



FERS Law Enforcement and Firefighter Determinations

Your Federal Retirement Wallet Strategies

FEB Dallas Texas

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OPM



Objectives

- Participants will:
 - Learn FERS LEO/FF rules for position coverage:
 - Learn rules for LEO/FF retirement eligibility; and,
 - Learn to certify eligibility at time of retirement

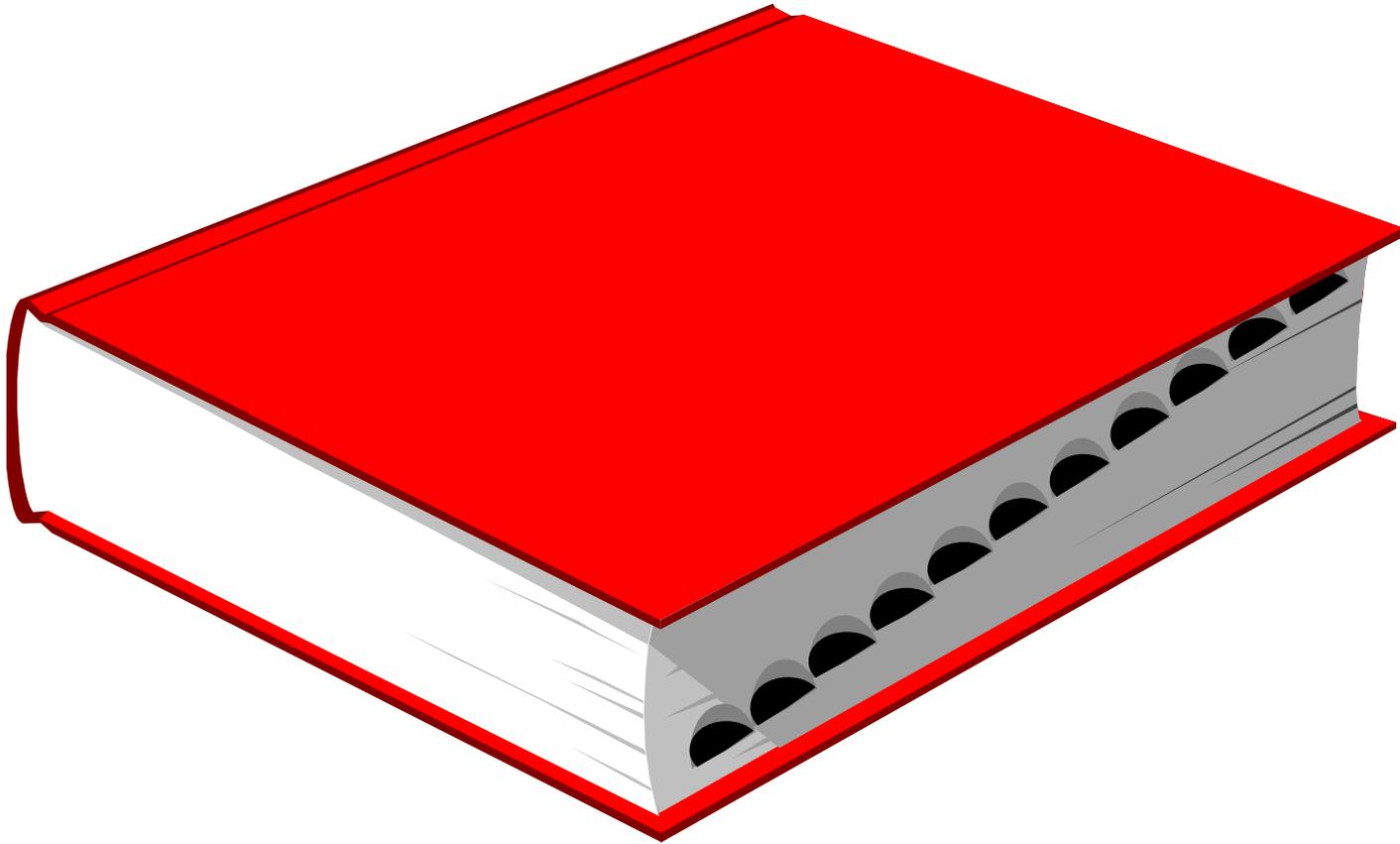


References

- CSRS and FERS Handbook Chapter 46
- BAL 10-105
- 5 USC
 - 8401(14) and (17)
 - 8412(d)
- 5 CFR
 - 842 Subpart H



