



*A New Day for the Civil Service*

# AFGE Firefighter Retirement Issues Briefing

**March 2011**

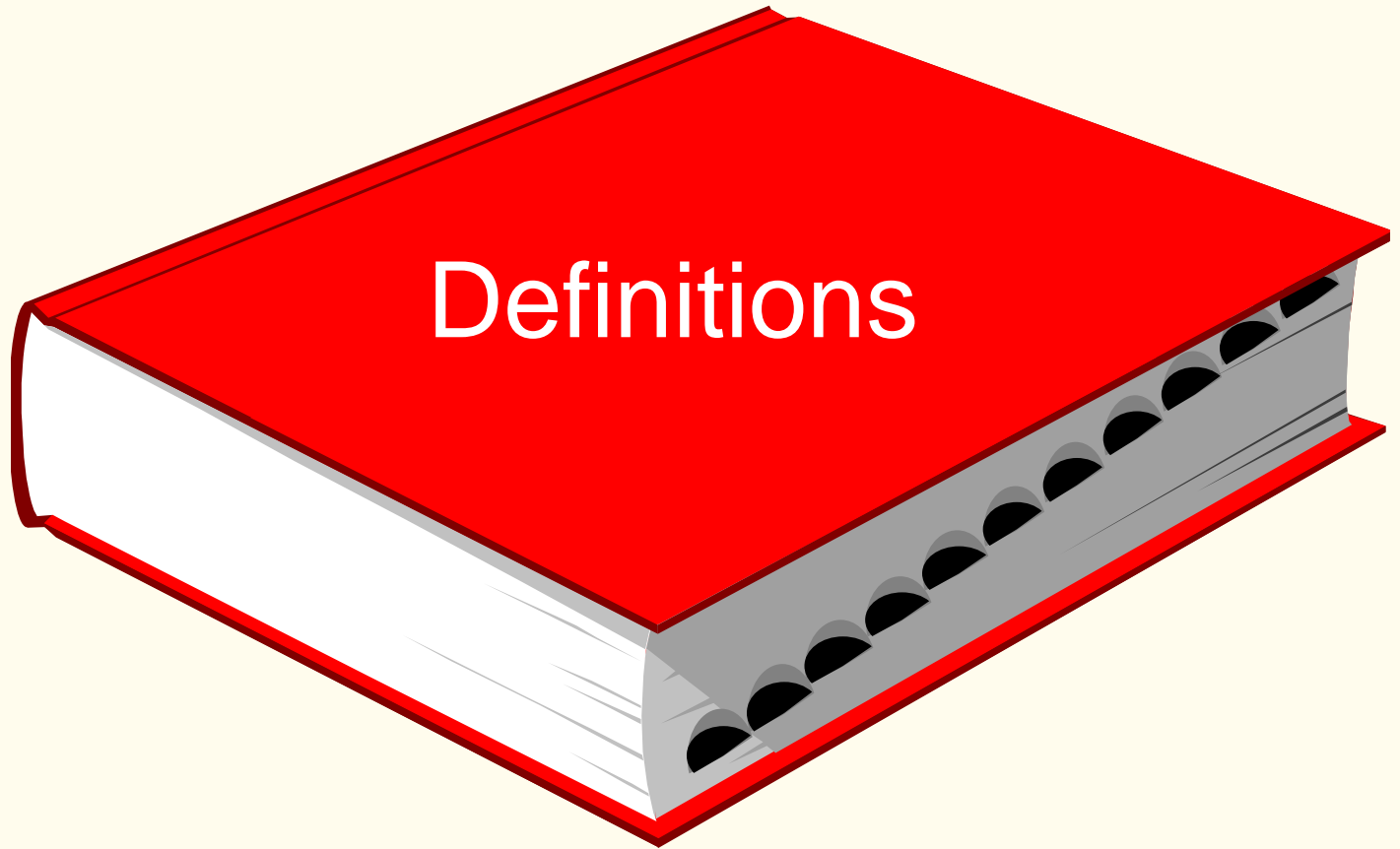
UNITED STATES OFFICE OF PERSONNEL MANAGEMENT



