the timeliness provisions for individual service credit requests? (The timeliness issue is discussed under Requests from Employees on page 12 and page 18).**
- 8. A:** The Agency Head, USD (P&R), has the authority to waive timeliness for CSRS and FERS employees who can prove that they did not file their request for individual service credit in a timely manner based on circumstances beyond their control. In addition, the USD (P&R) may waive timeliness for FERS employees who prove that they were unaware of their non-LEO/FF status. This authority has not been delegated beyond the USD (P&R). Therefore, the Defense Components do not have the authority to waive timeliness and review a request for individual service credit on the merits (facts) of the request. Such requests must be submitted through FAS for USD (P&R) consideration.
- 9. Q: Do LEOs/FFs make additional contributions to the retirement fund?**
- 9. A:** Yes. LEOs/FFs covered under the special retirement provision must contribute an extra ½ percent of salary to the retirement fund.
- 10. Q: If a LEO/FF employee retires under the disability provision (CSRS or FERS), will their annuity be calculated using the disability formula or the special retirement formula?**
- 10. A:** The disability formula for CSRS or FERS will be used. However, these formulas take into account the employee's earned annuity. When calculating the disability annuity for a CSRS LEO/FF, OPM will use the special retirement formula if the employee has completed 20 years of CSRS LEO/FF service, regardless of the employee's age at retirement. Under FERS, the special retirement formula is only used if the employee would be eligible to retire under the special retirement provisions (i.e., age 50 with 20 years of LEO/FF service; or any age with 25 years of LEO/FF service).
- 11. Q: If a LEO/FF employee dies, is the survivor benefit calculated under the special retirement formula?**
- 11. A:** Maybe. Eligibility for a survivor benefit calculated under the special retirement formula depends on several factors.

If the deceased employee was **CSRS**, the enhanced special retirement formula would be used to calculate the survivor benefit if all of the following factors

are met:

1. The employee was a LEO or FF at the date of death, and
2. The employee had completed at least 20 years of LEO and/or FF service as of the date of death (regardless of age).

If the employee was not a LEO/FF at the date of death, the special formula for LEO/FF would be used only if the employee was eligible to retire under the special retirement provisions (age 50 with 20 years of LEO/FF service).

If the requirements stated above were not met, the spousal annuity would be computed under the CSRS general formula. (Reference: CSRS and FERS Handbook, Chapter 70, Section 70A2.1-1C, BAL 95-106 and Wassenaar v. OPM, 21 F.3d 1090 (Fed. Cir. 1994))

If the deceased employee was **FERS**, the rules are different. The enhanced special retirement formula would be used to calculate the survivor benefit only if the employee would have been eligible to retire under the special retirement provisions:

1. The employee was age 50 with at least 20 years of LEO/FF service; or
2. The employee was any age with at least 25 years of LEO/FF service.

If, at the date of death, the employee did not meet the age and/or service requirements for LEO/FF retirement, the spousal survivor annuity would be computed under the FERS general formula. (Reference: CSRS and FERS Handbook, Chapter 70, Section 70B3.1-2C.)

NOTE: In Moore v. OPM (113 F.3d 216 (Fed. Cir. 1997)), OPM was ordered to compute the FERS survivor annuity under the special retirement provisions, even though the employee (LEO) died in service at the age of 43 with only 14.5 years of LEO service. However, OPM has *not* amended the CSRS and FERS Handbook to reflect this ruling.

12. Q: If an employee was a LEO/FF for 5 years, then moved into a non-covered position for the rest of their career, can he get a refund or the extra ½ percent he paid during the 5 LEO/FF years when he retires under a "regular" voluntary retirement?

12. A: No. The extra ½ percent of retirement contributions is not separately refundable.

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

13. A: Yes.

Mandatory separation applies to all employees serving in approved LEO/FF

positions and covered under the special retirement provisions. Mandatory separation is required at age 57, if they have at least 20 years of service in approved LEO/FF positions. If the LEO/FF does not have the required 20 years of service, the employee must be separated on the last day of the month in which they complete 20 years of service. (References: 5 U.S.C. 8335 (b) and 5 U.S.C. 8425 (b))

NOTES:

- 1) A 60-day advance written notice is required before the LEO/FF can be separated under mandatory retirement;
- 2) If the LEO/FF moves into a non-LEO/FF position, they will not be subject to the mandatory separation provisions.

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

14. A: A request for an exemption may be initiated by the employee, but it must be submitted for approval by management. Component Heads have been delegated the authority to approve exemptions from mandatory separation, on a case-by-case basis for employees under age 60. Exemptions must be based on a compelling agency hardship. Requests for exemptions beyond an employee's 60th birthday must be submitted through the Component headquarters, to FAS, then to OPM. OPM has been delegated the authority to approve exemptions for CSRS employees, but the President of the United States retains the authority to approve exemptions for FERS employees.