Definitions





FERS Law Enforcement Officer (LEO)

- LEO – an employee, the duties of whose position includes:
 - The investigation, apprehension or detention of persons suspected or convicted of offenses against the criminal laws of the US; or,
 - The protection of officials of the US against threats to personal safety; **and**,



FERS LEO

- Are sufficiently rigorous that employment opportunities be limited to young and physically rigorous individuals as determined by the Director
 - 1st level supervisor may be a rigorous position if definitions are met
- Includes an employee who moves directly from a rigorous to secondary position after performing primary and rigorous duties for at least 3 years



FERS LEO

- Also includes an employee whose duties in connection with individuals in detention suspected of offenses require frequent direct contact with these individuals and are sufficiently rigorous
- Also includes an employee of Interior or Treasury (now DHS) who occupies a position that would have been subject to the District of Columbia Police and Firefighters' Retirement System had FERS not been enacted
 - Secret Service Agents and US Park Police Officers/Homeland Security (DHS)



FERS LEO

- Does not include maintaining law and order, protecting life and property, guarding against or inspecting for violations of law, or investigating persons other than those suspected or convicted of offenses against the criminal laws of the US



FERS Fire Fighter

- Firefighter (FF) – an employee, the duties of whose position includes:
 - Are primarily to perform work directly connected with the control and extinguishment of fires; and,
 - Are sufficiently rigorous that employment opportunities be limited to young and physically rigorous individuals as determined by the Director



FERS FF

- Includes an employee who moves directly from a primary to secondary position after performing primary and rigorous duties for at least 3 years
- Does **not** include the maintenance or use of firefighting apparatus
- Does **not** include routine fire prevention inspections



Primary Duties

- Primary Duties are those that:
 - Are of paramount influence or weight; constitute basic reasons for existence of position
 - Occupy substantial portion of working time (50%) over typical work cycle
 - Are assigned on a regular and recurring basis
- Primary Duties do not include:
 - Those of an Emergency, Incidental or temporary nature, even if the the substantial portion of time criterion is met



Rigorous Duties

- Rigorous Duties are duties that are so rigorous that employment opportunities should be limited (through the establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals as determined by the Director, considering the recommendations of the employing agency



Secondary Position

- A secondary position is one that:
 - Is clearly in the LEO or FF field;
 - In an organization having a LEO or FF mission; and,
 - Is either Supervisory or Administrative



Supervisory

- A supervisory position is the first-level supervisor of employees in primary or rigorous positions
- A first-level supervisor may be considered to be in a primary/rigorous position if it meets the conditions and definitions
 - First-level supervisors DO NOT HAVE subordinate supervisors



Administrative

- Administrative duties are executive, managerial, technical, semiprofessional, or professional position for which experience in a primary or rigorous position, or equivalent experience outside the Federal government, is a mandatory prerequisite



Detention Duties

- Detention Duties are duties that require frequent direct contact in the detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation of individuals suspected or convicted of offenses against the criminal laws of the US or DC or Uniform Code of Military Justice



Frequent Direct Contact

- Frequent Direct Contact is personal, immediate, and regularly-assigned contact with detainees, while performing detention duties that are repeated and continued over a typical work cycle
 - “Within the Walls” - Most employees in a Federal prison or detention facility are trained to deal with situations and are deemed to be in frequent direct contact