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*A New Day for the Civil Service*



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# FERS FF

- Firefighter (FF) – an employee, the duties of whose position:
  - 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

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# FERS FF (Cont)

- 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 or routine fire prevention inspections

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# 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 they meet the substantial portion of time criterion (generally 50% or more of the employee's time)

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# Rigorous Duties

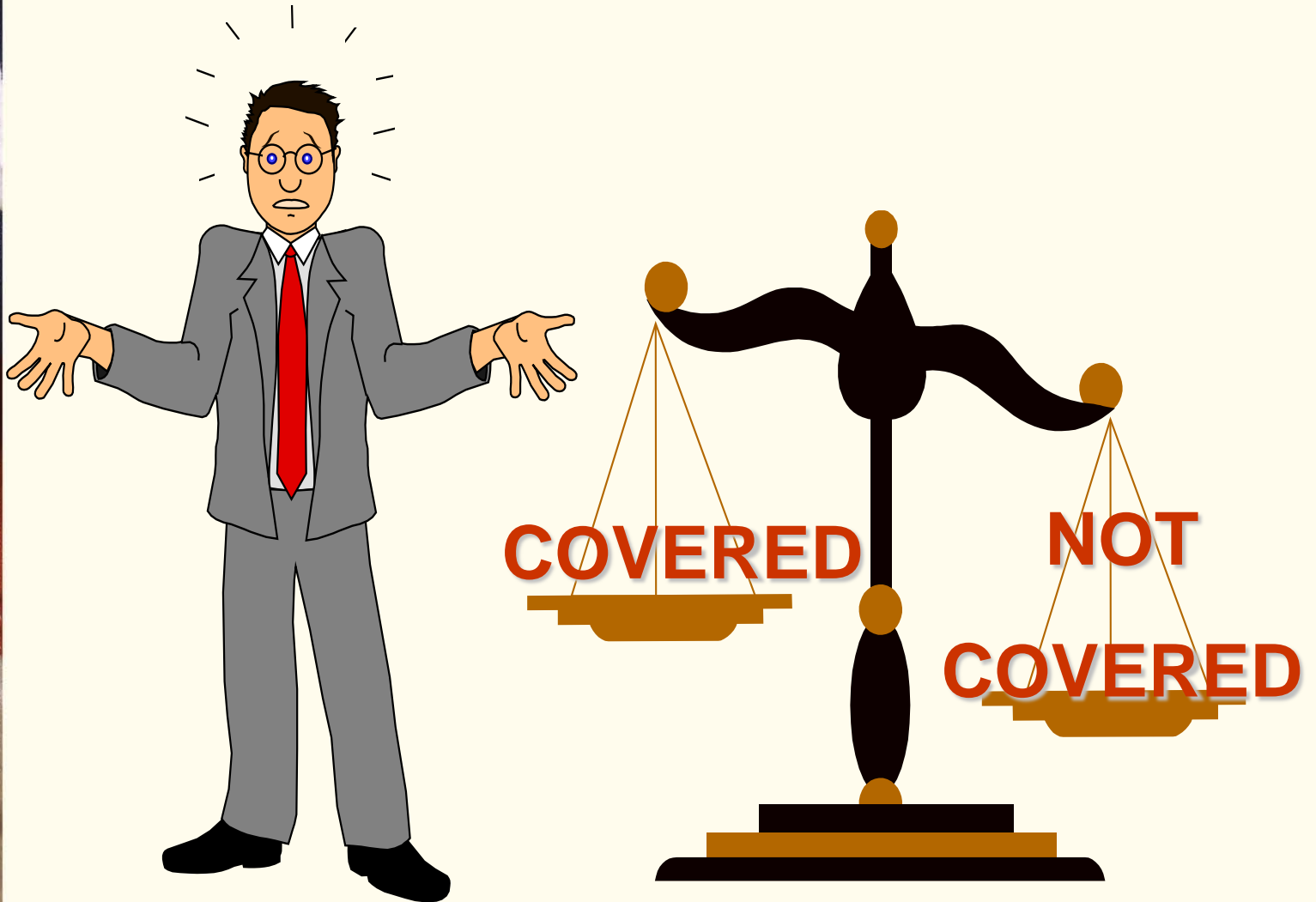
- Rigorous Duties are duties are so rigorous that employment opportunities should be limited (through the establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals as determined by the Director, considering the recommendations of the employing agency

