

Table of Contents

Subchapter 44A CSRS

Part 44A1 General Information

Section 44A1.1-1 Overview 1

A. Introduction 1

B. Topics Covered 1

C. Organization of Subchapter 2

D. Statement of Authority 2

Section 44A1.1-2 Definitions 3

A. Involuntary Separation 3

B. Local Commuting Area 4

C. Representative Rate 4

D. Reasonable Offer 5

Section 44A1.1-3 Employee Eligibility Requirements 6

A. General 6

B. Minimum Age and Service 6

C. When Employee is Eligible for Regular Retirement 7

D. Minimum Civilian Service 7

E. Separation from Covered Position 8

F. "One-Out-of-Two" Requirement 8

G. Reasonable Offer 8

Part 44A2 Conditions for Involuntary Separation

Section 44A2.1-1 Condition: Requirement for Specific Written Notice 9

A. General Rule 9

B. Qualifying Specific Notice 9

C. Sample Notice 9

Section 44A2.1-2 Condition: Resignation in Lieu of Involuntary Separation 10

A. Resignation Before Involuntary Separation 10

B. Resignation After Receiving Reasonable Offer 10

C. Resignation Before Receiving Notice 10

D. Resignation After Entering New Position 10

E. Resignation After a Proposed Action Has Been Canceled 10

Section 44A2.1-3 Condition: Directed Reassignments	11
A. Agency Authority to Reassign	11
B. Reassignment Within Commuting Area	11
C. Reassignment Outside Commuting Area	11
D. Determination of Commuting Area	11
E. Rule: Mobility Agreements	12
F. Rule: Mobility Agreements for SES Positions	12
Section 44A2.1-4 Condition: Job Abolishment	13
A. Definition of Term	13
B. Job Abolishment Applicable	13
C. No Material Change: Job Abolishment Not Applicable	13
D. Successor Position: Job Abolishment Not Applicable	13
E. Identical Position: Job Abolishment Not Applicable	14
F. Identical Position: General Rule	14
G. Identical Position: Standards	14
H. Identical Position: Procedures	16
Section 44A2.1-5 Condition: Disability or Illness	17
A. Policy	17
B. Agency Responsibility	17
Section 44A2.1-6 Condition: Reclassification to Lower Grade	18
A. General	18
B. Rule: Classification Actions	18
Section 44A2.1-7 Condition: Reduction-in-Force Actions	19
A. Policy	19
Section 44A2.1-8 Condition: Expiration of Appointment	20
A. General Rule	20
B. Exception	20
C. Employee With Reinstatement Right	21
Section 44A2.1-9 Condition: Unacceptable Performance (Inefficiency)	22
A. Definition of Term	22
B. Contrast	22
C. Rule	22
D. Demotion in Lieu of Separation	22

	Section 44A2.1-10 Condition: Resignation Requested	23
	A. Rule: New Administration	23
	B. Rule: New Agency Head	23
	C. Rule: Schedule C and Noncareer SES.....	23
>	D. Rule: Resignation in Anticipation of Request	23
	E. Rule: Copy Required	23

Section 44A2.1-11 Condition: Separation of Presidential Appointees and Immediate Staff

	24
	A. Confidential Relationship	24
	B. Resignation Accepted: Presidential Appointee	24
	C. Resignation of Noncareer SES Member of Schedule C Employee	24
	D. Documentation	24

Part 44A3 Effect of Discontinued Service Retirement on Benefits

	Section 44A3.1-1 Effect of Discontinued Service Retirement on Benefits	25
	A. Reduction for Early Retirement	25
	B. Commencing Date of Annuity	25
	C. Severance Pay	25
	D. Effect of Appeals of Removals	25

Part 44A4 Required Documentation

	Section 44A4.1-1 Documentation in Advance Advisory Opinions of Eligibility Requests	26
	A. General	26
	B. Advisory Opinion From OPM	26
	C. Transmittal Letter: Contents	26
	D. OPM Address	27
	E. Note	27

Section 44A4.1-2 Documentation Where Advance Advisory Opinion of Eligibility

	Unnecessary	28
	A. General	28
	B. Standard Forms	28
	C. Additional Documentation	28

Part 44A5 Advice to Employee

	Section 44A5.1-1 Advice to Employee	29
	A. General	29
	B. Reduction for Early Retirement	29
	C. Alternative Annuity Election	29

Subchapter 44B FERS

Part 44B1 General Information

Section 44B1.1-1 Overview 31

A. Introduction 31

B. Organization of Subchapter 31

C. Applicable CSRS Provision 31

D. Statement of Authority 31

Section 44B1.1-2 Employee Eligibility Requirements 32

A. General 32

B. Note: Minimum Age and Service 32

C. Minimum Civilian Service 32

D. Noncreditable Civilian Service 33

E. Separation From Covered Position 33

F. Loss of Military Rank or Membership 33

G. Applicable CSRS Provisions 33

Part 44B2 Effect of Discontinued Service Retirement on Benefits

Section 44B2.1-1 Effect of Discontinued Service Retirement on Benefits 34

A. Reduction for Early Retirement 34

B. Retiree Annuity Supplement 34

C. Commencing Date of Annuity 34

Part 44B3 Advice to Employee

Section 44B3.1-1 Advice to Employee 35

A. Applicable CSRS Provisions 35

B. Reduction for Early Retirement 35

Subchapter C Job Aids

Section 44C1.1-1 Copies of Job Aids 37

SAMPLE: Specific Written Notice 38

OPM Form 1510, Certification of Agency Offer of Position and Required Documentation (for Discontinued Service Retirement Under CSRS or FERS) (For Local Reproduction) 40

Subchapter 44A CSRS
Part 44A1 General Information**Section 44A1.1-1 Overview**

A. Introduction

A discontinued service or involuntary retirement provides an immediate, possibly reduced, annuity for employees who are separated against their will. Employees who are separated for cause on charges of misconduct or delinquency are not eligible for a discontinued service annuity.

