



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, D.C. 20301-4000

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PERSONNEL AND  
READINESS

MEMORANDUM FOR HUMAN RESOURCES DIRECTORS

SUBJECT: National Defense Authorization Act – Employee Benefit Changes

The purpose of this memorandum is to provide information on new changes to the Federal Retirement Program. On October 28, 2009, the National Defense Authorization Act (NDAA) for Fiscal Year 2010, Public Law 111-84 was signed into law. This law contained several changes to the Federal Retirement Program that are of great importance to Department of Defense employees.

Since NDAA 2010 changes are of particular importance to the Department of Defense workforce, please communicate this information to your employees. The attached document details the applicable section of law and guidance issued by the Office of Personnel Management. Employees with specific questions should be directed to their servicing Human Resource Office for assistance.

  
Marilee Fitzgerald

Acting Deputy Under Secretary of Defense  
(Civilian Personnel Policy)

Attachments  
As stated

## EMPLOYEE HANDOUT

### National Defense Authorization Act Fiscal Year 2010

#### Benefit Changes

**PURPOSE:** This handout is intended to provide Department of Defense (DOD) employees with specific information concerning the recent benefits changes to the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) as a result of the National Defense Authorization Act (NDAA) for Fiscal Year 2010. These changes will directly impact the retirement benefits of many DoD employees.

**BACKGROUND:** The "National Defense Authorization Act for Fiscal Year 2010", Public Law 111-84 was signed into law by President Barack Obama on October 28, 2009. This bill contained landmark changes to both the CSRS and FERS retirement systems.

**PROVISIONS:** The key provisions of NDAA 2010 that affect retirement benefits are contained in Sections 1901 through 1905 and Section 1911-1919. A brief synopsis of these sections and the impact to DoD employees is provided below.

#### **Section 1901 – Credit For Unused Sick Leave Under FERS**

Prior to the implementation of this bill, only Federal employees covered by CSRS obtain service credit for unused sick leave. This section of the bill permits unused sick leave to be applied as service credit in the computation of retirement annuity benefits under FERS in the same manner that it is used in CSRS computations. It cannot be used to establish eligibility for an annuity or in computation of the average salary.

#### **Employee Impact:**

Effective October 28, 2009, individuals separating with eligibility to an immediate annuity or who die leaving a survivor eligible for a survivor annuity will be entitled to credit for 50 percent of their unused sick leave. DoD employee separations and deaths occurring on or after January 1, 2014, will be permitted to use 100 percent of the unused sick leave in the retirement annuity or survivor annuity calculations.

### **Section 1902 – Limited Expansion Of The Class Of Individuals Eligible To Receive An Actuarially Reduced Annuity Under The CSRS**

Section 1902 extends the service period from October 1, 1990 to March 1, 1991, in which employees who received refunds of retirement deductions can choose not to make a redeposit but still receive credit for that period of service. Those opting not to redeposit the retirement deductions will receive credit for both eligibility and annuity computation purposes, but their annuities will be reduced by an actuarial reduction which is based upon the amount of the redeposit and interest due and your age at retirement. Employees with refunded retirement deductions for periods of service after March 1, 1991, only receive credit for eligibility but not for annuity computation purposes unless a redeposit is made for the refunded deductions.

#### **Employee Impact:**

CSRS employees applying for non-disability annuities based on a separation from service occurring on or after October 28, 2009 may opt to make a redeposit for refunds or receive an actuarial reduction for periods of service ending before March 1, 1991.

### **Section 1903 – Computation Of CSRS Annuities Based On Part-Time Service**

Prior to this amendment, two calculations were used to determine the high-three average salary for annuity computation purposes for individuals who were part-time during their final three years of employment. Individuals retiring under CSRS who were employed on a part-time basis during their final three years of service had their annuities computed using both methods. The first was based on the regular high three computation for all the periods in which the employee worked full-time. The second part of the calculation covered the part-time service and was based upon a method to reduce the high-3 annuity calculation to correspond with the actual part-time salary earned. This law provides that for part-time service after April 7, 1996, both full-time and part-service will be calculated in the same manner, using the "deemed high-three" calculation which is based upon the employee's full-time salary rate.

#### **Employee Impact:**

Section 1903 changed the law to permit employees retiring on or after October 28, 2009, with part-time service, to have their annuities calculated

utilizing the full-time equivalent rate of pay for the high-three average salary calculation regardless of when the part-time service was performed.

**Section 1904 – Authority To Deposit Refunds Under FERS**

Since FERS was enacted, the law has provided that individuals who took refunds of their FERS employee contributions irrevocably lost service credit for the period of service covered by the refund. Section 1904 permits individuals who are subsequently reemployed to make a redeposit of the amount refunded, plus interest, and to have credit for the service reinstated.

**Employee Impact:**

FERS employees retiring on or after October 28, 2009, will be given the opportunity to redeposit, with interest, funds that were previously withdrawn from their retirement accounts. Interest for deposits will be based upon the same rules that apply to CSRS.

**Section 1905 – Retirement Credit For Service Of Certain Employees Transferred From District Of Columbia Service To Federal Service**

Section 1905 is a new and unique provision under CSRS and FERS. It affects certain specified service performed in District of Columbia positions that were subsequently brought under Federal benefits, and previously not creditable under CSRS or FERS.

**Employee Impact:**

Employees with qualifying District of Columbia service will be eligible for credit only if they are employed under CSRS or FERS on or after October 28, 2009. Credit for such service will be based upon certification by the appropriate personnel official of the government of the District of Columbia. However, such service will NOT be creditable in the computation of annuity benefits.

**Section 1911-1919 – Non-Foreign Area Retirement Equity Assurance**

Previously, individuals employed in certain non-foreign areas outside of the contiguous 48 states (Alaska, Hawaii, Puerto Rico, and other U.S. territories or possessions) have been eligible for a non-foreign Cost of Living Allowance (COLA) which was not considered base pay for retirement purposes. Employees receiving non-foreign COLA payments were not eligible for locality pay. These provisions permit a phased conversion from non-foreign COLA to locality pay over a three year period beginning in 2010.

**Employee Impact:**

Employees who separate from service from 2010 through 2012 will have the right to elect to have the non-foreign COLA allowances received during that period count towards retirement credit, to the extent that the non-foreign COLA allowances plus any locality pay received do not equal more than the rest of U.S. locality pay.