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# 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

# Coverage Determinations



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# COVERAGE REQUESTS

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- Position Coverage Requests from Agency
- Individual Position Coverage Requests from Employee
- Individual Request for Past Service Credit

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# Primary Position Approvals

- Final approvals are made by the Agency Head
- Denials are made by the Agency Head or his/her designated representative
- Determinations are based solely on the official PD and any other official description of duties and qualifications

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# Secondary Position Approvals CSRS/FERS

- Final approvals are made by the Agency Head
- Denials are made by the Agency Head or his/her designated representative
- Determinations are based on the official PD and any other official description of duties and qualifications
  - May use any appropriate evidence, such as evidence concerning the nature of FF experience required for appointment to position

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# Individual Requests for Position Approval

- Employee may request a determination for position approval within 6 months after entering the position or significant change in position
- Agency Head or designee must issue written response
  - Employee may appeal final decision to MSPB

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# Individual Requests for Position Approval

- Agency Head may extend the filing time if the individual shows he/she was prevented by circumstances beyond his/her control from making the request within the time limit
- If approved, position coverage applies to all employees holding that position
- If approved and the official PD does not support approval, the PD must be revised, the position reclassified, or the individual's duties changed, as appropriate
  - The past qualifying service will be deemed to be service in an approved position.

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# Burden of Proof

- Employee bears the burden of proof and must provide agency or former agency with all pertinent information concerning duties performed
  - FF – number of fires fought, names of fires fought, dates of fires and position occupied while on firefighting duty

# Transfer Requirement for Secondary Position Coverage

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**PRIMARY/RIGOROUS  
POSITION**



**SECONDARY  
POSITION**

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# 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/primary position, including service during which no FERS deductions were withheld, and, if applicable.....

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# FERS Transfer Requirement (Cont)

- 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)

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# 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

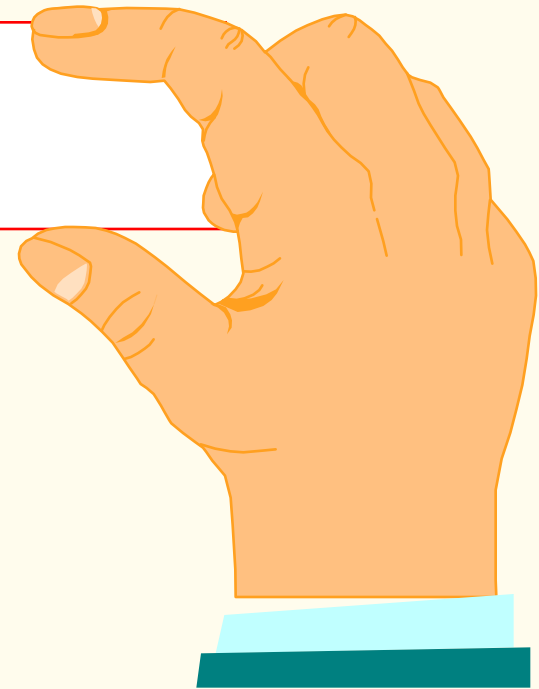
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# FERS 3 Year Rigorous Service Requirement (Cont)

- 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)