The final responsibility for determining whether a separation is involuntary for discontinued service annuity purposes rests with OPM. Whether a separation is voluntary depends on all the facts in a particular case; it is the true substance of the action that governs, rather than the methods followed or the terminology used.

Availability of discontinued service retirement gives agencies a valuable personnel management tool to lessen the impact of an involuntary separation on a long-service employee. Before supporting an application for discontinued service retirement, an agency should consider all of the facts and circumstances to determine whether it appears that the true nature of the action is qualifying for discontinued service retirement. If it is later determined that a separation does not meet the standard for a discontinued service retirement, a separation may be canceled, or an annuity denied or terminated.

To curb the potential for abuse of discontinued service retirement, each agency should have internal controls that are sufficient to prevent abuses. Agency procedures should contain appropriate checks and balances, such as requiring that all personnel actions that can lead to involuntary separations for retirement purposes (for example, geographic reassignments and abolishment of positions) be independently approved by two individuals who are not in the same line of authority. Such controls increase employee confidence in the integrity of the personnel process.

B. Topics Covered

This subchapter covers:

- The eligibility requirements for a discontinued service retirement;
- The conditions that define involuntary separation;
- The documentation necessary for OPM to authorize and process a retirement under this Chapter;
- Counseling that an agency should give an employee before he or she retires.

Section 44A1.1-1 Overview (Cont.)**C. Organization of
Subchapter**

The CSRS subchapter is divided into five parts.

Part	Name of Part	Page
44A1	General Information	1
44A2	Conditions for Involuntary Separation	9
44A3	Effect of Discontinued Service Retirement on Benefits	25
44A4	Required Documentation	26
44A5	Advice to Employee	29

NOTE: Subchapter 44B about discontinued service retirement under FERS begins on page 30.

**D. Statement of
Authority**

This subchapter is based on the laws and regulations cited below.

- United States code: 5 U.S.C. 8336(d)
 - Code of Federal Regulations: 5 CFR 831.503
-

Section 44A1.1-2 Definitions

A. Involuntary Separation

An involuntary separation that may qualify an employee for a discontinued service retirement is any separation against the will and without the consent of the employee other than a separation for cause on charges of misconduct or delinquency. These non-disciplinary actions are documented on the SF 50, Notification of Personnel Action, as "terminations."

EXAMPLES: Separations that are involuntary for discontinued service retirement purposes include, but are not limited to, separations for:

Reduction-in-force (RIF):

Abolishment of position;

Lack of funds;

Expiration of incumbent's term of office;

Unacceptable performance (unless due to employee's misconduct);

Transfer of function outside commuting area;

Reassignment outside commuting area when no mobility agreement exists;

Failure to continue to meet qualification requirements of the position (provided the separation is non-disciplinary and the action is initiated by the agency);

Separation during probation because of failure to qualify due to performance (not misconduct);

Separation of a National Guard technician because of loss of military membership or the rank required to hold the National Guard position; and

Removal from the Senior Executive Service for less than fully successful performance (under title 5, U.S.C., Ch. 43, Subch. II).

Section 44A1.1-2 Definitions (Cont.)**B. Local Commuting Area**

A local commuting area is defined in 5 CFR Part 351, Reduction-in-Force, as the geographic area that usually constitutes one area for employment purposes.

It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and reasonably can be expected to travel back and forth daily in their usual employment.

This definition of commuting area is also used for retirement, severance pay, and grade/pay retention purposes.

C. Representative Rate

Representative rate is defined for grade and pay retention (5 CFR 990 re pay) as:

1. The fourth step of the grade in the case of a position under the General Schedule, including the fourth step of the corresponding grade of the General Schedule in the case of a position under the Performance Management and Recognition System, the single-rate of GUESS-18; or the individual's rate under the Senior Executive Service;
2. The second step of the grade of a position under a regular prevailing rate schedule or in the case of a position with a single rate, the single rate of that position; or,
3. The rate designated as representative of the position by the agency responsible for establishing and adjusting the schedule in the case of a position under a schedule different from those covered in paragraph (1) or (2) of this definition.

This definition is also used for discontinued service retirement.

Section 44A1.1-2 Definitions (Cont.)

D. Reasonable Offer A job offer that meets all of the conditions below is a "reasonable offer."

No.	Condition
1	The agency offer of the position must be in writing.
2	The employee must meet established qualification requirements for the position.
3	The offered position must be in the employee's agency, including an agency to which the employee with his/her function is transferred in a transfer of function between agencies.
4	The offered position must be within the employee's commuting area, unless the employee is under a geographic mobility agreement.
5	<p>The offered position must be of the same tenure. An appointment of the same tenure means the same expectations of continued employment:</p> <ul style="list-style-type: none"> • Same service (competitive, excepted, Senior Executive Service, etc.); <p>Example: The offer of a Schedule A excepted position to a competitive service employee or the offer of a non-SES position to an SES employee is not a reasonable offer since the offered positions are not of the same tenure.</p> <ul style="list-style-type: none"> • Same type (career, permanent, indefinite, etc.); • Same work schedule. <p>Example: A full-time career employee must be offered a full-time career position; a part-time excepted employee must be offered a part-time excepted position of at least the same number of hours.</p>
6	<p>The offered position must not be lower than the equivalent of 2 grade/pay levels below the employee's current grade or pay level.</p> <p>Grade or pay level for an employee who is not currently under grade retention is the grade or pay level of the position currently occupied.</p> <p>Grade or pay level for an employee who is currently under grade retention is the retained grade or pay level.</p> <p>To determine a grade level equivalent when the position offered is under a different pay schedule or system, compare the representative rate of the grade or pay level that is 2 grades or pay levels below that of the current position with the representative rate of the grade or pay level of the offered position.</p>

Section 44A1.1-3 Employee Eligibility Requirements**A. General**

An employee who is involuntarily separated is eligible for a discontinued service annuity if all of the following conditions are met:

- Age and service requirements;
- Minimum civilian service requirement;
- Separation from a position subject to CSRS coverage;
- "One-out-of-two" requirement; and
- No declination of a reasonable offer.

