

FREQUENTLY ASKED QUESTIONS FROM EMPLOYEES ABOUT PORTABILITY OF BENEFITS IN MOVES BETWEEN NONAPPROPRIATED FUND AND CIVIL SERVICE POSITIONS

Below are some frequently asked questions when an employee is considering moving between DoD Nonappropriated Fund (NAF) and civil service positions. The responses are not all-inclusive and do not address every situation. Your servicing human resources office (HRO) can provide further information and address questions about individual situations.

A. APPOINTMENT.

Q1. Are DoD NAF employees eligible to apply for civil service positions?

A1. Yes. DoD NAF employees may apply for civil service positions that are open to employees eligible for appointment under the DoD/OPM Interchange Agreement, or jobs open to the public. DoD NAF employees may also be eligible for one of the other civil service hiring preferences, such as veterans or military spouse preference.

Q2. What qualifies an individual for appointment to a civil service position under the DoD/OPM Interchange Agreement?

A2. The individual must be currently serving in a DoD NAF position without time limits, or have been involuntarily separated from such appointment without personal cause within the preceding year. The individual must have served continuously for at least 1 year in NAF positions before appointment to the civil service position, and move between positions that are not time-limited. NAF employees must move to the civil service position without a break in service. Applicants must meet the civil service position's qualification standards and requirements.

Q3. Can a DoD NAF employee apply to a DoD civil service vacancy announcement that specifies the position is only open to internal agency candidates?

A3. Yes, if the area of consideration includes DoD NAF employees appointable under the DoD/OPM Interchange Agreement. If the vacancy announcement does not specifically include employees eligible under the Interchange Agreement, NAF employees should check with the hiring agency to confirm area of consideration.

Q4. Are DoD NAF employees applying for civil service positions under the DoD/OPM Interchange Agreement required to provide documentation of eligibility?

A4. Applicants should check the vacancy announcement for instructions. Some announcements may require that NAF employees submit documentation of eligibility, such as their NAF appointment document and most recent personnel action.

Q5. Are NAF Flexible employees eligible for appointment to civil service positions under the DoD/OPM Interchange Agreement?

A5. Yes. DoD NAF employees under a Flexible appointment without a time limit are eligible for appointment under the Interchange Agreement.

Q6. What is a Flexible NAF position?

A6. NAF positions in the Flexible employment category often fill temporary, seasonal, or fluctuating workforce needs. Employees assigned to Flexible positions may work on a continuing, temporary, or “as-needed” basis. Unlike employees in a NAF Regular position, NAF Flexible employees may not be eligible for benefits such as leave accrual or retirement coverage.

Q7. Is a DoD NAF employee appointed under the Interchange Agreement eligible for portability of benefits such as leave and an election to remain in the NAF retirement plan?

A7. Only if the employee meets the separate eligibility criteria for portability of benefits. The Interchange Agreement is an appointing authority and does not authorize portability of benefits.

Q8. Why is appointment to a civil service position using the Interchange Agreement advantageous?

A8. Employees hired under the authority of the DoD/OPM Interchange Agreement are eligible to have non-temporary NAF service credited towards civil service career tenure. Employees appointed under the DoD/OPM Interchange Agreement do not have to serve a new or extended probationary period if they previously completed a NAF probationary period.

Q9. Do the same appointment rules cover DoD NAF employees and civil service employees?

A9. No. Although DoD NAF employees are Federal employees, they are subject to different laws and regulations than civil service employees. The competitive service hiring authorities regulated by OPM do not apply to NAF employees. DoD and Component policy governs NAF appointments.

B. GENERAL ELIGIBILITY FOR PORTABILITY OF BENEFITS.

Q1. Why are the eligibility criteria for portability of non-retirement benefits different from those for a retirement coverage election?

A1. These eligibility criteria come from different laws. Section 7202 of P.L. 101-508, the “Portability of Benefits for Nonappropriated Fund Employees Act of 1990,” authorizes portability of non-retirement benefits, such as pay protection, annual leave transfer, service credit towards annual leave accrual rate, and reduction-in-force service credit. That law requires breaks in service of no more than three days and movement between DoD positions.

