§ 841.204
(under part 581 of this chapter or sub-
part I of this part) affecting the ben-
etfits.

(c) When an “appropriate authority”
determines that the separation upon
which payment has been based is an
“unjustified or unwarranted personnel
action” as these terms are defined in
§ 550.804 of this chapter, an individual
may withdraw his/her application for
FERS benefits within 60 days of the de-
cision. As provided in § 550.805, any
FERS payments must be deducted from
any back pay award.

§ 841.204 Deemed application to pro-
tect survivors.

(a) A former employee is deemed to
have filed an application for annuity if
the former employee—

(1) Was not reemployed in a position
subject to FERS under subpart A of
part 842 of this chapter on the date of
death;

(2) Dies after separation from Federal
service but before actually filing an ap-
plication for benefits; and

(3) At the time of separation from Federal
service, was eligible for an im-
mediate annuity under § 842.204(a)(1)
and was eligible to elect to postpone
the commencing date of that annuity
under § 842.204(c) of this chapter.

(b) For the purpose of determining
entitlement to a survivor annuity, a
former employee who is deemed to
have filed an application under para-
graph (a) of this section is deemed to
have died as a retiree.

(c) For purposes of determining the
amount of a survivor annuity, the an-
nuity of a former employee who, under
paragraph (a) of this section, is deemed
to have filed an application is com-
puted as though the commencing date
were the first day of the month after
the former employee’s death.

[55 FR 994, Jan. 11, 1990, as amended at 55 FR
41179, Oct. 10, 1990]

Subpart C—Claims Processing

§ 841.301 Purpose.

(a) This subpart explains—

(1) The procedures that employees,
separated employees, retirees, and sur-
vivors must follow in applying for ben-
etfits under FERS;

(2) The procedures that OPM will
generally follow in determining eligi-

bility for benefits under FERS;

(3) The appeal rights available to
claimants adversely affected by OPM
decisions under FERS; and

(4) The special rules for processing
competing claimant cases under FERS.

(b) This subpart does not apply to
processing—

(1) Forfeiture of annuity for convic-
tion of certain criminal offenses relat-
ing to national security under sub-
chapter II of chapter 83 of title 5,
United States Code (processed under
subpart K of part 831 of this chapter);

(2) Court orders affecting FERS bene-
etfits (processed under subpart I of this
part); or

(3) Collection of debts due to the
United States (processed under part 845
of this chapter).

§ 841.302 Definitions.

In this subpart—

Employee means an employee as de-

fined in section 8401(11) of title 5,
United States Code, and a Member as
defined in section 8401(20) of title 5,
United States Code. Employee includes
a person who had applied for retire-
ment under FERS but had not been
separated from the service prior to his
or her death even if the person’s retire-
ment would have been retroactively ef-
fective upon separation.

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

MSPB means the Merit Systems Pro-
tection Board described in chapter 12 of
title 5, United States Code.

Retiree means a former employee or
Member who is receiving recurring
payments under FERS based on service
by the employee or Member. Retiree, as
used in this subpart, does not include a
current spouse, former spouse, child, or
person with an insurable interest re-
ceiving a survivor annuity. Retiree for
purposes of determining a person’s sta-
tus at the time of death means that the
person had been separated from the