B. Minimum Age and Service

The employee must meet one of the age and service requirements below at separation:

Age is at least...	and Creditable Service is at least...
50	20 years
any age	25 years

NOTE 1: If an employee has the minimum 5 years of creditable civilian service, creditable military service may be used to meet the balance of service necessary for a discontinued service retirement.

NOTE 2: > Public Law 104-208 gives employees who are involuntarily separated **the right** to use their annual leave to achieve initial eligibility for retirement and/or continued health benefits coverage.

NOTE 3: If an employee does not have the years of service for a Discontinued Service Retirement (DSR) but is eligible for voluntary retirement and the nature of separation is involuntary, the commencing date of the annuity is the day after separation/last day of pay.<

CAUTION: Accrued and unused sick leave may not be used to meet either of the service requirements noted above.

Section 44A1.1-3 Employee Eligibility Requirements (Cont.)

C. When Employee is Eligible for Regular Retirement When an employee qualifies for more than one type of retirement, his or her alternatives must be explained. The employee is entitled to apply for the retirement option he or she prefers. The choice may depend on the employee's interest in subsequent Federal reemployment.

1. Agencies should inform the employee that the choice between taking a voluntary retirement or a discontinued service retirement could make a difference in future retirement rights if he or she is later reemployed as a retired employee.
 - If retirement is voluntary, pay on reemployment will be reduced by the amount of the annuity.
 - If retirement is for discontinued service after an involuntary separation, the annuity is terminated and the employee acquires a new retirement right if reemployment is not excluded from retirement coverage.
 2. Inform the employee that an annuity under an involuntary retirement begins on the day after separation or the day after pay ceases and the requirements for title to an annuity are met.
-

D. Minimum Civilian Service An employee must have at least 5 years of creditable civilian service to be eligible for a discontinued service annuity.

Creditable civilian service for this purpose includes:

- Service for which full CSRS deductions were taken (even if CSRS deductions were refunded and not redeposited);
- Service for which full social security taxes and reduced CSRS deductions were taken (even if CSRS deductions were refunded and not redeposited); and
- Nondeduction service (that is, temporary or intermittent service), whether or not a deposit for such service is made or deemed made under the alternative annuity provisions.

NOTE: See Chapter 20, Creditable Civilian Service, for a full description of creditable service.

Section 44A1.1-3 Employee Eligibility Requirements (Cont.)

- E. Separation from Covered Position** The employee must be separated from a position covered by retirement deductions.
- F. "One-Out-of-Two" Requirement** An employee must be covered by CSRS for at least 1 year within the 2-year period immediately preceding the separation on which the annuity is based. The 1 year of service does not have to be continuous.

The following example assumes the employee is 57 years old.

Example	Service History	Eligible to Retire?
1	Career appt. 2-1-51 Separated 4-3-80 Career reinstatement 9-4-88 Separated 9-30-89	Yes
2	Career appt. 2-1-51 Separated 4-3-80 Career reinstatement 9-4-88 Separated 6-30-89 Comment: The employee is not eligible to retire with an immediate annuity because he or she has less than 1 year of service during the 2-year period preceding the last date of separation.	No

- G. Reasonable Offer** If an agency makes the employee a reasonable offer of another position in the employee's agency, the employee does not qualify for discontinued service retirement.

Part 44A2 Conditions for Involuntary Separation**Section 44A2.1-1 Condition: Requirement for Specific Written Notice**

A. General Rule To qualify for discontinued service retirement, an employee must receive specific written notice of a proposed involuntary separation.

B. Qualifying Specific Notice

A notice must be directed to an individual employee and must:

- Inform the employee that he or she faces involuntary separation from his or her position or from Federal service;
- Specify the reason for the proposed action (that is, impending organizational changes); and
- State the date the proposed action is to be effective.

The form of a specific notice varies with the nature of the involuntary separation. In general, it is the notice that informs the employee that there has been a decision to effect the action. A proposal to take an action without a decision notice is insufficient.

In the case of a directed reassignment, it is the notice of directed reassignment. In a reduction in force, it is the specific notice issued in accordance with the provisions of 5 CFR Part 351. In the case of an individual being removed for inefficiency or another type of action that must be processed under 5 CFR Parts 432 or 752 or other similar procedures, it is the notice of decision to remove, not the notice of proposed removal (although it may be necessary to submit the proposal notice as well when information therein is incorporated by reference in the decision notice). For an abolishment of position, it is a specific written notice that is issued under normal procedures, and which notifies the employee that the involuntary separation will be effected.

C. Sample Notice A sample memorandum that demonstrates a specific notice of a position abolishment is included in subchapter 44C.

Section 44A2.1-2 Condition: Resignation in Lieu of Involuntary Separation

A. Resignation Before Involuntary Separation

A resignation is qualifying for discontinued service retirement if the employee:

- Receives notice that he or she will be involuntarily separated;
- Has not received a reasonable offer of a position; and
- Resigns before the scheduled separation date.

When the employee resigns, the nature of the action on the SF 50 is "312/Resignation-ILIA." (See The Guide to Processing Personnel Actions, formerly FPM Supplement 296-33.)

