

§ 831.113 Payments to children.

For purposes of section 8345(e) of title 5, United States Code, persons who have attained age 18 are considered adults regardless of the age of majority in the jurisdiction in which they reside.

[56 FR 45884, Sept. 9, 1991]

§ 831.114 Early retirement—major reorganization, major reduction in force, or major transfer of function.

(a) Upon an agency's request, as described in paragraph (c) of this section, OPM may make a determination as provided in 5 U.S.C. 8336(d)(2), that:

(1) The agency is undergoing a major reduction in force, major reorganization, or major transfer of function; and

(2) A significant percentage of the employees serving in the employing agency will be involuntarily separated, or subject to a reduction in basic pay.

(b)(1) Based on a determination by OPM under paragraph (a) of this section, OPM will provide to the agency the authority to offer voluntary early retirements to its employees.

(2) Under an OPM approved authority, the agency may offer voluntary early retirements to its employees based on:

- (i) Organizational unit(s);
- (ii) Occupational series or level(s);
- (iii) Geographic area(s);
- (iv) Specific window period(s);
- (v) Any similar nonpersonal and objective factors; or

(vi) Any combination of factors under this paragraph (b)(2) that the agency determines to be appropriate and necessary to accomplish the reductions which formed the basis for OPM's determination under paragraph (a) of this section.

(3) An employee who separates from the service voluntarily under authority of 5 U.S.C. 8336(d)(2) after completing 25 years of service, or becoming age 50 and completing 20 years of service, is entitled to an annuity if, on the date of separation, the employee:

(i) Is serving in a position covered by an offer by the agency as described in paragraph (b)(2) of this section;

(ii) Has been employed in the requesting agency at least 31 days prior to the date the agency requested an

OPM determination under paragraph (a) of this section;

(iii) Is not serving under a time-limited appointment; and

(iv) Is not in receipt of a decision of involuntary separation for misconduct or unacceptable performance.

(4) OPM may approve an agency's request for voluntary early retirement authority to cover the entire period of the major reduction in force, major reorganization, or major transfer of function; or through the end of each fiscal year, whichever is less.

(c)(1) An agency's request for voluntary early retirement must be signed by the head of the agency or by a specific designee with delegated authority.

(2) The agency's request for voluntary early retirement must contain the following:

(i) Identification of the agency or organizational unit(s) for which a determination is requested;

(ii) Reasons why the voluntary early retirement authority is needed. This explanation must include a detailed summary of the agency's personnel and budgetary situation that will result in an excess of personnel because of a major reduction in force, major reorganization, or major transfer of function as well as the date on which the agency expects to involuntarily separate employees as a result of the major reduction in force, major reorganization, or major transfer of function;

(iii) The time period during which voluntary early retirement will be offered. At the agency's discretion, the agency may request voluntary early retirement authority to cover the entire period of the major reduction in force, major reorganization, or major transfer of function; or through the end of the fiscal year, whichever is less.

(iv) The total number of non-temporary employees in the agency;

(v) The total number of non-temporary employees in the agency who will be involuntarily separated or downgraded because of reduction in force or relocation during a major reduction in force, major reorganization, or major transfer of function;

(vi) The total number of employees in the agency who are eligible for voluntary early retirement; and

(vii) An estimate of the total number of employees in the agency who are expected to retire early during the period covered by the request for voluntary early retirement authority.

(d)(1) The agency may not expand the availability of voluntary early retirements or offer early retirements to employees who are not within the authority approved by OPM.

(2) Except as provided in paragraph (d)(3) of this section, the agency may limit voluntary early retirement offers during window periods under paragraph (b)(2)(iv) of this section only by:

(i) An established opening and closing date which is announced to employees at the time of the initial offer; or

(ii) Receipt of a specified number of applications for retirement, provided that, at the time of the initial offer, the agency retained the right to limit voluntary early retirements on that basis.

(3) The agency may subsequently establish a revised closing date, or a revised number of applications, only when changes in the conditions that served as the basis for the approval of the voluntary early retirement authority have occurred. The revised closing date, or number of applications, may be applicable to the entire authority, or only to employees in specific organizational unit(s), occupational series or level(s), or geographic area(s).

(e) After approval of an authority, the agency is required to immediately notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the voluntary early retirement authority.

(f) Agencies are required to provide OPM with interim and final reports on each voluntary early retirement authorization, as covered in OPM's approval letter to the agency. OPM may suspend an agency's early retirement authority if the agency is not in compliance with the reporting requirements or reporting schedule provided to the agency in the approval letter from OPM.

(g) Agencies are responsible for ensuring that employees are not coerced into voluntary early retirement. If an agency finds any instances of coercion, it must take appropriate corrective action.

(h) OPM may terminate an agency's authority at any time that OPM determines the agency is no longer undergoing the major reorganization, major reduction in force, or major transfer of function that formed the basis for OPM's approval of the authority. OPM may take steps to amend, limit, or terminate an authority in order to ensure that early retirement programs are operated in a manner which is consistent with applicable laws or regulatory requirements.

[63 FR 32596, June 15, 1998, as amended at 64 FR 53582, Oct. 4, 1999; 64 FR 72257, Dec. 27, 1999]

Subpart B—Coverage

§ 831.201 Exclusions from retirement coverage.

(a) The following groups of employees in the executive branch of the Government are excluded from subchapter III of chapter 83 of title 5, United States Code:

(1) Employees serving under appointments limited to one year or less, except annuitants appointed by the President to fill unexpired terms of office on or after January 1, 1976.

(2) Intermittent employees—non-full-time employees without a prearranged regular tour of duty.

(3) Employees whose salary, pay, or compensation on an annual basis is \$12 a year or less.

(4) Member or patient employees in Government hospitals or homes.

(5) Employees paid on a piecework basis, except those whose work schedule provides for regular or full-time service.

(6) Intermittent alien employees engaged on work outside the continental limits of the United States.

(7) Employees serving under temporary appointments pending establishment of registers, or pending final determination of eligibility for permanent appointment.

(8) Officers in Charge, clerks in fourth-class post offices, substitute rural carriers, and special-delivery messengers at second-, third-, and fourth-class post offices.

(9) Consular agents appointed under authority of section 551 of the Foreign Service Act of 1946 (22 U.S.C. 951).