NOTE: If an exemption is approved, the LEO/FF must continue making the ½ percent contribution even though the extra contribution will not increase their annuity.

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

15. 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. This annuity would be computed under the regular provisions. Additionally, the extra ½ percent employee contribution would not be refunded.

16. 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?

16. A: Yes, if it is verified that the former employee was in receipt of OWCP benefits. Upon return to Federal employment, OWCP recipients must not incur a loss of benefits that they would have received but for the injury, this

includes credit for length of service. The OWCP time would be treated as a period of "deemed leave without pay" (LWOP). Since the employee's position of record before their separation was a LEO/FF position, the deemed LWOP would provide LEO/FF service credit upon reemployment. (References 5 U.S.C. 8151 and 5 U.S.C. 8332(f))

NOTE: The position of record will govern the employee's retirement coverage after reemployment. If the employee was reemployed into an approved primary or secondary position, they would be eligible for special retirement coverage. If the employee was reemployed into a non-LEO/FF position, they would not be eligible for special retirement coverage.

17. Q: A LEO/FF left our agency for military service. Would the period of LWOP-US or Separation-US count towards creditable service under the special retirement provisions for LEO/FF once the individual is reemployed in the Federal government?

17. A: Maybe.

Normally, periods of military service do not count as LEO/FF service (see question # 2).

However, periods of LWOP-US or Separation-US are creditable as LEO/FF, if the employee properly exercises their restoration rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). In general, restoration requires that the employee leave the civilian position (LEO/FF position in this case) to perform the military service, and then return directly to their former civilian position. The USERRA restoration requirements are found in 38 U.S.C. Chapter 43.

If the employee does not properly exercise their restoration rights (for example, they return to a non-LEO/FF position or do not return at all), they would not receive special retirement credit for the period of LWOP-US or Separation-US.

18. Q: Is Law Enforcement Availability Pay included as basic pay for retirement and life insurance?

18. A: Yes.

The premium pay that some LEOs receive is considered basic pay for retirement and insurance purposes. You must include availability pay when computing high-3 average salary for retirement and when computing FEGLI costs / benefits. (References: 5 U.S.C. 8331(3) and 5 U.S.C. 5545(c)(2))

OPM's web site presents a good overview of availability pay at:

<http://www.opm.gov/oca/pay/HTML/AP.HTM>

19.Q: What is the NOA (357-Termination or 300-Mandatory Retirement) used when an employee fails to submit a retirement application upon mandatory separation?

19.A: The NOA to be used is 300-Mandatory Retirement. It does not matter if the employee submits the retirement application or not. The employee's eligibility exists on the date of separation and upon application the commencing date will be retroactive back to the date of separation.

Firefighter Pay for Retirement and Life Insurance

The Federal Firefighter Overtime Pay Reform Act of 1998 (FFOPRA) (P.L. 105-277), changed the way we compute FFs basic pay for retirement and Federal Employees' Group Life Insurance (FEGLI). Just as before, a FF's actual salary may be different than the basic pay used for retirement and FEGLI purposes. When computing basic salary for retirement or FEGLI purposes, do not use the salary rate on the FF's SF 50, Notification of Personnel Action, or their Leave and Earnings Statement. You must use the FF's salary, work schedule, and a specific formula to compute the amount of basic pay for retirement and FEGLI purposes.

The FFOPRA changes became effective beginning the first pay period after Oct 1, 1998 (Oct 11, 1998, for most of DoD). Therefore, you will still have to use the "old" (pre-FFOPRA) basic pay rules to compute the high-3 average salary for a FF retiring prior to Oct 2001. For FF service before Oct 11, 1998, use the "old" rule and for service on/after Oct 11, 1998, use the "new" rule. After Oct 2001, you will only need to use the "old" basic pay rules when the employee's high-3 average salary period includes service *before* Oct 11, 1998 (i.e., the FFs high-3 average salary was *not* during their last 3 years of service).

"Old" Basic Pay Calculation (used to determine FF basic pay for retirement and FEGLI prior to Oct 11, 1998): Divide the basic pay plus locality by 2087 to compute an hourly rate. Then, multiply that hourly rate by 80 to find the regular pay per pay period (step 1). Multiply the regular pay per pay period by 25 percent to compute the standby pay (step 2). Add the regular pay and the standby pay together and multiply by 26 to compute the basic pay for retirement and FEGLI (step 3). (See **Worksheet 1** on page 40).

Example: FF works 72-hour week. His base pay plus locality is \$32,578.