B. Resignation After Receiving Reasonable Offer

A resignation is not qualifying for discontinued service retirement if the employee:

- Receives a reasonable offer of a position; and
 - Resigns in lieu of accepting the offered position.
-

C. Resignation Before Receiving Notice

A resignation is not qualifying for discontinued service retirement if the employee:

- Resigns before receiving an official notice of proposed separation or reduction in grade or pay level.
-

D. Resignation After Entering New Position

A resignation is not qualifying for discontinued service retirement if the employee:

- Resigns after entering on duty in a new position.
-

E. Resignation After a Proposed Action Has Been Canceled

A resignation is not qualifying for discontinued service retirement if the employee:

- Resigns after the proposed action has been canceled.
-

Chapter 44

Section 44A2.1-3 Condition: Directed Reassignments

- A. Agency Authority to Reassign** An agency may order or direct an employee's reassignment to another position at the same grade or pay level. This right to reassign is a management prerogative to assure maximum utilization of the employee's skills. A directed reassignment out of the commuting area may, however, make an employee eligible for a discontinued service retirement unless the employee is under a mobility agreement.
-
- B. Reassignment Within Commuting Area** A separation is not qualifying for discontinued service retirement if an employee refuses or fails to accept directed reassignment to another position:
- For which the employee meets qualification requirements, within two grade or pay levels; and
 - In the same commuting area.
-
- C. Reassignment Outside Commuting Area** An employee's reassignment to another location outside the commuting area is qualifying for discontinued service retirement if:
- The new work site is outside the commuting area applicable to the old work site; and
 - Complying with the change would compel the employee to change his or her residence in order to continue employment.
- Only if the new work site is outside the commuting area applicable to the old work site does each employee's personal circumstance become relevant.
- EXAMPLE: Washington, DC, and Baltimore, MD are in separate commuting areas. Nonetheless, some employees live in one city and work in the other. If an employee who lives in Baltimore and commutes to Washington is reassigned to Baltimore, the employee does not become eligible for discontinued service retirement because he or she does not need to change residence.
-
- D. Determination of Commuting Area** The employing agency uses RIF rules to determine the area that constitutes the local commuting area. This commuting area is then used for discontinued service retirement. (See 5 CFR Part 351.) If a local installation needs assistance in establishing a commuting area, it should seek assistance through agency channels.

Section 44A2.1-3 Condition: Directed Reassignments (Cont.)**E. Rule: Mobility Agreements**

1. An employee who accepts a position that has a mobility requirement is not eligible for a discontinued service retirement if he or she subsequently declines a position outside the commuting area.
 2. A separation is qualifying for discontinued service retirement:
 - If a mobility agreement is added to an employee's position description after he or she accepts a position; and
 - The employee subsequently declines reassignment outside his or her commuting area.
 3. A separation is not qualifying for discontinued service retirement:
 - If, after the mobility agreement is added, the employee accepts one reassignment outside of the commuting area; and
 - The employee subsequently declines geographic reassignment.
-

F. Rule: Mobility Agreements for SES Positions

Positions in the SES do not automatically carry with them the requirement that an employee accept rotational assignments or mobility as a condition of employment. Conditions listed in paragraph E above must be considered.

Section 44A2.1-4 Condition: Job Abolishment

- A. Definition of Term** Abolishment of position means the actual termination of the job, with the duties being eliminated entirely or combined with the duties of another position or positions.
-
- B. Job Abolishment Applicable** There is a job abolishment for discontinued service retirement when:
- An agency actually eliminates a position by eliminating entirely the duties of the position or combining them with the duties of another position; and
 - The agency specifically identified the position to be abolished within the organizational structure.
-
- C. No Material Change: Job Abolishment Not Applicable** There is no job abolishment for Discontinued Service Retirement purposes when there is no material change in official job responsibilities and duties and:
- The position merely has been redescribed; or
 - A paperwork transaction eliminates one position and creates another; or
 - There is only a change in title and/or series.
-
- D. Successor Position: Job Abolishment Not Applicable** There is no job abolishment for discontinued service retirement purposes so long as a successor position can be identified in the new organization that is not materially different from that in the present organization.
-

Section 44A2.1-4 Condition: Job Abolishment (Cont.)

- E. Identical Position: Job Abolishment Not Applicable** There is no job abolishment for discontinued service retirement purposes when an agency declares one or more of a group of identical positions surplus and reduces the number of employees performing the same work.
- In this situation, it is not possible to identify which employee's position has been abolished.
 - Under such circumstances, the abolishment of position cannot by itself be the basis for discontinued service retirement.
 - If RIF procedures are then used and result in the separation of individuals who meet the age and/or service requirements for discontinued service retirement, it is the RIF and not the abolishment of position that creates the title to annuity.
- F. Identical Position: General Rule** Generally, as long as positions are under identical position descriptions, the positions are considered identical. However, when agency policy is to use generic position descriptions for multiple positions, and there are substantial differences in the actual duties performed, the positions may be considered as different positions for discontinued service retirement purposes if the differences are officially recognized by the employing agency.
- G. Identical Position: Standards** The test is whether there are sufficient differences between the positions so that the positions would be under separate position descriptions, but for the organizational policy to keep position descriptions at a generic level. They may include:
- differences in the subject matter of the duties performed;
 - differences in the knowledge required to perform the duties; or,
 - other differences between the duties of the positions that would prevent incumbents of the positions from moving freely from one position to the other.

However, if there are only inconsequential differences in the work performed, the positions will still be considered to be identical.

Positions in different RIF competitive areas, even if otherwise completely the same, are not considered identical positions. However, within the same RIF competitive area, positions with the same duties will be considered to be identical even if they are in different organizational units.

Section 44A2.1-4 Condition: Job Abolishment (Cont.)

- G. Identical Position: Standards (Cont.)** As under the basic rule, there is no basis for discontinued service retirement based on position abolishment unless all of those positions that are identical are abolished.

EXAMPLE: An office has four GS-4 accounting technicians who perform identical duties. When the office obtains new, more efficient equipment, only three technicians are needed; therefore, one position is abolished.

Since all four technicians have the same duties, none of them is eligible for discontinued service retirement by reason of abolishment of position. If the agency reassigns one of the four to another position in the same commuting area at the same grade, then no one would be eligible for discontinued service retirement. If the agency chooses to use RIF procedures and separates one of the four, that employee's separation would be qualifying for discontinued service retirement purposes.

EXAMPLE: An office has four GS-4 accounting technicians, of whom two handle type "A" accounts requiring very specialized skills, and the other two handle type "B" accounts requiring different skills. There were different knowledge, skills, and abilities (KSA's) in the most recently used vacancy announcements, and there are different critical elements in the performance standards. Thus, there are two separate positions even though there is only one position description. If the agency abolished both type "A" positions, then the separations would be qualifying for discontinued service retirement purposes. However, if the agency abolished one type "A" and one type "B" position, there would be no discontinued service retirement eligibility based on abolishment of position.

