Special Retirement coverage for Law Enforcement Officers and Firefighters

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Objectives

- Determine retirement coverage for employees assigned to LEO/FF
  - primary/rigorous positions
  - secondary positions

- Auditing individual special retirement coverage
Types of Special Retirement Positions

Duties are defined by law and regulation:

- Law Enforcement Officer (LEO)
- Firefighter (FF)
Legislative Intent

Provide Enhanced Retirement Benefits

Provide Early Retirement

Limited to:

- Occupations which are more physically taxing than most Federal positions
- Young employees physically capable of meeting vigorous demands
Position Approval

• Approval authority = Agency Head

  – Agency Head can designate one person

  – Within the DoD, this authority has been delegated to the Under Secretary of Defense (Personnel and Readiness) (USD (P&R))
DoD Position Approval Process

1. Component recommendation & request is generated

2. Package preparation & review initiated by Defense Civilian Personnel Advisory Service (DCPAS) Action Officer

3. Review of legal qualifications by the Office of General Counsel (OGC)

4. Final approval is completed by the Under Secretary of Defense for Personnel and Readiness, USD (P&R)
Position Categories

Primary (CSRS) or Rigorous (FERS) – Front-line
• LEO - Investigate, apprehend, or detain criminals
• FF - Directly control and extinguish fires

Secondary – Non Front-line
• Supervisory
• Administrative
Maximum Entry Age & Reentry Age

• Maximum entry age of 37*

• Reentry covered primary position DoD 1400.25-V336 (issued Dec 19, 2001)

• Can be rehired/assigned to a primary or rigorous positon if they will be able complete 20 years of covered LEO/FF service by age 57

• Age waiver (prior to appointment) based on compelling agency need

*Note: MSPB 146 – Changes Maximum Entry-Age Restrictions for Veterans’ Preference Eligible
Reentry Age - Example

• Jimmy was first hired as a Firefighter at age 28. He worked for six years without a break in service before resigning. He did not take a refund of his FERS retirement contributions. He turns age 42 this month and has applied for reinstatement as a primary firefighter. Does he meet the reentry age?
Reentry Age – Example (con’t)

- Jimmy has six years of creditable FERS FF service.
- He needs an additional 14 years of FF service (20 total) by age 57 to meet the reentry age.
- He is 42 years old. He will complete 20 years of service by age 56 (42 + 14 = 56). So he **meets** the reentry age qualifications.
Non-LEO Position Exceptions

- GS-083 DoD Policemen and Detectives
  - Some received Special Retirement coverage by decisions from the Merit Systems Protection Board (MSPB)
  - These decisions applied only to the positions they held at that time
  - MSPB did not grant general coverage

- Watson Decision – clarified that Policemen and Detectives do not meet the LEO criteria
Position Approval vs Employee Coverage

**Position Approval**
Determine if duties meet LEO/FF definition

**Employee Retirement Coverage**
Determine if an employee will be subject to special retirement coverage

- Higher *retirement contributions*
- Maximum entry age & mandatory separation age
Details and Temporary Promotions

Position of record governs

• A Firefighter (primary) is injured on the job and is Detailed to a librarian position (non-covered). Special retirement coverage continues.

• A Librarian (non-covered) is temporarily promoted to a Firefighter position (primary). Regular retirement coverage continues.
What happens when employees transfer from a Primary to Secondary position?
Transfer Requirements

All 3 requirements must be met in order to keep Primary coverage:

1. Move **directly** from a primary to a secondary position

2. Have **Previous Primary** service

3. **Continuous** employment in a secondary position
1. **Direct Move**

- Move from a primary position to a secondary position
- While covered by special retirement
- Without a break in service
Bill is a primary firefighter serving in a Temporary appointment, FICA only. He is converted (without a break in service) to a Career Conditional appointment as a Secondary Supervisory Firefighter.
Bill moved from a Primary FF position to a Secondary FF position. He was **not** covered by special retirement at the time of the move. This is **not** a direct move.
Transfer Requirements for Primary Service