Step 1: $\$32,578 \div 2087 = \15.61 per hour

$\$15.61 \times 80$ (standard pay period) = \$1,248.80

Step 2: $\$1,248.80 \times .25 = \312.20

Step 3: $\$1,248.80 + \$312.20 = \$1,561.00$

$\$1,561 \times 26 = \$40,586$ (basic pay for retirement and FEGLI)

"New" Basic Pay Calculation for Unusual Tour (used to determine FF basic pay for retirement and FEGLI on/after Oct 11, 1998): This formula is used for FFs working at least 53 hours per week or 106 hours biweekly (such as FFs working a 56, 60, or 72 hour workweek; covered by 5 C.F.R. part 550, subpart M). Divide the basic pay plus locality by 2756 to compute an hourly rate (step 1). Multiply that hourly rate by the biweekly tour (i.e., 106 or 144 hours) to find the regular pay per pay period. Multiply the regular pay per pay period by 26 to compute the basic pay for retirement and FEGLI (step 2). (See **Worksheet 2** on page 42).

Example: FF works 72-hour week. His base pay plus locality is \$32,578.

Step 1: $\$32,578 \div 2756 = \11.82 per hour

Step 2: $\$11.82 \times 144$ (biweekly tour) = \$1,702.08

$\$1,702.08 \times 26 = \$44,254.08$ (basic pay for retirement and FEGLI)

"New" Basic Pay Calculation for Sustained 40-hour Week (used to determine FF basic pay for retirement and FEGLI on/after Oct 11, 1998): This formula is used for FFs on a sustained 40-hour week, called an embedded tour of duty, (such as a fire chief) plus stand-by for additional hours. The first 80 hours are computed based on a 2087-hour work year. Additional hours per pay period are calculated using a 2756-hour work year. Formula: Divide the base pay plus locality by 2087 to compute the hourly rate. Multiply this hourly rate by 80 to find the regular pay per pay period (step 1). Divide the base pay plus locality by 2756 to compute the stand-by rate. Multiply this stand-by rate by the number of hours worked in excess of 80 hours (step 2). Add the regular pay (step 1) to the stand-by pay (step 2) and multiply by 26 to compute the pay for retirement and FEGLI (step 3). (See **Worksheet 3** on page 44).

Example: FF (Chief) works a standard 40-hour week, plus stand-by for 32 hours.

Total hours worked/stand-by is 112. His base pay plus locality is \$48,650.

Step 1: $\$48,650 \div 2087 = \23.31 per hour

$\$23.31 \times 80$ hours = \$1,864.80

Step 2: $\$48,650 \div 2756 = \17.65 per hour

$\$17.65 \times 32$ hours = \$564.80

Step 3: $\$1,864.80 + \$564.80 = \$2,429.60 \times 26 = \$63,169.60$ (basic pay for retirement and FEGLI)

Firefighter Sick Leave Conversion

When a CSRS employee or a FERS employee with a CSRS component retires, their unused sick leave balance will be converted to increase their length of service credit for retirement computations (see CSRS and FERS Handbook, Section 50A2.1-3 F). Because FFs usually work more than 80 hours a pay period, they earn sick leave at a higher rate than regular employees. When a FF retires under CSRS or FERS (if they have a CSRS component), their sick leave must be converted to a regular 40-hour week, before using it

for the retirement computations. A CSRS FF will receive credit for all unused sick leave. If a CSRS FF elects to transfer to FERS, they will receive credit for the amount of unused sick leave they had when they elected to transfer to FERS or the amount they have at retirement (whichever is less).

To convert the FF sick leave balance to a regular sick leave balance, multiply the FF sick leave by 40, divide that number by the number of hours in the FFs last weekly tour of duty:

$$\text{FF sick leave balance} \times \underline{40} = \underline{\text{hours}} \div \text{FF hours in last weekly tour of duty}$$

Use the sick leave chart for converting the time to years, months, and days (see the CSRS and FERS Handbook, Chapter 50, Section 50C1.1-1, Chart 2, Sick Leave Chart - 2087 Hours).

Example: FF sick leave balance = 1422. Last weekly tour of duty was 72 hours.
1422 hours of FF unused sick leave $\times 40 = 56,880$ hours
 $56,880 \text{ hours} \div 72 \text{ hours in last weekly tour} = 790$ hours of regular sick leave
790 hours of regular sick leave converts to 4 months 17 days service

Worksheet 1: Old Formula for Computing Firefighters Annual Salary for Retirement & Insurance
Effective for pay period beginning before October 1, 1998

Step 1: Compute Regular Salary per Pay Period:

$$\text{\$ } \underline{\text{GS Salary (with locality pay)} \div 2087} = \text{\$ } \underline{\text{Hourly Rate (round \$00.00)}} \times \underline{80 \text{ hours}} = \text{\$ } \underline{\hspace{2cm}}$$