EXAMPLE: An agency central office has several sections of clerks performing identical duties. The only difference among the sections is that each handles cases coming from a different geographic region. A reorganization results in the consolidation of central office sections and the elimination of one of the section chief positions. Since there is no difference among the duties of the section chief positions, none of the section chiefs are eligible for discontinued service retirement by reason of abolishment of position.

Section 44A2.1-4 Condition: Job Abolishment (Cont.)**H. Identical Position:
Procedures**

When more than one position exists under a single position description, an application for discontinued service retirement must be accompanied by a statement of differences. The statement will explain how the positions being abolished are different from all other positions under the same position description, and be accompanied by documentation to support the statement.

While not all items will be present under all circumstances, the types of supportive documentation could include (but not be limited to):

- Prior use of different vacancy announcements that show significant differences in the knowledge, skills, and abilities (KSA's) requirements.
- Performance appraisals reflecting different critical elements.
- Formal documentation of differences in the regular work assignments.
- Different work report forms that reflect different duties.

If there is no preexisting documentation, then there must be a supporting statement from the head of the personnel organization at the next higher level (if there is one) above the personnel office serving the installation in which the positions are located. That supporting statement must explain why there is no existing documentation demonstrating the differences between the positions.

Section 44A2.1-5 Condition: Disability or Illness

A. Policy

Generally, a resignation is **not qualifying** for discontinued service retirement when an employee resigns because of illness.

However, an involuntary separation is **qualifying** for discontinued service retirement if an employee is removed by adverse action or equivalent procedures (or retires after receiving a decision to remove), under conditions not involving misconduct or delinquency, because of illness resulting in one or more of the following:

- Continued absence:
- Inability to perform his or her duties; or
- Endangering his or her health or that of other employees.

**B. Agency
Responsibility**

The agency must make reasonable accommodation (includes reassignment) to an employee:

- Who produces acceptable medical evidence of an impairment that limits one or more of his or her major life activities; and
 - Who can show that he or she is a qualified handicapped employee who, with or without reasonable accommodation, can perform the essential functions of the position without endangering his or her health or safety or that of others.
-

Section 44A2.1-6 Condition: Reclassification to Lower Grade

A. General

If a position is downgraded as the result of reorganization, the position must first be abolished then the employee afforded the opportunity to retire (if eligible and the downgrade is more than two grade pay levels) or to compete for other positions under RIF procedures. The agency should not merely downgrade the employee, as would be done in the case of misclassification.

**B. Rule:
Classification
Actions**

The reclassification of a position because of misclassification or the application of a new classification standard does not entitle the employee to resign and receive a discontinued service retirement based on the reclassification action.

Correcting the title, series and/or grade of a position does not mean that the position itself is being abolished or that the employee is not qualified to perform its duties. It only means that the position was mistitled, in the wrong series, or misgraded.

Section 44A2.1-7 Condition: Reduction-in-Force Actions

A. Policy

A separation is qualifying for discontinued service retirement if the employee:

- Has been reached on a retention register for separation under a reduction-in-force; and
 - Receives a specific reduction-in-force notice.
-

Section 44A2.1-8 Condition: Expiration of Appointment

A. General Rule

A separation is not qualifying for discontinued service retirement if the employee voluntarily leaves regular long-term (career) employment to accept a short-term appointment with full knowledge of its early termination.

B. Exception

In certain situations, terminations from short-term employment may be considered involuntary for discontinued service retirement. This would be the case if the appointment immediately followed an involuntary separation. This would also be true if the employee could have retired under a Voluntary Early Retirement Authority, but accepted a time limited appointment at the agency's request.

Under the circumstances described in the prior paragraph, if an agency has a legitimate management need for an employee's services on a short-term basis, it is not inappropriate to use such an appointment to meet the management need, even if the appointment creates title to annuity. However, if the short-term employment was arranged solely to create title to an annuity, the separation is not considered qualifying for discontinued service retirement.

A separation is qualifying for discontinued service retirement if the employee received a specific notice of separation from regular long-term (career) employment, did not decline a "reasonable offer," moved to a time-limited appointment without a break in excess of 3 days, and is involuntarily separated from the time-limited appointment.

NOTE: OPM Form 1510 should be used to document this separation even though the employee is going without a break in service to a time-limited appointment.

EXAMPLE 1: A 47-year-old employee is about to be separated with 24 years 8 months of service because the base where he works is closing. The agency needs 20 employees on a temporary basis to do environmental clean-up after the base closes. The agency offers the employee a temporary appointment NTE 1 year with no break in service. The work is finished in 8 months and the employee's temporary appointment is terminated. The employee now has more than 25 years of service, and is eligible for a discontinued service annuity since his separations from both the long term and short term employment were involuntary and there was no break in service. However, if the employee had resigned after 6 months, his final separation would be voluntary and not qualifying for discontinued service retirement.

Section 44A2.1-8 Condition: Expiration of Appointment (Cont.)**B. Exception (Cont.)**

EXAMPLE 2: An employee who would be eligible to retire during an OPM-approved "early out" accepts, at the agency's request, a time-limited appointment with no break in service to help wind down a program operation. The employee's subsequent separation from the time-limited appointment would qualify for discontinued service retirement as an involuntary separation. OPM will request additional evidence from the former employing agency and the employee to establish the true substance of an action if there is any doubt that a separation is actually involuntary for retirement purposes.

C. Employee With Reinstatement Right

An employee who leaves regular employment to accept an assignment that guarantees reinstatement rights to his or her former employment must first exercise those reinstatement reemployment rights before determination of his or her eligibility for discontinued service retirement.