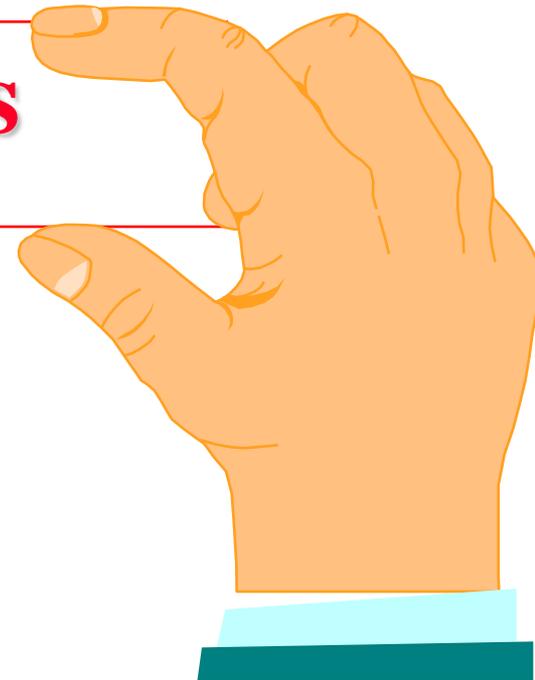
Burden of Proof

- Employee bears the burden of proof and must provide agency or former agency with all pertinent information concerning duties performed
 - LEO - list of the provisions of criminal law the incumbent was responsible for enforcing and arrests made, investigative reports filed, etc.
 - FF - number of fires fought, names of fires fought, dates of fires and position occupied while on firefighting duty



Service Credit Rules

Service Credit Rules





Retirement Contributions

- Employees serving in covered FF/LEO positions must have the additional .5% retirement contributions withheld
 - FERS currently 1.3%
 - FERS-RAE currently 3.6%
 - FERS-FRAE currently 4.9%



Details and Temporary Assignments

- The employee's position of record determines whether his/her service is covered under the special retirement provisions



FERS Non-Deduction Service

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



Service Performed Under Other Federal Retirement Systems

- Service in an approved position performed under another Federal Retirement System may be creditable under FERS
 - Must take a refund of those retirement contributions and/or otherwise waive benefits; and,
 - Pay the appropriate deposit for service performed prior to 1989, with two exceptions.....



Service Performed Under Other Federal Retirement Systems

- Service in an approved position that is creditable under the FSPS or Federal Reserve Bank Plan performed after 1988 is creditable provided:
 - The employee takes a refund of those retirement contributions and/or otherwise waives benefits; and,
 - Pays a deposit equal to prevailing FERS rate (currently 1.3% for LEO/FF), plus interest



FERS Transfer Requirement

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



FERS Transfer Requirement

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



FERS 3 Year Rigorous Service Requirement

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



FERS 3 Year Rigorous Service Requirement

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



CSRS to FERS Rules

- Credit for service under CSRS definitions performed before the date an employee becomes subject to FERS is used for length of service under FERS for retirement eligibility and mandatory separation
- An employee who met the direct transfer requirement under CSRS is considered to have met the FERS direct transfer requirement



CSRS to FERS Rules

- An employee who became covered by FERS while serving in a secondary position under CSRS can have service in the CSRS primary position be counted as service in a rigorous position for purposes of the 3 year requirement should they ever need it.



CSRS to FERS Rules

- An employee with a break in CSRS coverage exceeding 3 days immediately before becoming subject to FERS, is not considered to be continuously covered in secondary position
- Do not count as a break in coverage if the break was an involuntary separation (not for cause).



Military Service

- Generally, military service cannot be credited as LEO/FF service
- Exception: Military service that interrupts an employees career in an approved position may be creditable for eligibility, computation and mandatory separation purposes provided they exercise their restoration rights and pay their post-1956 military service.



Reemployed Annuitants

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



Certification Requirement

- BAL 10-105 required certification of LEO/FF service upon separation from a covered position
 - Certification lists in chronological order the title of each position, the beginning and ending dates the employee served in each position, the length of service in each position, the PD number, location of service and special population code (indicating whether coverage was primary, rigorous or secondary)

