

## § 842.702

## 5 CFR Ch. I (1–1–01 Edition)

under section 8420a of title 5, United States Code.

### § 842.702 Definitions.

In this subpart—

*Alternative form of annuity* means the benefit elected under § 842.705.

*Current spouse annuity* has the same meaning as in § 842.602.

*Date of final adjudication* means the date 30 days after the date of the first regular monthly payment as defined in § 831.603.

*Former spouse annuity* has the same meaning as in § 842.602.

*Present value factor* represents the amount of money (earning interest at an assumed rate) required at the time of retirement to fund an annuity that (a) starts out at the rate of \$1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for non-disability annuitants; and (b) increases each year at an assumed rate of inflation. Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries for valuation of the System, based on dynamic assumptions. The present value factors are unisex factors obtained by averaging sex-distinct present value factors, weighted by the total dollar value of annuities typically paid to new retirees at each age.

*Time of retirement* has the same meaning as in § 842.602.

[52 FR 2067, Jan. 16, 1987, as amended at 53 FR 11635, Apr. 8, 1988]

### § 842.703 Eligibility.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, an employee or Member who retires under any provision of subchapter II of chapter 84 of title 5, United States Code, may elect an alternative form of annuity instead of any other benefits under the subchapter.

(b) An employee or Member who, at the time of retirement has a former spouse who is entitled to a portion of the employee's or Member's retirement benefits or a former spouse annuity under a court order acceptable for processing as defined by § 838.103 of this chapter or a qualifying court order as defined in § 838.1003 of this chapter may

not elect an alternative form of annuity.

(c) An employee or Member who is married at the time of retirement may not elect an alternative form of annuity unless the employee's or Member's spouse specifically consents to the election. OPM may waive spousal consent only under the conditions prescribed by § 842.607.

(d)(1)(i) An individual whose annuity commences after December 1, 1990, and before October 1, 1994, may elect an alternative form of annuity only if that individual is—

(A) An employee or Member who meets the conditions and fulfills the requirements described in § 842.707(c) (2) and (3); or

(B) An employee who is separated involuntarily other than for cause on charges of misconduct or delinquency;

(ii) An individual whose annuity commences on or after October 1, 1994, may elect an alternative form of annuity only if that individual is an employee or Member who meets the conditions and fulfills the requirements described in § 842.707(c) (2) and (3).

(2) For the purpose of paragraph (d)(1)(i)(B) of this section, the term "employee" does not include—

(i) Members of Congress;

(ii) Individuals in positions in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code;

(iii) Presidential appointees under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum basic pay for such positions is at or above the rate for Executive Schedule, level V;

(iv) Noncareer appointees in the Senior Executive Service or noncareer members of the Senior Foreign Service; and

(v) Any individual in a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(3) Notwithstanding paragraph (d)(1) of this section, an employee whose annuity commences after December 1, 1990, and before December 2, 1991, may elect an alternative form of annuity if that individual—