Section 44A2.1-9 Condition: Unacceptable Performance (Inefficiency)

- A. Definition of Term** Unacceptable performance means the failure to fulfill the requirements of high standards of service. In other words, the employee's work may not measure up to the standards the agency expects, due to his or her actual inability to do the work after sincere effort.
- EXAMPLE:** This inability might be due to a deterioration of previous capabilities or to a change in the job, such as automation, to which the employee is unable to adjust.
- B. Contrast** Unacceptable performance is distinguished from misconduct or delinquency, which denotes culpable wrongdoing.
- C. Rule** A separation is qualifying for discontinued service retirement if it is caused by unacceptable performance. The separation may be processed under 5 CFR Part 432 or 752 (or similar procedures for employees not covered by these regulations).
- D. Demotion in Lieu of Separation** A reduction in grade for unacceptable performance does not qualify the employee for discontinued service retirement because the downgrading is not an involuntary separation from service.
- However, if the agency proposes the employee's separation, and offers a position more than two grade pay levels below the employee's current position as an alternative to separation, the employee may retire instead of accepting the reduction in grade.
-

Chapter 44

Section 44A2.1-10 Condition: Resignation Requested

- A. Rule: New Administration** A resignation is qualifying for discontinued service retirement if an employee submits his or her resignation in response to a written request from a recognized representative of a new incoming Administration. The representative must have the authority to request the employee's resignation and the resignation must be requested specifically from that employee.
- B. Rule: New Agency Head** A resignation is qualifying for discontinued service retirement if an employee submits his or her resignation in response to a written request from a newly appointed agency head.
- C. Rule: Schedule C and Noncareer SES** > Schedule C and noncareer SES employees serve at the pleasure of the agency and can be asked to resign at any time. A resignation is qualifying for discontinued service if an employee submits his or her resignation in response to a written request. The separation is not qualifying for DSR if it is for personal cause.<
- D. Rule: Resignation in Anticipation of Request** A resignation is not qualifying for discontinued service retirement if an employee submits a resignation:
- Based on the belief or possibility that his or her resignation will be requested; or
 - Based solely on personal conviction or choice.
- E. Copy Required** A copy of the request for resignation must accompany the retirement application.

NOTE: File the original on the right side of the OPF/MRPF.

Section 44A2.1-11 Condition: Separation of Presidential Appointees and Immediate Staff

- A. Confidential Relationship** Presidential appointees, and the staff who work closely with them in policy-making or confidential positions or Schedule C subordinate positions, are expected to support Administration objectives and to maintain a confidential relationship with the Administration officials for whom they work. They also generally serve at the will of the appointing official. When the confidential relationship required for continuing in the position ends, the separation of an official in this category is involuntary for retirement purposes.
- B. Resignation Accepted: Presidential Appointee** The separation of a Presidentially appointed policy-making officer, because the President accepted his or her resignation, is involuntary. The resignation is considered involuntary whenever it is submitted and accepted, not just with the advent of a new Administration.
- C. Resignation of Noncareer SES Member or Schedule C Employee** When it is known that a Presidential appointee is leaving, the resignation of a noncareer SES Member or Schedule C excepted Service employee who works for the Presidential appointee is involuntary for retirement purposes.
- D. Documentation** The agency must include with the retirement application a statement that the President accepted the resignation of his appointee, or that the Presidential appointee, for whom a noncareer SES Member or Schedule C employee works, is leaving.
-

Part 44A3 Effect of Discontinued Service Retirement on Benefits**Section 44A3.1-1 Effect of Discontinued Service Retirement on Benefits**

- A. Reduction for Early Retirement** If the retiring employee is under age 55, the annuity rate is reduced by one-sixth of one percent for each full month (two percent a year) if any, he or she is under age 55.
- B. Commencing Date of Annuity** The annuity rate will not increase when the annuitant reaches age 55.
A discontinued service annuity commences on the earlier of the day after separation, or on the day after pay ceases and the applicant meets the age and service requirements for the annuity.
- C. Severance Pay** A separation that meets discontinued service criteria also meets severance pay criteria. The severance benefit payable is based on the employee's age and length of service.
- Note, however, that severance pay is not payable in situations in which the employee is eligible for discontinued service retirement. (See 5 CFR 990 on pay).
- D. Effect on Appeals of Removals** An employee can retire after having received a decision of removal. Under precedent decisions by the Merit Systems Protection Board, an employee can retire or file an application to retire without prejudice to his or her appeal rights after a decision to remove is received. For further information, employees should contact agency personnel who handle adverse actions.
-

Part 44A4 Required Documentation**Section 44A4.1-1 Documentation in Advance Advisory Opinions of Eligibility Requests**

- A. General** The final responsibility for determining whether a separation is involuntary for discontinued service retirement purposes rests with OPM.
- B. Advisory Opinion From OPM** When doubt exists about whether a proposed action would qualify for a discontinued service retirement, the employing agency may request an advance advisory opinion from OPM.
- OPM will review all the information the agency provides. Whether a separation is determined to be involuntary depends upon all the facts in a particular case: it is the true substance of the action that governs rather than the procedures followed or the terminology used.
- The request must be made by the agency headquarters Retirement Counselor at least 30 to 45 days prior to the effective date of the employee's proposed separation from service.
- C. Transmittal Letter: Contents** The letter from the agency must contain a factual narrative of the situation, including:
- The affected employee's name, date of birth, position title, grade, and duty location; and
 - Copies of the general or specific notice issued to the employee and any other written letters or memoranda between the agency and the employee that refer to the action.
 - The agency's assessment of whether the proposed action meets the legal criteria for discontinued service retirement.
- Where applicable, the letter must also include:
- Copies of old and new position descriptions;
 - Old and new organizational charts; and
 - Any other documentation the agency has relied on in taking the action.

Section 44A4.1-1 Documentation in Advance Advisory Opinions of Eligibility Requests (Cont.)

D. OPM Address Send the request to:

**Office of Personnel Management
Agency Services Division
P. O. Box 57
Washington, DC 20044**

or deliver to:

**Office of Personnel Management
Room 4351
1900 E Street, NW.
Washington, DC 20415-0001**

Label the outside of the envelope and the heading to the letter
"Discontinued Service Retirement."

