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request to make the determination from the head of the agency, or his or her designee.

§ 842.206 Involuntary retirement.

(a) An employee, other than an employee entitled to an annuity under § 842.207 or § 842.208, who separates from the service involuntarily after completing 25 years of service, or after becoming age 50 and completing 20 years of service is entitled to an annuity, except as provided in paragraphs (b) and (c) of this section.

(b) An employee who is separated for cause on charges of misconduct or delinquency is not entitled to an annuity under paragraph (a) of this section.

(c) An employee who would otherwise be entitled to an annuity under paragraph (a) of this section is not so entitled if the employee has declined a reasonable offer of another position that meets all of the following conditions:

(1) The offer must be made in writing;

(2) The employee must meet established qualification requirements; and

(3) The offered position must be—

(i) In the employee's agency, including an agency to which the employee would be transferred in a transfer of function(s) between agencies;

(ii) Within the employee's commuting area unless geographic mobility is a condition of the employee's employment;

(iii) Of the same tenure and work schedule; and

(iv) Not lower than the equivalent of two grades or pay levels below the employee's current grade or pay level, without consideration of the employee's eligibility to retain his or her current grade or pay under part 536 of this chapter or other authority. In movements between pay schedules or pay systems, the representative rate of the grade or pay level that is two grades below that of the current position will be compared with the representative rate of the grade or pay level of the offered position. For this purpose, ''representative rate'' has the meaning given that term in § 536.102 of this chapter.

(d) An annuity payable under paragraph (a) of this section commences on the day after separation from the service.

§ 842.207 Air traffic controllers.

(a) An employee who separates from service, except by removal for cause or charges of delinquency or misconduct, is entitled to an annuity—

(1) After completing 25 years of service as an air traffic controller; or

(2) After becoming age 50 and completing 20 years of service as an air traffic controller.

(b) An annuity payable under paragraph (a) of this section commences on the first day of the month following separation.

§ 842.208 Firefighters and law enforcement officers.

(a) An employee who separates from service, except by removal for cause on charges of delinquency or misconduct, is entitled to an annuity—

(1) After completing any combination of service as a firefighter or law enforcement officer totaling 25 years; or

(2) After becoming age 50 and completing any combination of service as a firefighter or law enforcement officer totaling 20 years.

(b) An annuity payable under paragraph (a) of this section commences on the first day of the month following separation.

§ 842.209 Members of Congress.

(a) A Member, except one separated by resignation or expulsion, is entitled to an annuity—

(1) After completing 25 years of service; or

(2) After becoming age 50 and completing 20 years of service.

(b) An annuity payable under paragraph (a) of this section commences on the day after separation from the service.

§ 842.210 Military reserve technicians.

(a) A military reserve technician as defined in 5 U.S.C. 8401(30) who is separated from civilian service because of ceasing to qualify as a member of a military reserve component after reaching age 50 and completing 25 years of service is entitled to an annuity.

(b) An annuity payable under paragraph (a) of this section commences on the day after separation.

§ 842.211 Senior Executive Service, Defense Intelligence Senior Executive Service, and Senior Cryptologic Executive Service.

(a) A member of the Senior Executive Service, the Defense Intelligence Senior Executive Service, or the Senior Cryptologic Senior Executive Service who is removed or who resigns after receipt of written notice of proposed removal for less than fully successful executive performance, or for failure to be recertified as a senior executive, is entitled to an annuity—

(1) After completing 25 years of service; or

(2) After becoming age 50 and completing 20 years of service.

(b) *Removed for less than fully successful executive performance* means (1) with respect to a member of the Senior Executive Service, removal in accordance with procedures in subpart E of part 359 of this chapter; and (2) with respect to a member of the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service, a certification by the head of the Defense Intelligence Agency or National Security Agency (or their designees) that the employee has been removed for less than fully successful executive performance.

(c) *Removed for failure to be recertified as a senior executive* means (1) With respect to a member of the Senior Executive Service, removal in accordance with the procedures in subpart C of part 359 of this chapter, and (2) with respect to a member of the Defense Intelligence Senior Executive Service or the Senior Cryptologic Executive Service, a certification by the head of the Defense Intelligence Agency or National Security Agency (or their designees) that the employee has been removed for failure to be recertified under 10 U.S.C. 1601(a) or section 12(a)(1) of the National Security Agency Act, respectively.

(d) An annuity payable under paragraph (a) of this section commences on the day after separation from service.

[52 FR 4473, Feb. 11, 1987, as amended at 56 FR 173, Jan. 3, 1991]

§ 842.212 Deferred retirement.

(a) An employee or Member who, after completing 5 years of service, separates from service or transfers to a position not covered by FERS is entitled to a deferred annuity beginning on the first day of the month after the individual attains age 62.

(b)(1) Except as provided in paragraphs (b)(3) and (c) of this section, an employee or Member who has not attained the minimum retirement age, and who, after completing 10 years of service, is separated or transferred to a position in which the individual is no longer covered by FERS, is entitled to a deferred annuity commencing—

(i) The first day of the month following the date on which the individual attains the minimum retirement age or, if later,

(ii) A date the individual designates that follows the date on which the designation is filed.

(2) The election of a commencing date may be filed no more than 90 days before that commencing date, and must be elected in a form prescribed by OPM. A written election that is not in the prescribed form, but which designates a specific commencing date, will be accepted for as an informal election, subject to ratification in the prescribed form.

(3) An employee or Member is not entitled to a deferred annuity under paragraph (b)(1) of this section if the individual is eligible for an annuity under §§ 842.205 through 842.211 or will, within 31 days after filing the election of a commencing date, attain age 62.

(4) The election of a commencing date becomes irrevocable on the date OPM authorizes the first annuity payment.

(c)(1) If an employee or Member separates from service after completing 10 years of service but before attaining the minimum retirement age, and is reemployed before filing an application for retirement based on that separation, that individual may not elect an annuity commencing date that precedes separation from the reemployment service.

(2) In the case of an employee or Member who separates from service after completing 10 years of service but