

(b) Unused sick leave is counted as “creditable service” on the date of separation for an immediate CSRS annuity; it is not apportioned over the time when earned. Unused sick leave is not countable as “creditable service” in a FERS annuity (except in a CSRS component for an employee who transferred to FERS) or in a deferred CSRS annuity.

**§ 838.243 Minimum amount of awards.**

OPM will treat any court order that awards a former spouse a portion of an employee annuity equal to less than \$12 per year as awarding the former spouse \$1 per month.

**Subpart C—Requirements for Court Orders Affecting Employee Annuities**

**§ 838.301 Purpose and scope.**

This subpart regulates the requirements that a court order directed at employee annuity must meet to be a court order acceptable for processing.

**§ 838.302 Language not acceptable for processing.**

(a) *Qualifying Domestic Relations Orders.* (1) Any court order labeled as a “qualified domestic relations order” or issued on a form for ERISA qualified domestic relations orders is not a court order acceptable for processing unless the court order expressly states that the provisions of the court order concerning CSRS or FERS benefits are governed by this part.

(2) When a court order is required by paragraph (a)(1) of this section to state that the provisions of a court order concerning CSRS or FERS benefits are governed by this part the court order must expressly—

(i) Refer to part 838 of title 5, Code of Federal Regulations, and

(ii) State that the provisions of the court order concerning CSRS or FERS benefits are drafted in accordance with the terminology used in this part.

(3) Although any language satisfying the requirements of paragraph (a)(2) of this section is sufficient to prevent a court order from being unacceptable under paragraph (a)(1) of this section, OPM recommends the use of the language provided in ¶001 in appendix A to

subpart F of this part to state that the provisions of the court order concerning CSRS or FERS benefits are governed by this part.

(4) A court order directed at employee annuity that contains the language described in paragraph (a)(2) of this section must also satisfy all other requirements of this subpart to be a court order acceptable for processing.

(b) *Benefits for the lifetime of the former spouse.* Any court order directed at employee annuity that expressly provides that the former spouse’s portion of the employee annuity may continue after the death of the employee or retiree, such as a court order providing that the former spouse’s portion of the employee annuity will continue for the lifetime of the former spouse, is not a court order acceptable for processing.

**§ 838.303 Expressly dividing employee annuity.**

(a) A court order directed at employee annuity is not a court order acceptable for processing unless it expressly divides the employee annuity as provided in paragraph (b) of this section.

(b) To expressly divide employee annuity as required by paragraph (a) of this section the court order must—

(1) Identify the retirement system using terms that are sufficient to identify the retirement system as explained in §838.611; and

(2) Expressly state that the former spouse is entitled to a portion of the employee annuity using terms that are sufficient to identify the employee annuity as explained in §838.612.

**§ 838.304 Providing for payment to the former spouse.**

(a) A court order directed at employee annuity is not a court order acceptable for processing unless it provides for OPM to pay the former spouse a portion of an employee annuity as provided in paragraph (b) of this section.

(b) To provide for OPM to pay the former spouse a portion of an employee annuity as required by paragraph (a) of this section the court order must—

(1) Expressly direct OPM to pay the former spouse directly;