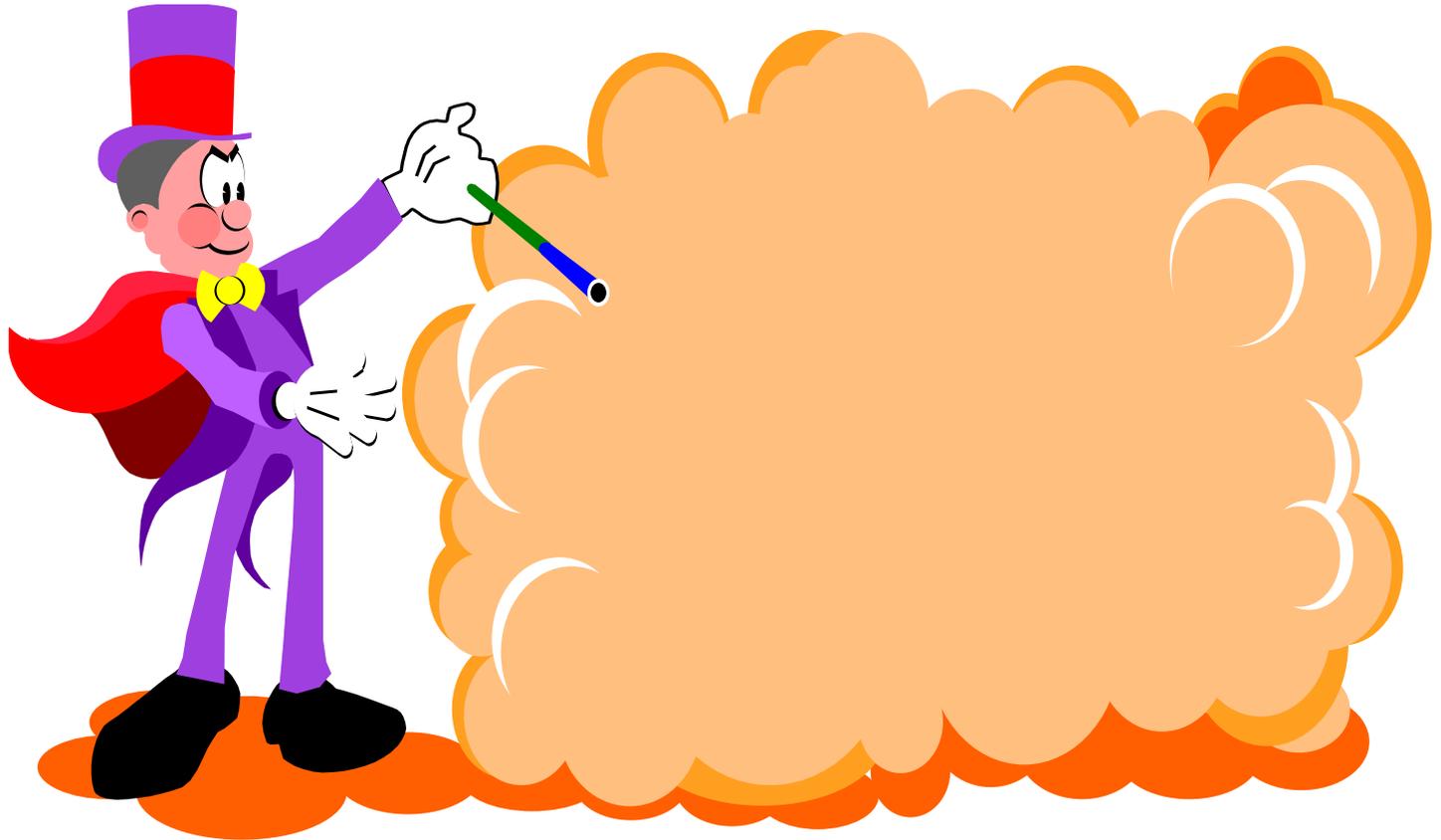


Certification Requirement

- Form RI 20-124 was published in September 2012 to provide uniform certification of service
 - BAL is in process to officially announce the RI 20-124
 - Form is filed in the permanent side of OPF or submitted to OPM with all other certifications in the event of retirement or death