# Service Credit Rules

## Service Credit Rules



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# Retirement Contributions

- Employees serving in covered FF/LEO positions must have the additional .5% retirement contributions withheld
  - CSRS currently 7.5%
  - CSRS Offset currently 1.3%, 7.5% for base pay not subject to FICA
  - FERS currently 1.3%

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# Details and Temporary Assignments

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

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# 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



# Military Service

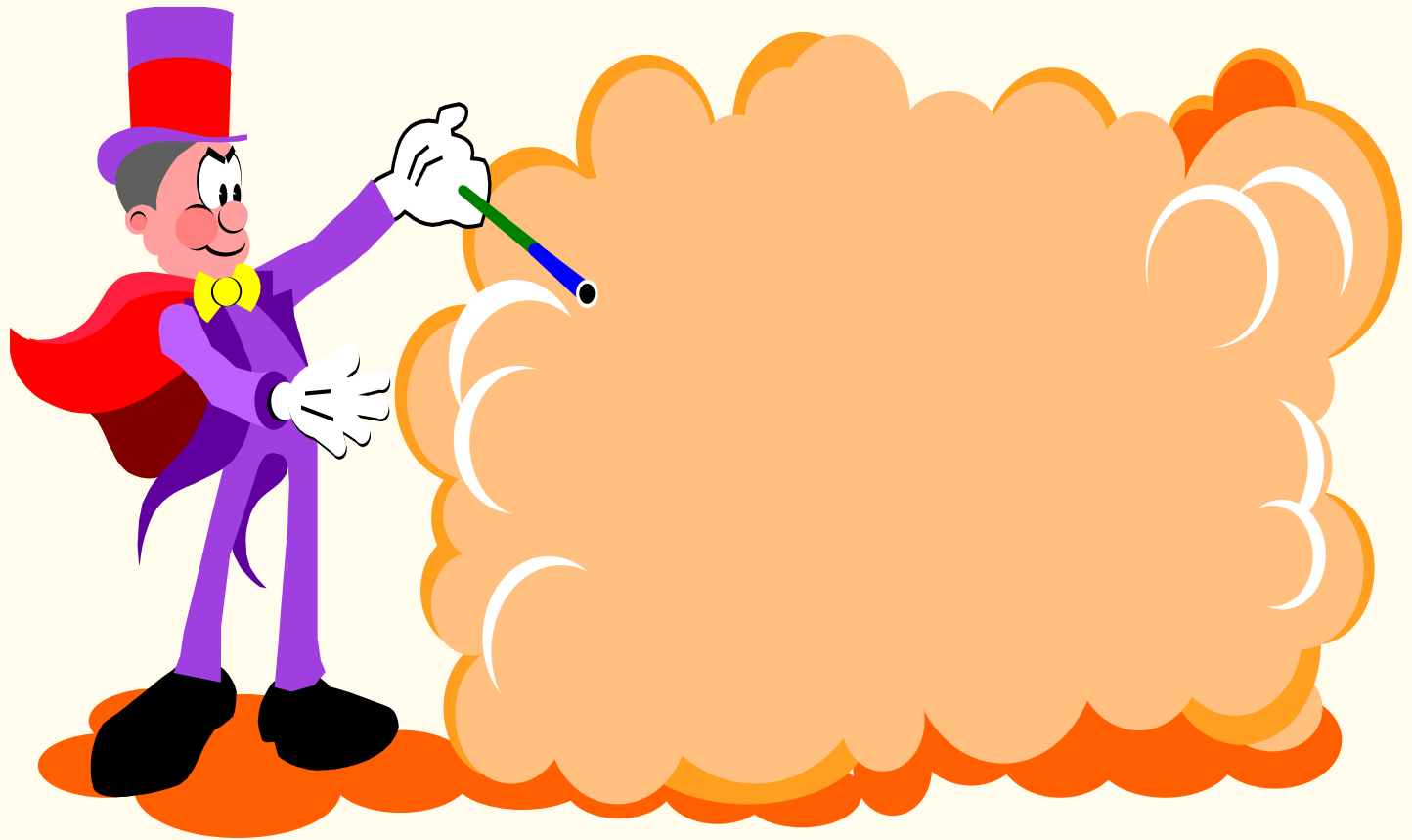
- Generally, military service cannot be credited as FF service
- Exception: Military service that interrupts an employees career in an approved position may be creditable for eligibility, computation and mandatory separation purposes provided they exercise their restoration rights and pay their post-1956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