Step 2: Compute Stand-by Salary per Pay Period:

$$\text{\$ } \underline{\text{GS Salary (with locality pay)} \times 25\%} = \text{\$ } \underline{\text{Stand-by Pay (round \$00.00)}}$$

Step 3: Compute Annual Pay for Retirement and Insurance:

$$\text{\$ } \underline{(\text{from step 1}) + \text{\$ } \underline{(\text{from step 2})}} = \text{\$ } \underline{(\text{salary per pay period})} \times \underline{26} = \text{\$ } \underline{\hspace{2cm}}$$

From	To	GS Salary + locality	÷	2087	=	Hourly Rate (\$00.00)	×	80	=	Regular Pay (Step 1)	×	.25	=	Stand-by Pay (Step 2)	×	Regular + Stand-by (Step 1 + 2)	×	26	=	Annual Pay (Step 3)
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$
		\$	÷	2087	=	\$	×	80	=	\$	×	.25	=	\$	×	\$	×	26	=	\$

Worksheet 1 (cont'd): Now that you have computed the Annual Pay for Retirement and FEGLI purposes, it is time to use the converted pay from above to compute the high-3 average salary.

FROM		TO			Converted Annual Pay	Total Time			Time Factor	Salary Earned (Pay x Time Factor) <i>Round to nearest cent</i>
YR	MO	DY	YR	MO		DY	YR	MO		
					Totals	03	00	00	*	\$
Converted Pay Earned: \$ _____ ÷ 3 Years = \$ _____ **										
_____ = High-3 Average Salary for Retirement Purposes										
* Time factors should total 3, but may be slightly more or less because of rounding. ** Round High-3 Average Salary to Nearest Whole Dollar.										

Worksheet 2: New Formula for Computing Firefighters Annual Salary for Retirement & Insurance
Effective first pay period beginning on/after October 1, 1998
(Unusual Tour: 53-hour week or 106-hours biweekly or more)

Step 1: Compute Hourly Rate:

$$\frac{\text{GS Salary (with locality pay)}}{2756} = \$ \text{ Hourly Rate (round \$00.00)}$$

Step 2: Compute Annual Rate:

$$\text{Hourly Rate} \times \text{Hours per Pay Period} \times 26 \text{ Pay Periods} = \$ \text{ (salary)}$$

		STEP 1				STEP 2						
From	To	GS Salary (+ locality pay)	÷	2756	=	Hourly Rate (\$00.00)	X	Hours per Pay Period	X	26 pp	=	Annual Salary Retirement & Insurance
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$
		\$	÷	2756	=	\$	X		X	26	=	\$

Worksheet 2 (cont'd): Now that you have computed the Annual Salary for Retirement and FEGLI purposes, it is time to use the converted salary from above to compute the high-3 average salary.

FROM			TO			Converted Annual Pay			Total Time			Time Factor	Salary Earned
YR	MO	DY	YR	MO	DY	YR	MO	DY	YR	MO	DY		(Pay x Time Factor) Round to nearest cent
						Totals			03	00	00	*	\$
Converted Pay Earned: \$ _____ ÷ 3 Years = \$ _____ **													
_____ = High-3 Average Salary for Retirement Purposes													
* Time factors should total 3, but may be slightly more or less because of rounding. ** Round High-3 Average Salary to Nearest Whole Dollar.													

Worksheet 3: New Formula for Computing Firefighters Annual Salary for Retirement & Insurance
Effective first pay period beginning on/after October 1, 1998
(Embedded Tour: sustained 40-hour week or 80-hours biweekly, plus stand-by hours)

Step 1: Compute Regular Salary per Pay Period:

\$ GS Salary (with locality pay) ÷ 2087 = \$ Hourly Rate (round \$00.00) x 80 = \$ _____

Step 2: Compute Stand-by Salary per Pay Period:

\$ GS Salary (with locality pay) ÷ 2756 = \$ Hourly Rate (round \$00.00) x _____ (hours over 80) = \$ _____

Step 3: Compute Annual Pay for Retirement and Insurance:

\$ (from step 1) + \$ _____ (from step 2) = \$ _____ (salary per pay period) x 26 = \$ _____

GS Salary +locality	÷	2087	=	Hourly Rate (\$00.00)	x	80	=	Regular Pay (Step 1)	÷	GS Salary +locality	÷	2756	=	Hourly Rate (00.00)	x	Hours over 80	=	Stand-By Pay (Step 2)	Regular + Stand-by	x	26	=	Annual Pay (Step 3)
\$	÷	2087	=	\$	x	80	=	\$	÷	\$	÷	2756	=	\$	x		=	\$	\$	x	26	=	\$
\$	÷	2087	=	\$	x	80	=	\$	÷	\$	÷	2756	=	\$	x		=	\$	\$	x	26	=	\$
\$	÷	2087	=	\$	x	80	=	\$	÷	\$	÷	2756	=	\$	x		=	\$	\$	x	26	=	\$
\$	÷	2087	=	\$	x	80	=	\$	÷	\$	÷	2756	=	\$	x		=	\$	\$	x	26	=	\$
\$	÷	2087	=	\$	x	80	=	\$	÷	\$	÷	2756	=	\$	x		=	\$	\$	x	26	=	\$
\$	÷	2087	=	\$	x	80	=	\$	÷	\$	÷	2756	=	\$	x		=	\$	\$	x	26	=	\$

