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Subpart A—Coverage

SOURCE: 51 FR 47197, Dec. 31, 1986, unless otherwise noted.

§842.101 Purpose and scope.

(a) This subpart contains regulations concerning automatic coverage under the Federal Employees Retirement System (FERS). References to FERS coverage in this subpart are to automatic, as opposed to elective, FERS coverage.

(b) Part 846 of this chapter contains regulations concerning elective FERS coverage. FERS elections are available under limited circumstances to employees not subject to automatic FERS coverage.

[59 FR 64282, Dec. 14, 1994]

§842.102 Definitions.

In this subpart—

CSRS means the Civil Service Retirement System as described in subchapter III of chapter 83 of title 5, United States Code;

Employee means the following individuals listed in 5 U.S.C. 8401(11) whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954:

(a) An employee as defined by 5 U.S.C. 2105;

(b) A U.S. Commissioner whose total pay for services performed as Commissioner is not less than $3,000 in each of the last three consecutive calendar years ending after December 31, 1954;

(c) An individual employed by a county committee established under 16 U.S.C. 590h(b);

(d) An individual employed by Gallaudet College;

(e) An individual appointed to a position on the office staff of a former President under section 1(b) of the ''Act of August 25, 1958'' (72 Stat 838);

(f) An alien (1) who was previously employed by the Government; (2) who is employed full time by a foreign government to protect or further the interests of the United States during an interruption of diplomatic or consular relations; and (3) for whose services reimbursement is made to the foreign government by the United States;

(g) A Congressional employee as defined in 5 U.S.C. 2107, including a temporary Congressional employee and an employee of the Congressional Budget Office; and

(h) The following individuals are excluded from the definition of ''employee'' in 5 U.S.C. 8401 (11):

(1) A justice or judge of the United States as defined by 28 U.S.C. 451;

(2) A temporary employee of the Administrative Office of the United States Courts or of a court named by 28 U.S.C. 610;

(3) A construction employee or other temporary, part-time, or intermittent employee of the Tennessee Valley Authority;

(4) A student employee as defined by 5 U.S.C. 5351;

(5) Teachers in dependents' schools of the Department of Defense in overseas areas with respect to Federal employment, other than teaching, performed during a recess period between two school years;

(6) An individual subject to another retirement system for Government employees (other than an employee of the United States Park Police, or the United States Secret Service) any of whose civilian employment after December 31, 1983, is employment subject to social security; and

(7) An individual excluded by OPM regulation in § 842.105.

FERS means the Federal Employees Retirement System as described in chapter 84 of title 5, United States Code.

Member has the same meaning provided in 5 U.S.C. 2106, except that the term does not include an individual who irrevocably elects, by written notice to the official by whom such individual is paid, not to participate in FERS.

NAF employee means an employee of an instrumentality described in section 2105(c) of title 5, United States Code.

OPM means the Office of Personnel Management.

Social security means coverage under the Old Age, Survivors, and Disability Insurance (OASDI) programs of the Social Security Act.

[51 FR 47197, Dec. 31, 1986, as amended at 52 FR 25197, July 6, 1987; 56 FR 4931, Feb. 7, 1991]

§ 842.103 General.

To be covered under FERS, an individual must:

(a) Be an employee, Member, or specifically covered by another provision of law;

(b) Be covered by social security;

(c) Have retirement deductions withheld from pay and have agency contributions made; and

(d) Be paid based on units of time.

Except as provided in § 842.104 and as excluded by § 842.105, an employee or Member is covered by FERS.

§ 842.104 Statutory exclusions.

(a) *Lack of social security coverage.* An individual not covered by social security (title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954), including an individual covered by full CSRS (and thereby excluded from social security coverage), is excluded from FERS coverage.

(b) *Senior officials subject to social security coverage despite continuous service.* An individual who has served without a break in service of more than 365 days since December 31, 1983, in one or more of the following positions is excluded from FERS coverage.

(1) The Vice President;

(2) A Member of Congress;

(3) A non-SES appointee to a position listed in 5 U.S.C. 5312 through 5317;