



Department of Defense INSTRUCTION

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USD(P&R)

SUBJECT: DoD Civilian Personnel Management System: Civilian Firefighters and Law Enforcement Officers

References: (a) Sections 3307(d), 3307(e), 8334(a), 8335(b), 8335(e), 8336(c), 8339(d), 8412(d), 8415(d), 8422(a), 8423(a), and 8425(b) of title 5, United States Code
(b) Parts 831.902 and 842.802 of title 5, Code of Federal Regulations

1. PURPOSE

a. Instruction. This Instruction is composed of several volumes, each containing its own purpose. The purpose of the overall Instruction is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the Department of Defense.

b. Volume. This Volume of this Instruction:

(1) Delegates authority and prescribes procedures regarding the employment of civilian firefighters and law enforcement officers in the Department of Defense.

(2) Sets the maximum entry age for selected firefighter and law enforcement officer positions and establishes procedures to be used in the waiver process.

(3) Delegates the authority to approve waivers of the entry age.

(4) Defines procedures to be used in mandatory separation situations and describes enhanced retirement benefits.

2. APPLICABILITY. This Volume applies to covered civilian firefighter and law enforcement positions in the Department of Defense.

3. DEFINITIONS

a. covered position. A position that has been identified by a DoD Component and approved by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) as a primary, rigorous, or secondary position for special retirement coverage in accordance with Volume 830 of this Instruction for employees covered by the Civil Service Retirement System (CSRS) and Volume 840 of this Instruction for employees covered by the Federal Employees Retirement System (FERS).

b. covered service. The time an employee spends working in a covered primary or rigorous position. This service is creditable for meeting the requirement for immediate retirement under the special retirement provisions for firefighters and law enforcement officers in section 8336(c), for CSRS, and section 8412(d), for FERS, of title 5, United States Code (Reference (a)).

c. original entry. An individual's first appointment in the Department of Defense to a covered primary or rigorous firefighter or law enforcement officer position.

d. primary, rigorous, and secondary positions. Defined in part 831.902, for employees covered by CSRS, and part 842.802, for employees covered by FERS, of title 5, Code of Federal Regulations (Reference (b)).

4. POLICY. It is DoD policy in accordance with sections 3307(d) and 3307(e) of Reference (a) to set a maximum age for original entry of qualified applicants into covered primary or rigorous civilian firefighter and law enforcement officer positions.

5. RESPONSIBILITIES. The Heads of the DoD Components shall:

a. Ensure that the guidelines in this Volume are followed.

b. Issue implementing guidance and procedures as appropriate.

c. Verify that position coverage determinations have been made by the proper authority (the USD(P&R)) prior to filling the vacant position.

d. Hire only those individuals as firefighters and law enforcement officers who meet all applicable qualifications including DoD firefighter certification requirements.

e. Document all exceptions to the maximum entry age and mandatory separation provisions in accordance with this Volume. Record all such exceptions in the official personnel folder (OPF) of the appointee.

f. Maintain documentation reflecting approval of position coverage in the employee's OPF.

6. PROCEDURES. See Enclosure.

7. RELEASABILITY. UNLIMITED. This Volume is approved for public release. Copies may be obtained through the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Volume is effective immediately.

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ENCLOSURE

PROCEDURES

1. POSITION COVERAGE DETERMINATIONS. Position coverage determinations must be made pursuant to the procedures established in Volumes 830 and 840 of this Instruction.

2. MAXIMUM ENTRY AGE

a. Firefighter Positions. The maximum entry age for covered primary firefighter positions is 37. Persons not appointed by the last day of the month in which they become age 37 shall not be originally appointed or assigned to these positions.

b. Law Enforcement Officer Positions. The maximum entry age for covered primary law enforcement officer positions is 37. Persons not appointed by the last day of the month in which they become age 37 shall not be originally appointed or assigned to these positions.

c. Reentry into a Covered Position

(1) Individuals who are past the maximum entry age limit (37 for firefighters and law enforcement officers) but who previously served in a covered primary position may be reinstated to a covered primary position if they:

(a) Meet the applicable qualification requirements for the position and;

(b) Will be able to complete a total of 20 years of covered service as a firefighter or law enforcement officer by the last day of the month in which they become age 37.

(2) Examples are:

(a) An individual receives his or her original appointment to a covered primary position under CSRS at age 25. After working in a primary firefighter position for 8 years, the employee resigns to work in the private sector. Now, at age 39, the individual applies for a primary firefighter position. A firefighter must have 20 years of covered service by the last day of the month in which he or she becomes age 57. The applicant has 8 years of covered service, so he or she would have to serve 12 more years in a covered primary position to reach 20 years of covered service. Since the applicant needs to complete 20 years of service before the last day of the month in which he or she becomes age 57, subtract 12 from 57 to arrive at the maximum reentry age of 45. Therefore, at the age of 39, the applicant has not exceeded the maximum reentry age standard and can be reemployed into the covered primary position.