Section II - Air Traffic Controllers (ATCs)

Special Retirement Provisions for Air Traffic Controllers (ATCs)		
TOPIC	CSRS	FERS
References	Section 226 of Public Law 108-176 United States Code: 5 U.S.C. 2109; 3381-3385; 8335(a); 8336(e); 8339(e) Code of Federal Regulations: 5 C.F.R. 831.502(b)(2) The CSRS and FERS Handbook for Personnel and Payroll Offices: Chapters 46, 54, 61 and 70 DoD CPM Subchapter 331	Section 226 of Public Law 108-176 United States Code: 5 U.S.C. 2109; 3381-3385; 8412(e); 8415(d); 8425(a) Code of Federal Regulations: 5 C.F.R. 842, Subpart H The CSRS and FERS Handbook for Personnel and Payroll Offices: Chapters 46, 54, 61 and 70 DoD CPM Subchapter 331
Air Traffic Controller Definition	<p>An ATC is a civilian employee in an ATC facility or flight service station facility who:</p> <ol style="list-style-type: none"> 1. Is actively engaged -- <ol style="list-style-type: none"> a. In the separation and control of air traffic; or b. In providing pre-flight, in-flight, or airport advisory service to aircraft operators; or 2. Is the immediate (first-level) supervisor of any employee described in #1; or 3. Is the immediate supervisor of any employee described in #2 and the second-level supervisor of an employee described in #1. (Only applies to individuals who retire or die on or after Feb 10, 2004.) <p>Generally, ATC coverage in Defense is limited to full-time, permanent ATC (GS-2152) at the journeyman level. Employees at less than full performance level (such as Air Traffic Assistants or Trainees) are not covered under special retirement.</p> <p>Although the ATC definition covers employees and their immediate first and second-level supervisors, ATC positions are not categorized as primary or secondary positions. Since there are no secondary positions, there is no transfer requirement for coverage in secondary positions. An ATC is an ATC.</p>	

Special Retirement Provisions for Air Traffic Controllers (ATCs)

TOPIC	CSRS	FERS
Coverage Determinations	<p>In Defense, the Component Heads determine whether a position meets the definition of an ATC for special retirement coverage. Questions related to ATC coverage for specific positions should be directed to the Component Headquarters.</p>	
Requests from Employees or Individuals	<p>Employees in positions not covered as ATCs do not have reconsideration or appeal rights.</p> <p>Public Law No. 100-92, Section 2(a)(2), requires OPM to accept DoD's certification of the amount of creditable ATC service for the purpose of establishing the right to an ATC annuity.</p> <p>Since OPM is required by Congress to accept the certification by DoD, OPM and the MSPB do not have the authority to alter or review the amount certified by DoD.</p>	<p>If an employee is not in an approved ATC position, the employee may, within 6 months after entering the position or within 6 months after any significant change in the position, formally and in writing seek a determination from the employing agency regarding their position.</p> <p>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 their status or was prevented by cause beyond their control from requesting that the official status be changed at the time the service was performed.</p> <p>In response to the individual request for approval of a position as an ATC, the agency must issue a written decision.</p> <p>An employee may appeal the final Agency decision to the MSPB.</p>

Special Retirement Provisions for Air Traffic Controllers (ATCs)

TOPIC	CSRS	FERS
Retirement Code	CSRS = 1, CSRS Offset = C	FERS = L
Retirement Contributions	ATC employees pay the regular employee contribution rate.	<p>Additional deductions of ½ percent must be withheld from pay for ATC service.</p> <p>NOTE: For second-level supervisors, the additional ½ percent withholding became effective Feb 10, 2004. A deposit must be made for prior second-level supervisor service. Application for deposit must be submitted by Nov 29, 2006. Deposit must be made the later of the date of retirement or 60 days after being billed.</p>
Retirement Eligibility Requirements	<ul style="list-style-type: none"> • Age 50 with 20 years of ATC service, <i>or</i> • Any age with 25 years of ATC service <p>The employee does not need to separate from an ATC position to be eligible for special retirement.</p> <p>The employee must be separated from position covered by retirement deductions. Under CSRS, the employee must meet the "one-out-of-two" requirement.</p>	
Annuity Computation	<p>The general formula described in Chapter 50, section 50A3.1-1, is used to compute the basic annuity of an ATC; however, a minimum benefit is guaranteed. The minimum benefit is equal to 50 percent of ATC's high-3 average salary.</p> <p>NOTE: Refunded ATC service can affect the guaranteed minimum benefit. An employee who owes a redeposit for refunded ATC service will not be entitled to the guaranteed 50 percent minimum</p>	<p>Special Retirement Formula: 1.7 percent X High-3 Average Salary X 20 Years of ATC Service</p> <p><i>plus</i> 1 percent X High-3 Average Salary X Additional years of creditable service exceeding 20 years (ATC & non-ATC)</p> <p>NOTES: 1) A retiree annuity supplement for annuities computed under the Special Retirement Formula is payable immediately in addition</p>

