

## § 831.201

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(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 notified employees that 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).

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(10) Employees serving under emergency-indefinite appointments not exceeding 5 years.

(11) United States citizens given "overseas limited appointments."

(12) Employees serving under non-permanent appointments made pursuant to section 1 of Executive Order 10180 of November 13, 1950.

(13) Employees serving under non-permanent appointments, designated as indefinite, made after January 23, 1955, the effective date of the repeal of Executive Order 10180.

(14) Employees serving under term appointments.

(15) Temporary employees of the Census Bureau employed under temporary limited appointments exceeding 1 year.

(16) Employees serving under limited term, limited emergency and noncareer (designated as indefinite) appointments in the Senior Executive Service.

(17) Health care employees of the National Health Service Corps serving under appointments limited to four years or less in health manpower shortage areas.

(b) Paragraph (a) of this section does not deny retirement coverage when:

(1) Employment in an excluded category follows employment subject to subchapter III of chapter 83 of title 5, United States Code, without a break in service or after a separation from service of 3 days or less, except in the case of:

(i) An alien employee whose duty station is located in a foreign country; or

(ii) An employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

(2) The employee receives a career or career-conditional appointment under part 315 of this chapter;

(3) The employee is granted competitive status under legislation, Executive order, or civil service rules and regulations, while he or she is serving in a position in the competitive service; or

(4) The employee is granted merit status under 35 CFR chapter I, subchapter E;

(5) The appointment meets the definition of a provisional appointment contained in §§ 316.401 and 316.403 of this chapter;

(6) The employee receives an interim appointment under § 772.102 of this chapter and was covered by CSRS at the time of the separation for which interim relief is required.

(c) Members of the following boards and commissions of the government of the District of Columbia appointed on or after August 13, 1960, are excluded from subchapter III of chapter 83 of title 5, United States Code, except that this exclusion does not operate in the case of a member serving on August 13, 1960, who is reappointed on expiration of term without a break in service or after a separation from service of 3 days or less:

Board of Accountancy.  
Board of Examiners and Registrars of Architects.  
Board of Barber Examiners.  
Boxing Commission.  
Board of Cosmetology.  
Board of Dental Examiners.  
Electrical Board.  
Commission on Licensure to Practice the Healing Arts.  
Board of Examiners in the Basic Sciences.  
Board of Examiners in Medicine and Osteopathy.  
Motion Picture Operators' Board.  
Nurses' Examining Board.  
Board of Optometry.  
Board of Pharmacy.  
Plumbing Board.  
Board of Podiatry Examiners.  
Board of Registration for Professional Engineers.  
Real Estate Commission.  
Refrigeration and Air Conditioning Board.  
Steam and Other Operating Engineers' Board.  
Undertakers' Committee.  
Board of Examiners of Veterinarian Medicine.

(d) The following groups of employees of the government of the District of Columbia, appointed on or after October 1, 1965, 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 temporary teachers of the District of Columbia public school system.

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

(3) Employees whose pay on an annual basis is \$12.00 per year or less.

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(4) Patient or inmate employees in District Government hospitals, homes or penal institutions.

(5) Employees paid on a contract or fee basis.

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

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

(e) Paragraph (d) of this section does not deny retirement coverage when (1) employment in an excluded category follows employment subject to subchapter III of chapter 83 of title 5, United States Code, without a break in service or after a separation from service of 3 days or less, or (2) the employee is granted competitive status under legislation, Executive order, or the Civil Service rules and regulations, while he is serving in a position in the competitive service.

(f) Also excluded are any temporary employees, appointed for one year or less, by the government of the District of Columbia under any program or project established pursuant to the Economic Opportunity Act of 1964 (42 U.S.C. 2701 *et seq.*), and summer trainees employed by the Government of the District of Columbia in furtherance of the President's Youth Opportunity Campaign.

(g) Individuals first employed by the government of the District of Columbia on or after October 1, 1987, in a position subject to subchapter III of chapter 83 of title 5, United States Code, are excluded from such subchapter, except:

(1) Employees of St. Elizabeths Hospital who were covered under subchapter III of chapter 83 of title 5, United States Code, before October 1, 1987, appointed by the District of Columbia government on October 1, 1987, as provided in section 6 of Pub. L. 98-621, and deemed employed by the District of Columbia government before October 1, 1987, under section 109 of Pub. L. 100-238;

(2) Effective on and after October 1, 1997, the effective date of section 11246 of Pub. L. 105-33, 111 stat. 251, non-judicial employees of the District of

Columbia Courts employed in a position which is not excluded from CSRS under the provisions of this section;

(3) Effective on and after April 1, 1999, the effective date of section 7(e) of Pub. L. 105-274, 112 Stat. 2419, employees of the Public Defender Service of the District of Columbia employed in a position which is not excluded from CSRS under the provisions of this section;