(b) An individual receives his or her original appointment to a covered primary position under CSRS at age 28. After working in the primary law enforcement officer position for 3 years, the employee resigns to work in the private sector. At age 34, the individual is

reemployed in Federal civilian service to a rigorous law enforcement officer position covered under FERS. After 5 years, the employee again resigns to work in the private sector and takes a refund of his or her FERS retirement contributions. Now at age 42, the individual is applying for another rigorous law enforcement officer position. Law enforcement officers must have 20 years of covered service before the last day of the month in which they become age 57. The individual's 3 years of covered service under CSRS can be used to meet the reentry age standard. However, because the individual received a refund for 5 years of service in the FERS rigorous position, the FERS refunded service is not creditable for retirement and is not covered service for computing the individual's reentry age. Since the applicant has only 3 years of covered service, he or she will need 17 more years to reach 20 years of covered service by age 57. Subtract 17 from 57 to arrive at the maximum reentry age of 40. The applicant is 42. This exceeds his or her maximum reentry age of 40. Therefore, this applicant cannot be rehired into a primary position without an age waiver.

3. EXCEPTION TO THE MAXIMUM ENTRY AGE. The Head of a DoD Component may approve the original entry of an individual who has passed the entry age limits set forth in paragraphs 2.a. and 2.b. of this enclosure. Age waivers are not required for entry into a covered secondary firefighter or law enforcement officer position.

a. Such an exception shall be extremely rare and based only on a compelling hardship to the DoD Component mission, i.e., made only to overcome a recruitment shortage.

b. Each exception shall be in writing and signed by the Head of the DoD Component. This authority may not be re-delegated.

c. A copy of the approved exception shall be filed in the OPF of the person concerned.

d. Employees in this category who are not otherwise eligible for immediate retirement may remain employed in covered positions until they meet the immediate retirement requirements of section 8336(c) for CSRS employees and section 8412(d) for FERS employees (Reference (a)), provided they continue to meet the physical requirements for these positions.

4. MANDATORY SEPARATION

a. Firefighters. Pursuant to section 8335(b) for CSRS employees and section 8425(b) for FERS employees (Reference (a)), a firefighter who is otherwise eligible for immediate retirement pursuant to section 8336(c) for CSRS employees and section 8412(d) for FERS employees (Reference (a)) must be separated from the Federal service on the last day of the month in which he or she becomes 57 years of age unless he or she has not yet completed 20 years of service. In that case, the employee shall be separated on the last day of the month in which he or she completes 20 years of service.

b. Law Enforcement Officers. Pursuant to section 8335(b) for CSRS employees and section 8425(b) for FERS employees (Reference (a)), a law enforcement officer who is otherwise

eligible for immediate retirement pursuant to section 8336(c) for CSRS employees and section 8412(d) for FERS employees (Reference (a)) shall be separated from the Federal service on the last day of the month in which he or she becomes 57 years of age unless he or she has not yet completed 20 years of service. In that case, the employee shall be separated on the last day of the month in which he or she completes 20 years of service.

c. Notification Requirements. Employing offices are responsible for notifying covered employees in writing of the date of separation at least 60 days before that date. Notwithstanding paragraphs 4.a. and 4.b. of this enclosure, action to separate such an employee shall not be effective until the last day of the month in which the 60-day notice expires, unless the employee consents to an earlier date.

d. Exceptions

(1) The Head of a DoD Component may exempt a firefighter or law enforcement officer from automatic separation until the employee becomes 60 years of age if, in the judgment of the Head of the DoD Component, the public interest so requires. This authority may not be redelegated.

(2) Pursuant to section 8335(e) for CSRS employees and section 8425(d) for FERS employees (Reference (a)), the President of the United States, by Executive order, may exempt an employee from automatic separation if the President determines the public interest so requires.

5. ENHANCED RETIREMENT BENEFITS. Special retirement coverage allows an enhanced annuity formula and reduced age and service requirements for retirement for positions in certain occupations.

a. CSRS Coverage. Pursuant to section 8336(c) of Reference (a), an employee, after becoming 50 years of age and completing 20 years of service as a firefighter or law enforcement officer, or any combination of such service totaling at least 20 years, is entitled to a special annuity computation as provided by section 8339(d) of Reference (a). Percentages of basic pay for withholding and contributions are described in section 8334(a) of Reference (a).

b. FERS Coverage. Pursuant to section 8412(d) of Reference (a), an employee is entitled to a special annuity computation as provided by section 8415(d) of Reference (a):

(1) After completing 25 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 25 years; or

(2) After becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 20 years. Percentages of basic pay for withholding and contributions are described in sections 8422(a)(2)(B) and 8423(a)(1)(B) of Reference (a).