

REEMPLOYMENT OF ANNUITANTS

Frequently Asked Questions

ST-007

December 3, 2004

For additional information call: 703-696-6301, Team 4; Staffing Advisory 3, DSN 426-6301

Q1. What statute granted the Department of Defense (DoD) the authority to hire newly appointed annuitants without reduction in pay?

A1. Section 9902(j) of title 5, United States Code (U.S.C.), as enacted by Section 1101 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2004, Public Law 108-136. This statute requires annuitants employed in a position within the Department of Defense on or after November 24, 2003, to receive their full salary and full annuity.

Q2. Who are considered annuitants under the DoD policy for Reemployed Annuitants dated March 18, 2004?

A2. The following are considered annuitants as defined by 9902(j) and are covered by the policy: (1) a retired Federal employee receiving an annuity from the Civil Service Retirement and Disability Fund (i.e., the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS)); or (2) a retired NAF employee who elected to remain in CSRS or FERS and is receiving an annuity from the Civil Service Retirement and Disability Fund.

Q3. Who are not considered annuitants under the DoD policy?

A3. The following individuals are not considered annuitants as defined by 9902(j) and are not subject to the policy: (1) an individual whose annuity is terminated at the time of reemployment in accordance with 5 U.S.C. 8337(d) and 8455 (i.e., a disability annuitant whose annuity is terminated because of recovery or restoration of earning capacity); (2) a NAF retiree receiving a NAF annuity; (3) a retired Federal employee receiving a NAF annuity; or, (4) a retiree receiving an annuity from a retirement system not covered under the Civil Service Retirement and Disability Fund.

Q4. What are the criteria for appointing annuitants under the DoD policy?

A4. An organization may appoint annuitants (1) to fill hard-to-fill or critical positions; (2) to complete a specific project or initiative; (3) who have unique or specialized skills and/or unusual qualifications; or, (4) to mentor less experienced employees and/or to provide continuity during organizational transitions. The employment of annuitants who are hired to mentor or provide continuity during transitions is limited to a total of one year full-time (or two years part-time).

Q5. What is the definition of “appointment” under the DoD policy?

A5. The term, “appointment” includes any personnel action that brings an individual onto the rolls of DoD (e.g., appointment, conversion to a new appointment, transfer from another Federal agency).

Q6. Is the DoD policy applicable to overseas positions?

A6. Yes. The policy applies to all appropriated fund positions worldwide. This includes competitive and excepted service positions in the continental United States as well as those located in overseas locations.

Q7. Do Section 9902(j) and the policy apply to annuitants appointed prior to November 24, 2003?

A7. No. The new law and the DoD policy apply only to appointments (as defined above) of annuitants made on or after November 24, 2003.

Q8. Can annuitants hired before November 24, 2003, continue their employment?

A8. Yes. Annuitants may continue to serve in their positions in accordance with the provisions of their appointments.

Q9. Does Section 9902(j) affect the salary of annuitants appointed prior to November 24, 2003, or extended between November 24, 2003, and the effective date of the policy?

A9. No. The provisions of Section 9902(j) apply only to appointments made on or after November 24, 2003.

Q10. Do the policy (e.g., annuitant criteria) and Section 9902(j) apply to annuitants (appointed in the Department of Defense prior to November 24, 2003) who move from one position to another within the Department after November 24, 2003, through voluntary reassignment, promotion, change to lower grade, or transfer between military departments?

A10. No. The policy, including the annuitant criteria, does not apply when annuitants (appointed by the Department of Defense prior to November 24, 2003) move from one position to another within the Department after November 24, 2003, through voluntary reassignment, promotion, change to lower grade, or transfer between military departments. In addition, Section 9902(j) does not apply to annuitants appointed prior to November 24, 2003, who move from one position to another within the Department through voluntary reassignment, promotion, change to lower grade, or transfer between military departments. Annuitants will continue to be subject to the offset.

Q11. Do the policy (e.g., annuitant criteria) and Section 9902(j) apply to annuitants (appointed in the Department of Defense on/after November 24, 2003) who move from one position to another within the Department through voluntary reassignment, promotion, change to lower grade, or transfer between military departments?

A11. Yes. The policy, including the annuitant criteria, must be applied when annuitants (appointed in the Department on/after November 24, 2003) move from one position to another within the Department of Defense through voluntary reassignment, promotion, change to lower grade, or transfer between military departments. The policy, including the annuitant criteria, will not apply to career ladder promotions. The annuitant will continue to be entitled to full salary and annuity as provided by Section 9902(j).

Q12. Can organizations extend appointments made prior to November 24, 2003?

A12. Yes, organizations can extend appointments made prior to November 24, 2003. However, Section 9902(j) will not apply.

Q13. Can organizations extend the overseas tour of a reemployed annuitant appointed prior to November 24, 2003?

A13. Yes. A tour extension is not the same as an extension of an appointment. The provisions of the original appointment will continue to apply.

Q14. Do any personnel actions need to be processed for annuitants appointed on or after November 24, 2003, but before the effective date of the DoD policy?

A14. Corrections of personnel actions are not required for annuitants who are not subject to the salary offset. Corrections are required for annuitants hired on or after November 24, 2003, who were subject to the salary offset. Supporting Human Resources Offices (HROs) are required to take several actions. First, process a correction action citing the second legal authority (i.e., ZLM, Pub.L. 108-136, 9902(j)) to reflect the authority that requires the annuitant to receive full salary and annuity. Second, ensure the correct annuitant indicator is reflected. Third, forward the corrections to Office of Personnel Management (OPM).