RETIREMENT ELIGIBILITY





FERS Retirement Eligibility

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



FERS Retirement Eligibility

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



FERS Mandatory Retirement

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



FERS Mandatory Retirement

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



Retirement Certification

- Agency must submit a completed RI 20-124 or certification letter with retirement package:
 - Signed by a responsible official of the employee's HR office; and,
 - Listing in chronological order the title of each position, beginning with the first law enforcement officer or firefighter position, held by the employee, and the beginning and ending dates of the employee's service in each position
 - Service in supervisory or administrative positions should be noted as "supervisory" or "administrative"
 - Agency from which employee is retiring
 - Identifying information of employee (name, DOB, SSN)

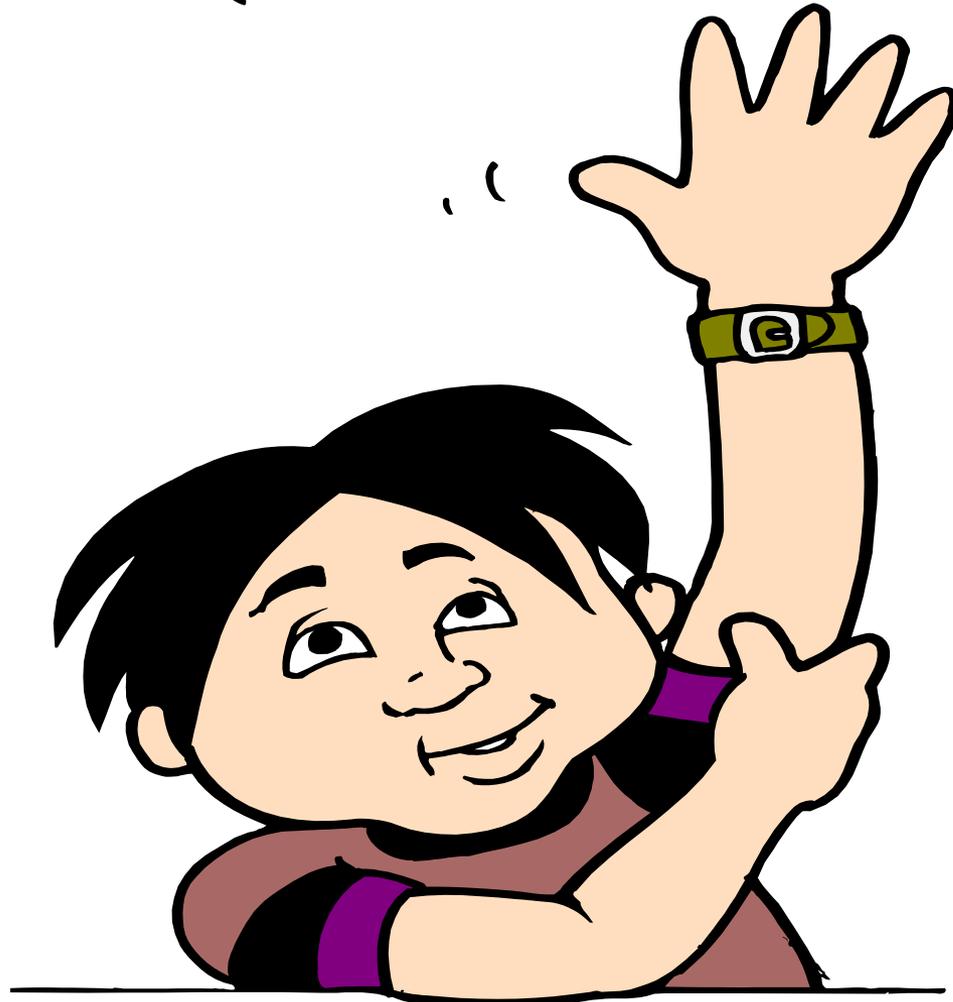


Retirement Certification

- Exact dates employee occupied the covered positions
- All position titles, series & grade for covered service
- Category of coverage for positions occupied (primary, secondary – supervisory or administrative)
- Any individual service credit determinations for employee
- Verification that additional contributions were withheld
- Name, title and signature of agency official
- Any prior certifications or RI 20-124s should be included with package
- Package should be identified as LEO/FF on 3107-1, Schedule D, Section A, Item 5



Questions?





For more information

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