E. Note Do not submit the employee's application for retirement at this point.

Section 44A4.1-2 Documentation Where Advance Advisory Opinion of Eligibility Unnecessary

A. General

In all cases where an involuntary separation has occurred and the employee meets the age and service requirements for discontinued service retirement, the employing agency must follow the procedures described in Chapter 40, Planning and Applying for Retirement.

B. Standard Forms

The forms necessary to apply for optional voluntary retirement must be submitted to OPM. (See Chapter 41, Voluntary Retirement Based on Age and Service, section 41A4.1-1).

C. Additional Documentation

The following documentation must also be included in the submission:

- A copy of the written notice to the employee that he or she faces involuntary separation from his or her position as of some specific date;
 - A copy of any correspondence received from OPM regarding the matter of the employee's separation, including a copy of OPM's approval of general notice (see section 44A2.1-1); and
 - **OPM Form 1510**, in which the agency certifies that a reasonable offer of another position was **not** made to the employee. OPM Form 1510 may be reproduced locally from the facsimile in subchapter 44C.
-

Part 44A5 Advice to Employee**Section 44A5.1-1 Advice to Employee**

- A. General** The agency must assist employees in completing their retirement applications. See Chapter 40. In addition to the information in Chapter 40, the following information is to be provided to employees.
- B. Reduction for Early Retirement** The agency should explain to an employee retiring under the age of 55 that the annuity rate is reduced by one-sixth of one percent for each full month (2 percent a year) if any, he or she is under age 55.
- The annuity rate will not increase when the annuitant reaches age 55.
- C. Alternative Annuity Election** Non-disability retirees who have a life-threatening affliction or other critical medical condition currently listed in 5 CFR 831.2207 may elect the alternative annuity. See Chapter 53, Alternative Annuity Elections, for more detailed information.

BLANK PAGE

Subchapter 44B FERS
Part 44B1 General Information

Section 44B1.1-1 Overview

A. Introduction Subchapter 44B contains the rules and policies that apply to discontinued service retirement under the Federal Employees Retirement System (FERS).

This subchapter explains how FERS differs from CSRS. It refers readers to the CSRS rule that applies or gives the FERS rule if it is different.

B. Organization of Subchapter The FERS subchapter has three parts.

Part	Name of Part	Page
44B1	General Information	30
44B2	Effect of Discontinued Service Retirement on Benefits	33
44B3	Advice to Employee	34

C. Applicable CSRS Provisions The following section and parts of subchapter 44A apply entirely to FERS employees:

- Section 44A1.1-2: Definitions
- Part 44A2: Conditions for Involuntary Separation
- Part 44A4: Required Documentation

D. Statement of Authority This subchapter is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8414(b)
 - Code of Federal Regulations: 5 CFR 842.206 and 842.211
-

Section 44B1.1-2 Employee Eligibility Requirements

A. General

An employee under FERS who is involuntarily separated is eligible for a discontinued service annuity if all of the following conditions are met:

- Age and service requirements;
- Minimum civilian service requirement;
- Separation from a position subject to FERS coverage; and
- "Reasonable offer" requirement.

NOTE: There is no "1-out-of-2" requirement under FERS as there is under CSRS. Thus, an employee who elects to transfer to FERS does not have to be under FERS for 1 year to be eligible to retire. It is possible for an employee's separation for retirement to occur on the same day (but not before) the FERS election becomes effective, provided that the employee meets the other requirements.

B. Note: Minimum Age and Service

Under FERS, post-1956 military service cannot be used unless the employee makes the military deposit before retirement.

C. Minimum Civilian Service

An employee must have at least 5 years of creditable civilian service to be eligible for a discontinued service annuity.

Creditable civilian service for this purpose includes:

- Service for which full FERS deductions are made and not refunded;
- Nondeduction service (that is, temporary or intermittent service) performed prior to January 1, 1989, if a deposit for such service is made or deemed made under the alternative annuity provisions;
- Service for which full Social Security taxes and full or reduced CSRS deductions were taken (if the CSRS deductions were not refunded); and,

For individuals eligible for a CSRS annuity component:

- Nondeduction CSRS service (that is, temporary or intermittent service) whether or not a deposit for such service is made or deemed made under the alternative annuity provisions;

Section 44B1.1-2 Employee Eligibility Requirements (Cont.)

- C. Minimum Civilian Service (Cont.)**
- Service for which full CSRS deductions were taken (even if CSRS deductions were refunded and not redeposited).

NOTE: See Chapter 20 for a full description of creditable service.

- D. Noncreditable Civilian Service**
- The following types of service performed under FERS may not be used in meeting the 5-year minimum service requirement:

- Service performed under FERS for which a refund of FERS deductions was taken;
- Service subject to FERS computation rules for which a refund was made after FERS coverage began; and
- Nondeduction service (that is, temporary or intermittent service) performed on or after January 1, 1989.

- E. Separation From Covered Position**
- The employee must be separated from a position covered by retirement deductions.

- F. Loss of Military Rank or Membership**
- Under FERS, loss of military rank or membership may result in an involuntary separation for military reserve technicians.

- G. Applicable CSRS Provisions**
- The age and service requirements (except as noted in paragraph B above) and the reasonable offer requirement explained in CSRS section 44A1.1-3 apply entirely under FERS.
-

Part 44B2 Effect of Discontinued Service Retirement on Benefits**Section 44B2.1-1 Effect of Discontinued Service Retirement on Benefits**

- A. Reduction for Early Retirement** There is **no** annuity reduction in FERS for employees who retire on a discontinued service annuity under the age of 55.
- Transferees with a CSRS annuity component:**
- If the retiring employee is under age 55, the CSRS portion of the annuity is reduced by one-sixth of one percent for each full month (two percent a year) if any, he or she is under age 55. The annuity rate on this portion of the benefit will not increase when the annuitant reaches age 55. No reduction will be applied to the FERS portion of a transferee's annuity.
- B. Retiree Annuity Supplement** In general, a retiree annuity supplement is payable to an employee retiring with a discontinued service annuity when he or she reaches the Minimum Retirement Age (MRA).
- For rules regarding eligibility for and payment of the retiree annuity supplement, see Chapter 51, Retiree Annuity Supplement.
- For rules regarding the applicability of the MRA, see Chapter 41.
- C. Commencing Date of Annuity** A discontinued service annuity commences on the day after separation. (See 5 CFR 846.206(d)).
-

Part 44B3 Advice to Employee

Section 44B3.1-1 Advice to Employee

A. Applicable CSRS Provisions The advice provisions in CSRS section 44A5.1-1, with one exception, apply entirely under FERS. The exception is noted below.