Special Retirement Provisions for Air Traffic Controllers (ATCs)

TOPIC	CSRS	FERS
<p>Annuity Computation <i>(continued)</i></p>	<p>benefit unless they pay the redeposit or it is deemed paid under the alternative annuity provision. (See the CSRS and FERS Handbook, Chapter 53, Alternative Annuity Elections.) If the redeposit is owed for refunded ATC service that ended prior to Oct 1, 1990, the 50 percent guaranteed minimum benefit will be subject to an actuarial reduction if the redeposit is not paid.</p>	<p>to the basic annuity.</p> <p>2) COLAs are paid immediately.</p> <p>3) The 1.1 percent formula does not apply to the Special Retirement Formula.</p> <p>4) Detailed examples of annuity computations can be found in CSRS & FERS Handbook, Chapter 54, Section 54 C.</p> <p>Employees retiring under 5 U.S.C. 8412(a) (minimum retirement age with 30 years of service) may elect an enhanced retirement benefit if they have at least 5 years of ATC service where they specifically performed service in which they actively engaged in the separation and control of air traffic. Annuity will be 1.7 percent for each year of frontline ATC service (no limit on number of years) in lieu of 1 or 1.1 percent that would otherwise be payable.</p> <p>NOTE: A retiree annuity supplement for this formula is payable immediately, however, no COLA is payable until age 62.</p>
<p>Mandatory Separation</p>	<p>The mandatory separation under CSRS changed with the enactment of Public Law 108-7 (Feb 20, 2003).</p> <p>An ATC must be separated on the last day of the month in which he becomes age 56 years of age or completes the age and service</p>	<p>An ATC who is eligible for immediate retirement under 8412(e) must be separated on the last day of the month in which he becomes 56 years of age or completes 20 years of service, if then over that age.</p> <p>Second-level ATC supervisors are</p>

Special Retirement Provisions for Air Traffic Controllers (ATCs)

TOPIC	CSRS	FERS
Mandatory Separation <i>(continued)</i>	<p>requirement for an annuity under 5 U.S.C. 8336(e) (ATC special retirement), whichever is later.</p> <p>The following ATCs are exempt from mandatory separation:</p> <ul style="list-style-type: none"> • ATCs first appointed by the Department of Transportation before May 16, 1972; • ATCs first appointed by DoD before Sep 12, 1980; • Flight service station specialists who were first appointed before Jan 1, 1987; and • ATCs that are second-level supervisors. 	<p>exempt from mandatory separation.</p>
Mandatory Separation -- Agency Responsibilities	<ol style="list-style-type: none"> 1. The employing agency must notify the employee in writing of the date of separation at least 60 days in advance of the separation date. 2. Employees who are eligible for retirement under the special provisions but who are not currently occupying an ATC position are not required to retire and are not subject to mandatory separation. 	
Disability Retirement	<p>The disability formula for CSRS or FERS will be used. However, these formulas take into account the employee's earned annuity.</p> <p>When calculating the earned annuity for an ATC, OPM will use the CSRS guaranteed minimum (50 percent) formula and the FERS enhanced special retirement formula <u>only</u> if the employee would be eligible to retire under the special retirement provisions:</p> <ul style="list-style-type: none"> • The employee was age 50 with at least 20 years of ATC service; or • The employee was any age with at least 25 years of ATC service. <p>If the employee does not meet the age and/or service requirements for ATC retirement, the disability retirement annuity would be computed under the regular CSRS and FERS general formula.</p>	

Special Retirement Provisions for Air Traffic Controllers (ATCs)		
TOPIC	CSRS	FERS
Death in Service	<p>The CSRS guaranteed minimum (50 percent) formula and the FERS enhanced special retirement formula would be used to calculate the survivor benefit <u>only</u> if the employee would have been eligible to retire under the special retirement provisions:</p> <ul style="list-style-type: none"> • The employee was age 50 with at least 20 years of ATC service; or • The employee was any age with at least 25 years of ATC service. <p>If, at the date of death, the employee did not meet the age and/or service requirements for ATC retirement, the spousal survivor annuity would be computed under the regular CSRS and FERS general formula.</p>	

Section III – The Public Safety Officers' Benefits Program

The Public Safety Officers' Benefits (PSOB) Program is administered by the Department of Justice, Bureau of Justice Assistance (not OPM).