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# Reemployed Annuitants

- A retired 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 not covered by the special retirement provisions
  - Agency must withhold the required deductions (additional .5%).

# RETIREMENT ELIGIBILITY



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# 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

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# FERS Retirement Eligibility (Cont)

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

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# FERS Mandatory Retirement

- Mandatory separation on the last day of the month in which the FF 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

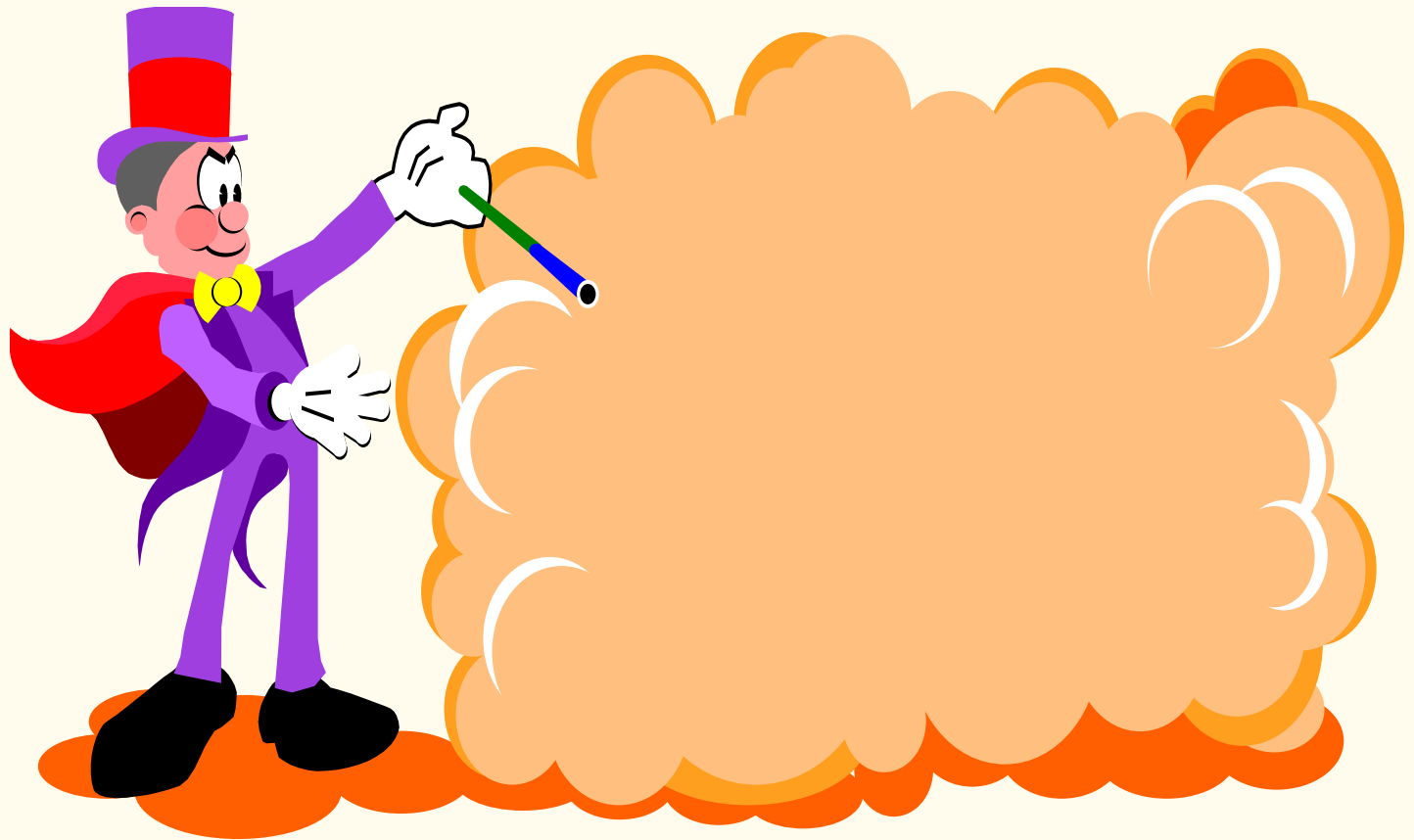
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# FERS Mandatory Retirement