B. Reduction for Early Retirement The agency should explain to the employee that there is **no** annuity reduction in FERS for employees who retire on a discontinued service annuity under the age of 55.

Transferees with a CSRS annuity component:

If the retiring employee is under age 55, the CSRS portion of the annuity is reduced by one-sixth of one percent for each full month (two percent a year), if any, he or she is under age 55. The annuity rate on this portion of the benefit will not increase when the annuitant reaches age 55. No reduction will be applied to the FERS portion of a transferee's annuity.

BLANK PAGE

Subchapter C Job Aids**Section 44C1.1-1 Copies of Job Aids**

Job Aid	Description
<ul style="list-style-type: none">• Sample Specific Written Notice	This job aid illustrates the points a specific notice needs to contain to establish eligibility for a discontinued service retirement.
<ul style="list-style-type: none">• Certification of Agency Offer of Position and Required Documentation (OPM Form 1510)	This aid provides a copy of OPM Form 1510 for agencies to reproduce locally.

Blank

Section 44C1.1-1 Job Aid**SAMPLE: SPECIFIC WRITTEN NOTICE****DATE:**

FROM: (NAME)

TO: (NAME)

SUBJECT: Eligibility for discontinued service retirement based on position abolishment

REFERENCE: (a) CSRS and FERS Handbook for Personnel and Payroll Offices

1. The duties of your position are being combined with those of Personnel Specialist, GS-201/12 to better utilize resources. Your position will be abolished no later than (date) as a result of this action.
2. We do not know at this time how the abolishment of your position will affect you other than that you will no longer occupy your present position and may be separated from the service. Official retention registers will be used to determine your assignment rights in accordance with reduction-in-force procedures, and you will receive specific advance notice at least sixty days prior to the effective date of the personnel action to be taken. We are advising you of the abolishment of your position now to assist you in your personal planning.
3. Your records show that you meet the age and service requirements for discontinued service retirement as explained in reference (a). Because of the abolishment of your position, you are eligible to apply for discontinued service retirement. If you are interested in further information on this subject, please contact (name), Personnel Staffing Specialist, at (phone number).
4. Please be assured that you are under no obligation or pressure to apply for discontinued service retirement. This is not a reduction-in-force notice; rather, as noted above, it is advance information provided to you for personal planning purposes.
5. If you qualify for and are offered a position within the commuting area that is not lower than two grades below that of your current position, you will no longer be eligible to apply for discontinued service retirement.

Blank

Instructions to Agency Personnel		
Complete this certification whenever an employee is being separated for discontinued service retirement. Attach the completed form to the employee's application for retirement. If a properly completed certification does not accompany an employee's retirement application, OPM will not authorize any annuity payments, including interim payments, until the certification is received, unless the employee is also eligible for retirement based on his or her age and service. A job offer is a "reasonable offer" if all of the following conditions are met.		
1. The agency offer of the position must be in writing.	4. The offered position must be within the employee's commuting area, unless the employee is under a geographic mobility agreement.	
2. The employee must meet established qualification requirements for the position.	5. The offered position must be of the same tenure as the current position.	
3. The offered position must be in the employee's agency, including an agency to which the employee is transferred with his/her function in a transfer of function between agencies.	6. The offered position must not be lower than the equivalent of two grade/pay levels below the employee's current grade or pay level.	
Certification		
1. Applicant's name <i>(last, first, middle)</i>	2. Date of birth <i>(month, day, year)</i>	3. Social Security Number
4. Is the employee in the Senior Executive Service? <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div> <div> Yes → If "Yes", is the discontinued service retirement eligibility based on: <input type="checkbox"/> Failure to be recertified? <input type="checkbox"/> Less than fully successful performance? <input type="checkbox"/> Other <i>(explain)</i> </div> </div>		
5. Was the employee given a written offer of a position in your agency (or in another agency to which his or her function was transferred in a transfer of function between agencies)? <input type="checkbox"/> Yes: Also complete items 6-13 below. <input type="checkbox"/> No: Skip to Agency Certification, items 14-18.		
6. Give employee's current job title, classification series and grade.	7. Give the offered position's job title, classification series and grade.	
8. The offered position was <i>(check the appropriate box)</i> : <input type="checkbox"/> Within the commuting area <input type="checkbox"/> Outside the commuting area	9. Was a geographic mobility agreement in effect for the employee? <input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Was the offered position of the same work schedule <i>(full-time for full-time employee; part time of at least the same number of hours for part-time employee, etc.)</i> ? <input type="checkbox"/> Yes <input type="checkbox"/> No	11. Was the offered position of the same tenure, i.e. in the same service <i>(competitive, excepted, or Senior Executive Service)</i> and of the same type <i>(career, permanent, indefinite, etc.)</i> ? <input type="checkbox"/> Yes <input type="checkbox"/> No	
12. Does the employee meet the X-118 or equivalent qualifications of the offered position? <input type="checkbox"/> Yes <input type="checkbox"/> No	13. Was the grade or pay level of the offered position within two grades or pay levels of the employee's position? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Agency Certification		
I certify that the above information accurately describes the agency's offer of position to the applicant, if such offer was made, and that documentation required in Chapter 44 of CSRS and FERS Handbook for Personnel and Payroll Offices is attached.		
14. Signature of responsible agency personnel officer	15. Telephone number	16. Date
17. Typed name and title of responsible agency personnel officer	18. Name and mailing address of agency	