Q15. What happens to annuitant appointments made on or after November 24, 2003, but before the effective date of the policy that do not meet the criteria?

A15. Annuitants hired between November 24, 2003, and the effective date of the policy who do not meet the criteria may continue to serve in the position in accordance with the provisions of their appointment. The annuitant serves at the will of the appointing officer.

Q16. Does the DoD policy apply to the appointment of annuitants in non-appropriated fund (NAF) positions?

A16. No. The DoD policy applies only to annuitants employed in appropriated fund positions. Questions on the hiring of annuitants in NAF positions should be addressed to the NAF office at 703-696-3310 or DSN 426-3310.

Q17. Can an organization fill a position that does not meet the DoD-established criteria by appointment or conversion to new appointment if the annuitant is willing to be subject to the offset?

A17. No, because the statutory provision requiring payment of both salary and annuity is mandatory.

Q18. Are organizations required to include in their vacancy announcements a statement notifying annuitants of the DoD policy for employing annuitants?

A18. Yes. An organization must include a statement notifying annuitants that the selection of an annuitant is subject to the DoD policy on the employment of annuitants. Whenever possible, organizations should provide a website where the policy can be found.

Q19. Can an annuitant be appointed in the same organization and in the same (or substantially similar) position held prior to retirement?

A19. Yes, with appropriate approval, if the appointment is consistent with the DoD policy. For executive level positions, the Secretary of the Military Department, Head of Defense agency or DoD Field Activity is the approving official. For positions at the GS-15 and below (or equivalent) level, approval is required from the next higher level manager or supervisor. The approving official must certify that the appointment of the annuitant meets the DoD criteria. Also, if the time between retirement and reemployment is less than 90 days, there must be evidence that other retention options (e.g., retention allowance, flexible work schedule, telework) were considered and offered before the employee retired.

Q20. Is written documentation of annuitant appointments required?

A20. Yes. Organizations must maintain written documentation of the criteria used for each appointment as well as approval/certification from higher authority (if required). The documentation must be retained for two years after employment of the annuitant is terminated.

Q21. What is meant by “indefinite basis” or “indefinite appointment” as used in the DoD policy?

A21. The terms “indefinite basis” or “indefinite appointment” include any appointment made without time limitation (e.g., career appointment based on reinstatement). The annuitant will serve at the will of the appointing officer.

Q22. How is an action processed for the appointment of annuitants?

A22. The supporting HRO will make appointments of annuitants in accordance with the provisions of the particular type of action being taken (e.g., reinstatement, temporary appointment based on reinstatement) as specified in the OPM Guide to Processing Personnel Actions. The action shall cite a second legal authority (i.e., ZLM, Pub.L. 108-136, 9902(j)) to reflect the authority that allows the annuitant to receive full salary and annuity, annotate the appropriate annuity indicator (e.g., G or 6), and include a remark that the annuitant serves at the will of the appointing officer.

Q23. Is notification to OPM still required?

A23. Yes. OPM notification is required for appropriate processing of the annuitant's benefits resulting from reemployment. The supporting HRO will apply normal notification procedures (Chapter 100, of the CSRS and FERS Handbook). A copy of the "Notification of Reemployment of an Annuitant" and a copy of the Standard Form 50, "Notification of Personnel Action" is forwarded to OPM.

Q24. Are annuitants hired under the DoD policy eligible for leave accrual?

A24. Yes. Annuitants are eligible for accrual of sick and annual leave if the appointment is 90 days or more.

Q25. What is the leave accrual rate for annuitants?

A25. The accrual rate is the same rate as when the employee retired.

Q26. Are annuitants hired under the provisions of 5 U.S.C. 9902(j) subject to the lump-sum refund rules at 5 Code of Federal Regulations (CFR) if reemployed before the end of the lump-sum leave period?

A26. Yes. Under 5 U.S.C. 6306, when an individual receives a lump-sum payment for annual leave under 5 U.S.C. 5551 and re-enters Federal service prior to the end of the projected period covered by the lump-sum payment, the employee must refund an amount equal to the payment covering the period between the date of reemployment and the expiration of the lump-sum period. The employee will receive credit for the corresponding amount of annual leave in his leave account. Leave previously restored under 5 U.S.C. 6304(d) that was included in the lump-sum payment is not subject to recovery. Any restored leave must be subtracted from the lump-sum leave period before calculating the refund.

Q27. Can a lump-sum payment for annual leave be repaid in installments?

A27. Yes, an employee may pay a lump-sum refund in installments providing it is paid in full within 1 year after the date of reemployment.

Q28. What are the benefits and entitlements of annuitants hired under the DoD policy?

A28. A synopsis of the benefits is provided in the table below. The benefits apply to annuitants covered under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). This information is for general purposes only. Specific questions should be addressed with the appropriate Human Resources benefits office.

Benefits	Appointment Type		
	Temporary	TERM	Permanent
Retirement Contributions	Ineligible	Ineligible	
Social Security	Social Security contributions withheld		
	Employees under age 65 will be subject to Social Security earnings test (Social Security may be offset by excess earnings)		
FEHB	Ineligible*	May enroll or elect to transfer enrollment from OPM for Premium Conversion purposes	
FEGLI	Ineligible*	May elect to enroll if not enrolled	
		May elect coverage as an annuitant or an employee	
TSP	Ineligible		
Eligibility for Supplemental or Re-determined Annuity	Not creditable for a supplemental or re-determined annuity		
Survivor Benefits	Does not establish or increase survivor benefit entitlement		

*Except when the retiree is reemployed after a break in service of less than 4 calendar days