2. Primary Service

- CSRS = any amount (1 day)
- FERS = 3 years
Primary Service

FERS 3-Year Service Requirement

• Position must be approved as primary (CSRS) or rigorous (FERS)

• Retirement deductions are not required; for transfer requirement purposes, refunded service can be included

• Temporary or intermittent service in approved positions can be counted (even after 1/1/1989)
Primary Service continued

FERS 3-Year Service Requirement

• Federal civilian service under another Federal retirement system may be used (if qualifying)

• The 3 years of service does not have to be consecutive (served all at once)
Is the 3-Year Service Requirement Met

Barbara worked 2 years as a primary firefighter and Resigned due to family issues. Several years later she was rehired as a primary firefighter under FERS-Special. One year later, she is Reassigned to a secondary position. Does she meet the 3-year service requirement?
Answer

Yes, she meets the 3-year service requirement. Barbara worked 2 years as a primary Firefighter in her first appointment, and an additional year in her second appointment. She had at least 3 years of primary FF service before moving into the secondary position.
3. **Continuous Employment**

- Special retirement coverage continues if employee remains in the secondary position(s)

- Without break in service of more than 3 days
Continuous Employment

When determining whether secondary service is continuous **do not** count:

- A break that began before Jan 19, 1988 (CSRS only), or

- A break that was based on an involuntary separation (not for cause)
Is this Continuous Employment?


Break → Secondary service break began before 1/19/1988

Separation → Resigned from CSRS-Special secondary LEO

Break → Does not counts as a break in continuous employment
Is this Continuous Employment?

Vicky was a Fire Chief (secondary position) covered by CSRS-Special. She was injured in 2001 and was reassigned to a Staffing Specialist position. She is now fully recovered and has applied for a vacant secondary firefighter position.

Break ➔ Did not began before 1/19/1988

Separation ➔ Not based on an involuntary separation

Break ➔ Counts as a break in continuous employment
Creditable Service Rules
CSRS – LEO/FF Service Deposits

Under special retirement non-deduction service counts for eligibility and mandatory separation even if the service deposit is not paid.

- Service performed before 10-1-1982:
  Annuity reduced (10% of deposit amount owed) if deposit is left unpaid

- Service performed on/after 10-1-1982:
  No credit for computation if deposit is left unpaid
  (deposit equals 7.5% of basic pay, plus interest)
Refunded service counts for retirement eligibility, **but may not** factor in to the annuity computation.

- **CSRS** Refunded service ending:
  - Before 3-1-1991, an actuarial reduction is applied to the annuity if the refund is not paid
  - On/After 3-1-1991, if refund not paid service will not be included in the annuity computation

- **FERS** Refunds must be paid in or for credit in the annuity computation
FERS – LEO/FF Service Deposits

- Non-deduction service performed before 1-1-1989 may be creditable as LEO/FF service if:
  - Position is approved (LEO/FF) and covered under special retirement and not excluded from retirement coverage, and
  - Deposit paid (deposit equals 1.3% of basic pay plus interest)

- Non-deduction service performed on/after 1-1-1989:
  - Is not creditable
Cannot be credited as LEO/FF service unless...

Military service interrupts civilian LEO/FF service and the employee is properly restored to the civilian position (USERRA)

It is then treated as civilian service (military deposit may be required)
Mandatory Separation – LEO/FF

The end of the month in which employee reaches age 57 and special retirement ELIGIBILITY (20 years of LEO / FF service)
Mandatory Separation – LEO/FF

- Employee is not subject to mandatory separation if they are not in covered LEO/FF position
- Written notice MUST be provided at least 60 days before mandatory separation
Mandatory Separation – LEO/FF

- Mandatory separation can be waived
- Waivers are based on public interest, not just the employee’s request!
- Obtain waivers prior to issuing notice
Mandatory Separation – LEO/FF

Approval of waivers

- Before age 60 – Component Head
- CSRS after 60 – Agency Head sends recommendation letter to OPM
- FERS after 60 – The President
Good Luck!