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

# RETIREMENT COMPUTATION



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# FERS Retirement Computation

- Must meet FF retirement eligibility
- Enhanced formula
  - 1.7% of the high-3 average salary multiplied by the total service not to exceed 20 years; plus
  - 1% of the high-3 average salary multiplied by any additional years of creditable service exceeding 20 years.
  - Annuity supplement is payable before age 62 in addition to the basic annuity.

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# FERS With CSRS Component Retirement Computation

- Must meet FF retirement eligibility
- Enhanced formula
  - Service performed under CSRS computed under CSRS rules
  - Service performed under FERS computed under FERS rules
    - FF service performed prior to FERS transfer does not count toward the 20-year limit on the 1.7% part of the formula

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# Retirement Computation in Disability and Death in Service Cases

- Court decision – Springer v. Adkins
  - Prior decisions limited special computations to FFs who retired on disability or died in service with 20 years of service but were under age 50
  - Adkins allows special computations to all FFs who retire on disability or die in service

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# Retirement Computation in Disability and Death in Service Cases

- **FERS Disability General Provisions**
  - Computation for disability retirement prior to age 62 is the greater of:
    - Earned benefit based on service performed, or,
      - Employees with 20 years of FF service, calculation is based on  $1.7\% \times AS \times 20$  years,  $1\% \times AS \times$  remaining service
      - Employees with less than 20 years of FF service,  $1\% \times AS \times$  service
    - 60% of AS, less 100% of Social Security disability benefit
      - After the first year, greater of earned benefit or  $40\% \times AS$ , less 60% of Social Security disability benefit

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# Retirement Computation in Disability and Death in Service Cases

- At age 62, recomputed to benefit based on service performed before retirement, plus time spent on the annuity rolls until age 62,
  - Multiplied by the average salary at retirement, increased by all FERS COLAs
- Computation for employees who retire disability after age 62 is based on earned benefit only



# Retirement Computation in Disability and Death in Service Cases

- Adkins allows special computation on the earned benefit:
  - $1.7\% \times AS \times FF$  service performed up to 20 years
  - $1\% \times AS$  remaining service
- Adkins also allows special computation on the benefit recalculated at 62
  - $1.7\% \times AS \times FF$  service performed up to 20 years
  - $1\% \times AS$  remaining service
    - If retired from approved FF position, credit for time on annuity rolls until age 62 is calculated at  $1.7\% \times AS$ ; otherwise at  $1\%$



# Retirement Computation in Disability and Death in Service Cases

- FERS Survivor Annuity General Provisions
  - Employees with at least 20 years of FF service:
    - $1.7\% \times AS \times FF$  service performed up to 20 years
    - $1\% \times AS$  remaining service
  - Employees with less than 20 years of FF service:
    - $1\% \times AS \times$  service performed

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# Retirement Computation in Disability and Death in Service Cases

- Adkins allows special computation survivor annuity computation for employees with any amount of FF service:
  - $1.7\% \times AS \times FF$  service performed up to 20 years
  - $1\% \times AS$  remaining service

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# CONCLUSION

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- We have covered many important retirement issues for FFs
- Questions?