The Public Safety Officers' Benefits program consists of three parts:

- 1) A one-time, tax-free financial benefit to eligible survivors of public safety officers whose deaths are the direct and proximate result of a traumatic injury sustained in the line of duty. The death benefit payable for eligible survivors in FY 2006 is \$283,385. Since Oct 15, 1988, the benefit has been adjusted each year on Oct 1 to reflect the percentage of change in the Consumer Price Index.
- 2) Benefits to public safety officers who have been permanently and totally disabled by a catastrophic personal injury sustained in the line of duty if that injury permanently prevents the officer from performing **any** gainful work.
- 3) The Public Safety Officers Educational Assistance (PSOEA), which provides educational assistance to the children and spouse survivors of Federal, state, and local public safety officers who were killed or permanently disabled in the line of duty. The PSOEA was authorized with the passage of the Police, Fire, and Emergency Officers Educational Assistance Act of 1998 (P.L. 105-390).

The benefits are **not** limited to employees serving in approved LEO/FF positions. For these benefits, a public safety officer is a person serving a public agency in an official capacity, with or without compensation, as a LEO, FF, or member of a public rescue squad or ambulance crew. LEOs include, but are not limited to, police, corrections, probation, parole, and judicial officers. Volunteer FFs and members of volunteer rescue squads and ambulance crews are covered under the program if they are officially

recognized or designated members of legally organized volunteer fire departments, rescue squads, or ambulance crews.

The Hometown Hero's Act of 2003, enhanced the PSOB to provide that the survivors of FFs and other public safety officer personnel who suffer a heart attack or stroke while on duty (or within 24 hours of engaging in particularly stressful or strenuous work) will now be automatically eligible for the PSOB benefit. Prior to this enhancement, the employee had to show that the employee's work contributed or caused the heart attack or stroke.

The following Fact Sheets contain general information about these benefits:

PSOB Fact Sheet: <http://www.ncjrs.org/pdffiles1/bja/fs000271.pdf>

PSOEA Fact Sheet: <http://www.ncjrs.org/pdffiles1/bja/fs000270.pdf>

Additional information may be obtained by contacting:

Bureau of Justice Assistance

Public Safety Officers' Benefits Program

810 Seventh Street NW

Washington, DC 20531

Telephone: 202-307-0635, Toll Free: 1-888-744-6513

Fax: 202-307-3373

References: http://www.ojp.usdoj.gov/BJA/grant/psob/psob_main.html;
CSRS and FERS Handbook, Section 75A2.1-2).

Section IV – Sample Letters

AGENCY HUMAN RESOURCES OFFICE LETTERHEAD

**Sample Letter
CSRS LEO/FF
Certification**

NAME: Margaret Waters
DOB: 00-00-00
SSN: 000-00-0000

This letter certifies that Ms. Waters qualifies for CSRS special retirement under 5 U.S.C. 8336(c). We have verified 20 years of creditable service for Ms. Waters as a _____ (law enforcement officer or firefighter).

Additional retirement deductions of ½ percent have been withheld from Ms. Water’s pay since Jan 1, 1975, for all covered or creditable _____ (law enforcement officer or 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	Administrative
Navy	12-4-85 (Prom)	Fire Prot. Insp., GS 081-9	Administrative
Navy	11-26-90 (Prom)	Asst. Fire Chief, GS 085-11	Supervisory
	12-24-95 (Retired)		

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

Sincerely,

Ms. Ima Verifier
Human Resources Specialist

AGENCY HUMAN RESOURCES OFFICE LETTERHEAD

**Sample Letter
FERS LEO/FF
Certification**

NAME: Juan Aqua
DOB: 00-00-00
SSN: 000-00-0000

This letter certifies that Mr. Aqua qualifies for FERS special retirement under 5 U.S.C. 8412(d). We have verified _____ (select **20 / 25**) years of creditable service for Mr. Aqua as a _____ (law enforcement officer or firefighter).