Section 1131 of P.L. 107-107 broadens the eligibility criteria for retirement portability to cover movements to or from civil service positions outside of DoD, and breaks in service of no more than one year.

Q2. Is it possible for an employee to qualify for an election to retain NAF or CSRS/FERS retirement coverage, but not qualify for portability of non-retirement benefits?

A2. Yes. Portability of benefits is not a package deal; eligibility for portability of one type of benefit is not dependent upon eligibility for portability of a different benefit. Employees must meet the eligibility criteria applicable to each benefit provision.

C. PAY.

Q1. When a DoD NAF employee moves to a DoD General Schedule (GS) position without a break in service of more than three days, how is the initial GS rate of pay set?

A1. In a voluntary move, the DoD employer may set basic pay at the minimum rate of the position's GS rate range. Alternatively, the employer may use the employee's highest previous rate of NAF pay, or apply the maximum payable rate rule based on a non-NAF rate of basic pay.

Q2. When a DoD GS employee moves to a DoD NAF Payband (NF or CY) position without a break in service of more than three days, how is the initial NAF rate of pay set?

A2. In a voluntary move, the DoD NAF employer may set pay anywhere within the minimum and maximum rates of the applicable payband. In setting pay, the NAF employer considers such factors as assigned duties and responsibilities, budget, and competitiveness with federal and private sector pay.

Q3. Are pay protections in place for employees who involuntarily move with their position between the NAF and civil service employment systems?

A3. Yes. In an involuntary move, pay retention regulations and policies protect an employee's last rate of basic pay.

D. PORTABILITY OF LEAVE BENEFITS.

Q1. Employees who move between NAF and civil service positions within DoD without a break in service of more than three days are eligible for transfer of annual leave balance. May they instead receive a lump-sum payment for accumulated leave?

A1. No. Employees who are eligible for transfer of annual leave balance must not receive a lump-sum payment for annual leave.

Q2. If an employee received an erroneous payout of annual leave instead of a transfer of the leave balance upon a qualifying move between DoD civil service and DoD NAF positions, is a repayment waiver possible?

A2. No. There are no civil service or DoD NAF waiver authorities for an erroneous payout in this circumstance. The employee must repay any annual leave payout received in error.

Q3. How does the gaining employer credit service for purposes of annual leave accrual when an employee moves between DoD civil service and NAF positions without a break in service of more than three days?

A3. The gaining HRO reviews the employee's past service in the losing employment system and applies credit according to the gaining employment system's rules and procedures.

E. CREDIT FOR NAF SERVICE TOWARDS GS WITHIN-GRADE INCREASES AND TIME-IN-GRADE.

Q1. Is NAF service creditable towards a GS within-grade increase?

A1. Yes, if the employee moves from a DoD NAF position to a DoD GS position without a break in service of more than three days.

Q2. Is NAF service creditable towards GS time-in-grade?

A2. Yes. This credit applies in accordance with government-wide regulations that are not connected to portability law or regulation. Therefore, credit is determined without regard to break in service, movement outside of DoD, or other portability of benefits eligibility criteria.

F. CREDIT FOR SERVICE FOR PURPOSES OF CIVIL SERVICE REDUCTION-IN-FORCE (RIF) OR NAF BUSINESS BASED ACTION (BBA).

Q1. Will employees moving between NAF and civil service positions receive service credit for purposes of civil service RIF or NAF BBA?

A1. Yes, if the employee moves between DoD NAF and DoD civil service positions without a break in service of more than three days.

G. SEVERANCE PAY BENEFITS.

Q1. Will employees moving between NAF and civil service positions receive service credit for purposes of severance pay benefits?

A1. Yes, if the employee moves between DoD NAF and DoD civil service positions without a break in service of more than three days.

Q2. Can an employee who moves between DoD NAF and DoD civil service positions without a break in service of more than three days receive severance pay from the losing employer?

A2. No. The portability move disqualifies the employee from receiving severance pay at the time of the move. (Note: employees who are entitled to civil service severance pay may be eligible to have the civil service severance resumed, if the NAF employer involuntarily separates the employee in the future).

H. HEALTH AND LIFE INSURANCE BENEFITS.

Q1. Can an employee continue their current health or life insurance coverage when they move between NAF and civil service positions?