(4) The District of Columbia Department of Corrections Trustee, authorized by section 11202 of Pub. L. 105-33, 111 Stat. 251, and an employee of the Trustee if the Trustee or employee is a former Federal employee appointed with a break in service of 3 days or less, and in the case of an employee of the Trustee is employed in a position which is not excluded from CSRS under the provisions of this section;

(5) The District of Columbia Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee, authorized by section 11232 of Pub. L. 105-33, 111 Stat. 251, as amended by section 7(b) of Pub. L. 105-274, 112 Stat. 2419, and an employee of the Trustee, if the Trustee or employee is a former Federal employee appointed with a break in service of 3 days or less, and, in the case of an employee of the Trustee, is employed in a position which is not excluded from CSRS under the provisions of this section, and;

(6) Subject to an election under §831.204, employees of the District of Columbia Financial Responsibility and Management Assistance Authority.

(h) Employees who have elected coverage under another retirement system in accordance with part 847 of this chapter are excluded from subchapter III of chapter 83 of title 5, United States Code, during that and all subsequent periods of service (including service as a reemployed annuitant).

(i)(1) A former employee of the District of Columbia who is appointed in a Federal position by the Department of Justice, or by the Court Services and Offender Supervision Agency established by section 11233(a) of Pub. L. 105-33, 111 Stat. 251, as amended by section 7(c) of Pub. L. 105-274, 112 Stat. 2419, is excluded from CSRS beginning on the date of the Federal appointment, if the employee elects to continue coverage

under a retirement system for employees of the District of Columbia under section 3 of Pub. L. 105-274, 112 Stat. 2419, and if the following conditions are met:

(i) The employee is hired by the Department of Justice or by the Court Services and Offender Supervision Agency during the period beginning August 5, 1997, and ending 1 year after the date on which the Lorton Correctional Complex is closed, or 1 year after the date on which the Court Services and Offender Supervision Agency assumes its duties, whichever is later; and

(ii) The employee elects to continue coverage under a retirement system for employees of the District of Columbia no later than June 1, 1999 or 60 days after the date of the Federal appointment, whichever is later.

(2) An individual's election to continue coverage under a retirement system for employees of the District of Columbia remains in effect until the individual separates from service with the Department of Justice or the Court Services and Offender Supervision Agency.

[33 FR 12498, Sept. 4, 1968, as amended at 45 FR 24856, Apr. 11, 1980; 45 FR 46782, July 11, 1980; 47 FR 2285, Jan. 15, 1982; 48 FR 38784, Aug. 26, 1983; 51 FR 23037, June 25, 1986; 52 FR 38220, Oct. 15, 1987; 53 FR 42936, Oct. 25, 1988; 56 FR 4930, Feb. 7, 1991; 56 FR 10142, Mar. 11, 1991; 57 FR 3713, Jan. 31, 1992; 61 FR 41720, Aug. 9, 1996; 62 FR 50996, Sept. 30, 1997; 63 FR 9402, Feb. 25, 1998; 64 FR 15288, Mar. 31, 1999]

**§ 831.202 Continuation of coverage for food service employees of the House of Representatives.**

(a) Congressional employees who provide food service operations for the House of Representatives can elect to continue their retirement coverage under subchapter III of chapter 83 of title 5, United States Code, when such food service operations are transferred to a private contractor. These regulations also apply to any successor contractors.

(b) *Eligibility requirements.* To be eligible for continuation of retirement coverage, an employee must:

(1) Be a Congressional employee (as defined in section 2107 of title 5, United States Code), other than an employee of the Architect of the Capitol, engaged

in providing food service operations for the House of Representatives under the administrative control of the Architect of the Capitol;

(2) Be subject to subchapter III of chapter 83 of title 5, United States Code;

(3) Elect to remain covered under civil service retirement provisions no later than the day before the date on which the food service operations transfer from the House of Representatives to a private contractor; and

(4) Become employed to provide food services under contract without a break in service. A "break in service" means a separation from employment of at least three calendar days.

(c) *Employee deductions.* An employee who elects to continue coverage under title 5 retirement provisions is deemed to consent to deductions from his or her basic pay for the Civil Service Retirement and Disability Fund in the amount determined in accordance with 5 U.S.C. 8334(k). The employer providing the food services under contract must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from an employee's pay.

(d) *Employer contributions.* The employer providing food services under contract must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions that would be required if the individual were a Congressional employee covered by the Civil Service Retirement System.

[52 FR 5069, Feb. 19, 1987, and 53 FR 10055, Mar. 29, 1988. Redesignated at 53 FR 10055, Mar. 29, 1988]

**§ 831.203 Continuation of coverage for employees of the Metropolitan Washington Airports Authority.**

(a) Permanent Federal Aviation Administration employees assigned to Washington National Airport or Dulles International Airport who elect to transfer to the Metropolitan Washington Airports Authority, retain their retirement coverage under subchapter III of chapter 83 of title 5, United States Code.