Additional retirement deductions of ½ percent have been withheld from Mr. Aqua’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	Administrative
Navy	12-4-85 (Prom)	Fire Prot. Insp., GS 081-9	Administrative
Navy	2-20-86 (Resig)		
Navy	3-1-86 (Rehired) (Became FERS)	Fire Prot. Insp., GS 081-9	Administrative
Navy	11-26-90	Asst. Fire Chief, GS 085-11	Supervisory
Navy	12-24-95 (Retired)		

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

Sincerely,

Ms. Ima Verifier
Human Resources Specialist

AGENCY HUMAN RESOURCES OFFICE LETTERHEAD

**Sample Letter
LEO/FF Disability
Retirement Certification**

NAME: Douglas Turner
DOB: 12-13-1955
SSN: 000-00-0000

Mr. Turner is applying for disability retirement. This letter certifies that Mr. Turner has at least 20 years of _____ (law enforcement officer or firefighter) service creditable under CSRS.

Additional retirement deductions of ½ percent have been withheld from Mr. Turner's pay since _____ (date special retirement contributions began) for all covered or creditable _____ (law enforcement officer or 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	2-15-79 (CC Appt) 9-20-80 (Resig)	Firefighter, GS 081-5	Primary
Navy	6-4-81 (CC Appt.)	Firefighter, GS 081-5	Primary
Navy	7-16-82 (Prom)	Lead FF, GS 081-6	Primary
Navy	3-10-83 (Prom)	Fire Prot. Insp., GS 081-7	Administrative
Navy	12-4-85 (Prom)	Fire Prot. Insp., GS 081-9	Administrative
Navy	11-26-90 (Prom)	Asst. Fire Chief, GS 085-11	Supervisory

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

Sincerely,

Ms. Ima Verifier
Human Resources Specialist

AGENCY HUMAN RESOURCES OFFICE LETTERHEAD

Sample Letter
LEO/FF Mandatory Separation

Date

Employee's Name
Address

Dear (Employee's Name:)

A review of your records indicates that on _____ (date) you will be age 57 or older and will meet the requirements for immediate retirement under 5 U.S.C. _____ (8336(c) for CSRS; or 8412(d) for FERS). As a _____ (law enforcement officer or firefighter), you must be separated from Federal service on _____ (date of mandatory separation) as directed in 5 U.S.C. _____ (8335(b) for CSRS; or 8425(b) for FERS).

Please contact _____ (name / 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 C.F.R. Part 752 or a removal action under 5 C.F.R. 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,

Human Resources Officer (or designee)

AGENCY HUMAN RESOURCES OFFICE LETTERHEAD

Sample Letter ATC Certification

Certification of Air Traffic Controller (ATC) service* performed under
P.L. 92-297, P.L. 96-347, P.L. 99-335, and P.L. 108-176

SECTION 1: EMPLOYEE INFORMATION

Name of Employee (Last, First MI)	Date of Birth (MM/DD/YYYY)	Social Security Number
LEWIS, John L.	06/18/1954	123-45-6789

SECTION 2: LIST OF ATC SERVICE PERFORMED

Start Date	End Date	Service			Type of ATC Service**
		Years	Month s	Days	
03/25/1984	07/15/1995	11	3	21	Frontline
07/16/1995	06/16/2001	5	11	1	First-level Supervisor
06/17/2001	04/30/2005	3	10	14	Second-level Supervisor

SECTION 3: TOTAL ATC SERVICE

(Total service must equal combined subtotals in section 2 above.)

Service		
Years	Months	Days
21	1	6

SECTION 4: AGENCY CERTIFICATON

I certify that the information shown above is correct.

Signature of Authorized Agency Official

Date

Title: _____

*P.L. 92-297, 99-335 (DOT)-ATC service as frontline employee and first level supervisor; P.L. 96-347 (DoD)-ATC service frontline ATC employee and first-level ATC supervisor; P.L. 108-176 (DoD & DOT)-ATC service as second-level supervisor.

**Type of ATC Service (Please distinguish between each type of service in Section 2, above):

- Frontline (Performed under 5 U.S.C. 2109(1)(A)(i))
- Preflight/Inflight/Airport Advisor (Performed under 5 U.S.C. 2109(1)(A)(ii))
- First-level Supervisor (Performed under 5 U.S.C. 2109(1)(B))
- Second-level Supervisor (Performed under 5 U.S.C. 8331(29))

AGENCY HUMAN RESOURCES OFFICE LETTERHEAD

Sample Letter ATC Mandatory Separation

Date

Employee's Name

Address

Dear (Employee's Name:)

A review of your records indicates that on _____ (date) you will be age 56 or older and will meet the requirements for immediate retirement under 5 U.S.C. _____ (8336(e) for CSRS; or 8412(e) for FERS). As an air traffic controller, you must be separated from Federal service on _____ (date of mandatory separation) as directed in 5 U.S.C. _____ (8335(a) for CSRS; or 8425(a) for FERS).

Please contact _____ (name / 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 air traffic controllers.

This is an involuntary separation. A mandatory separation is NOT an adverse action under 5 C.F.R. Part 752 or a removal action under 5 C.F.R. 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,

Human Resources Officer (or designee)