A1. No. Health and life insurance are not portable benefits. The gaining system's health and life insurance coverage and rules for new employees will apply. The Federal Employees Health Benefits Program (FEHB) and Federal Employees Group Life Insurance (FGLI) applies to civil service positions. The DoD-wide NAF Health Benefits Program (HBP) and NAF employer-specific life insurance programs apply to NAF employees.

Q2. Are the eligibility rules, coverage, and post-retirement benefit provisions the same for NAF and civil service health and life insurance programs?

A.2. No. The civil service and NAF health benefit programs are separate and different. Additionally, the life insurance programs are different for each NAF employer.

Q3. Does NAF health benefits plan participation count toward FEHB post-retirement medical coverage eligibility?

A.3. No. Neither portability law nor FEHB policy provide credit for NAF service towards FEHB eligibility. FEHB's normal post-retirement medical eligibility policy applies.

Q4. Does FEHB participation count towards NAF HBP post-retirement medical coverage eligibility?

A4. Yes. FEHB participation will count towards NAF HBP post-retirement medical coverage eligibility for either of the following scenarios:

1). If an employee moves between DoD positions without a break in service of more than three days, then their continuous participation in FEHB will count towards the NAF HBP 15-year participation requirement.

2). If the DoD employer involuntarily moves the employee to a NAF position, and the employee had five years of continuous enrollment in FEHB on the day before the move, then the NAF HBP 15-year participation requirement is waived.

Q5. Are the FEHB and NAF HBP eligibility rules for survivors the same?

A5. No, the rules are different for each program. For example, FEHB rules require that a surviving spouse be eligible for a survivor retirement annuity in order to continue FEHB coverage. The NAF HBP does not require a survivor retirement annuity in order for a dependent to continue DoD NAF HBP coverage. Those rules apply regardless of the retirement system covering the annuitant.

I. ELIGIBILITY TO RETAIN RETIREMENT COVERAGE UNDER P.L. 107-107.

Q1. What retirement coverage benefit does P.L. 107-107 provide?

A1. Portability of benefits P.L. 107-107 allows eligible employees to elect to remain covered by their current retirement plan after moving between NAF and civil service positions. This means that, if eligible, a NAF employee can remain covered by a NAF retirement plan after a move to a civil service position, and a civil service employee can remain covered by CSRS or FERS after a move to a NAF position.

Q2. Can the employee who does not elect to remain in their current retirement system transfer service credit to the gaining employer's retirement system at the time of the move?

A2. No. Employees enter the gaining employer's retirement system as a new employee with no transfer of service credit.

Q3. What are the eligibility requirements for portability of retirement benefits?

A3. To qualify to elect to continue retirement plan coverage, an employee must:

- Move between a retirement-covered DoD or Coast Guard NAF position and a retirement-covered civil service position. The civil service position may be in any agency.
- Move without a break in service of more than one year, and
- Have not had a prior opportunity to elect to continue that retirement coverage.

Q4. Must an employee be vested in their retirement plan to qualify for a retirement coverage election?

A4. No. Employees moving after P.L. 107-107's December 28, 2001, effective date do not have to be vested to qualify to elect to remain in their retirement plan. Employees only have to participate in the retirement system covering the position (CSRS or FERS for civil service positions; a NAF employer's defined benefit retirement plan for NAF positions).

Q5. Is a NAF employee who only participates in a NAF 401(k) plan eligible for a retirement coverage election?

A5. No. Participation only in a NAF 401(k) defined contribution plan does not qualify the employee for a retirement election. A NAF employee must participate in a NAF defined benefit plan to elect to remain in the NAF retirement system.

Q6. What does a "one-time opportunity" to make a retirement coverage election mean?

A6. Employees are entitled to one opportunity to remain in their current retirement system (CSRS, FERS or NAF) when they move between NAF and civil service positions. This means that in a NAF to civil service move, there is one opportunity to remain in the NAF retirement plan, and in a civil service to NAF move, there is one opportunity to remain in CSRS or FERS retirement plan.

Q7. If an employee elects to remain in the losing retirement system, is there any opportunity for an employee to change retirement systems after a future move, break in service, or retirement?

A7. No. Elections are permanent and irrevocable. If an employee elects to retain coverage in the losing employment system's retirement plan, the employee will remain in that retirement plan, regardless of future moves, breaks in service, or retirement.

Q8. Can an employee remain in FERS and participate in the NAF 401(k) plan, or remain in the NAF defined benefit plan and participate in the civil service Thrift Savings Plan (TSP)?

A8. No. Under portability law, civil service employees who move to NAF positions and elect to remain in FERS continue TSP coverage. DoD NAF employees who move to civil service positions and remain in a NAF employer's retirement plan continue coverage in that employer's NAF 401(k) plan.

Q9. How does an employee make a retirement portability election?

A9. The appointing HRO will determine the employee's eligibility for a retirement portability election and give the employee an election form. The employee has 30 days to make an election. Elections are retroactively effective to the date of the qualifying move, i.e., the date of appointment.

The election form for eligible employees moving from civil service to NAF is:

RI 38-144, "Election to Retain CSRS, CSRS Offset, or FERS Retirement Coverage as a Result of a Move from a Civil Service Position to a NonAppropriated Fund (NAF) Position On or after December 28, 2001"

The election form for eligible employees moving from NAF to civil service is:

RI 38-134, "Election to Retain NonAppropriated Fund (NAF) Retirement Coverage as a Result of a Move From a NonAppropriated Fund Position to A Civil Service Position On or After December 28, 2001"

Q10. Can an employee elect to use prior DoD NAF service to qualify for immediate CSRS or FERS retirement?

A10. Yes. Employees may elect to credit NAF service for the sole purpose of establishing eligibility for immediate retirement if they meet the provisions under Section 1132 of P.L. 107-107. The election is made at the time of retirement. It does not authorize crediting NAF service for the purpose of increasing the amount of the annuity. The annuity is actuarially reduced to offset the additional cost to the CSRS or FERS retirement fund. Employees cannot make deposits to CSRS or FERS to cover the NAF service, and NAF retirement deductions and contributions cannot be transferred to CSRS or FERS.

J. HELPFUL TIPS.

Q1. What are some actions a DoD employee can take to prepare for a move between DoD NAF and civil service positions?

A2.

- Gather copies of your employment documents confirming dates of service, pay plan/schedule, pay band/grade, employment category, and benefit eligibility.
- Confirm whether the gaining employer will use the DoD/OPM Interchange Agreement to appoint you.
- Confirm whether the new position is a DoD position.
- If the new position is a DoD position, determine whether you can move to that position without a break in DoD service of more than three days.
- Confirm your current retirement plan participation status and understand the benefits your current plan provides.
- If you previously made a retirement portability election based on a prior qualifying move, confirm that a copy of that election form is in your Official Personnel Folder (OPF). Have a personal copy readily available for your reference.
- Confirm the new position's eligibility for benefits and obtain information about the benefits offered. NAF and civil service benefits have different eligibility criteria and coverage.
- Tell the losing employer and servicing HRO if you are moving to a DoD position without a break in service of more than three days. In a move that could qualify an employee for portability of non-retirement benefits, cooperation between the losing and gaining employers is vital. Good communication can prevent errors such as a pay out of an annual leave balance instead of a leave transfer.
- Ensure that you have good contact information for the losing employer's employee benefits department.

Q2. What are some actions an employee can take after a move between DoD NAF and civil service positions to confirm correct processing of portability of benefits?

A2.

- Ask the gaining employer to confirm whether you are eligible for portability of benefits. Some DoD employers provide a portability of benefits eligibility statement describing benefit entitlements.
- Check your first several leave and earnings statements to confirm that the correct leave balance transferred and that the accrual rate correctly credits service performed in the losing employment system.
- If you qualify for a retirement portability election, be sure to return your signed election form to your new servicing HRO by the due date shown on the election form. ***Keep a copy for your personal files.***
- If you elect to retain coverage in your current retirement system, confirm whether that system's benefits office received a copy of your retirement election form.
- Check your leave and earnings statements regularly to confirm that they correctly record your defined benefit and TSP or NAF 401(k) enrollment and deductions.
- Regularly check TSP or NAF 401(k) accounts for correct deposits.
- Check with your gaining employer to ensure your Official Personnel Folder (OPF) transferred and your retirement portability election documents are uploaded.