

Chapter One

Civil Service Retirement and Disability Fund Pensions

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This chapter covers the two main pension systems for civilian employees, the Civil Service Retirement System (CSRS)¹ and the Federal Employees' Retirement System (FERS).² Both CSRS and FERS are technically one pension system and are both funded through the Civil Service Retirement and Disability Fund. This chapter introduces the key elements of these pensions, including calculation of the high-3 salary, minimum retirement ages, refund of employee contributions, special features such as early retirement provisions, and additional payments to which employees may be entitled. The various death benefits associated with the pensions are also introduced.

1.1 Civil Service Retirement System (CSRS)

The Civil Service Retirement System (CSRS) is the older of the two pensions funded through the Civil Service Retirement and Disability Fund. The Civil Service Retirement Act of 1920³ established a pension system for federal employees in the executive branch of government. Until January 1, 1984, all full-time federal government employees were covered by CSRS; as such, CSRS covers employees who entered United States government civil service on or before December 31, 1983. These federal employees were excluded from Social Security participation, coverage, and taxes.

1.1.1 CSRS Pension—How It Works

CSRS participants generally contribute 7 percent of pay to their future pension benefit, unless they fall into a special category described in Section 1.1.4. The employing agency matches the employee's CSRS contributions. CSRS participants may increase their earned annuity by contributing up to an additional 10 percent of the basic pay to a voluntary contribution account.

CSRS participants do not pay taxes into the Social Security system, except for CSRS Offset participants, discussed in Section 1.2. Thus, they are not entitled to Social Security benefits based on their federal employment. CSRS participants do, however, contribute to Medicare tax (1.45 percent of pay as of December 31, 2019).

CSRS participants may also contribute a portion of their pay to the Thrift Savings Plan (TSP); however, there is no government matching contribution, as there is for FERS participants (see Section 9.1).

CSRS participants are generally entitled to receive an annuity for their lifetime (a single-life annuity, known as the "self-only annuity"). The self-only annuity is a percentage of the employee's high-3 average salary. The high-3 average pay is the highest average basic pay earned in any three consecutive years of service. The Office of Personnel Management (OPM) explains the computation of the high-3 as follows:⁴

1. The provisions of law that govern CSRS benefits are found in 5 U.S. Code chapter 83, subchapter III, Civil Service Retirement. The regulations covering both CSRS and FERS benefits are in part 838 of title 5, Code of Federal Regulations.

2. The provisions of law that govern FERS benefits are found in 5 U.S. Code chapter 84.

3. 5 U.S.C. §§ 8331–8351.

4. *Computation*, OFF. OF PERSONNEL MGMT., <https://www.opm.gov/retirement-services/fers-information/computation/> (last visited Nov. 11, 2020).

Your “high-3” average pay is the highest average basic pay you earned during any 3 consecutive years of service. These three years are usually your final three years of service, but can be an earlier period, if your basic pay was higher during that period. Your basic pay is the basic salary you earn for your position. It includes increases to your salary for which retirement deductions are withheld, such as shift rates. It does not include payments for overtime, bonuses, etc. (If your total service was less than 3 years, your average salary was figured by averaging your basic pay during all of your periods of creditable Federal service).

CSRS participants accrue percentage points for each year of creditable service, and the cumulative percentage is multiplied by the high-3 average salary. CSRS participants accrue 1.5 points per year for the first five years, 1.75 points for the second five years, and 2 points per year for all years over ten.

The chart below illustrates the accrual of points for CSRS participants:

Years of Service	Percent of High 3-Year Average Earnings	Years of Service	Percent of High 3-Year Average Earnings	Years of Service	Percent of High 3-Year Average Earnings	Years of Service	Percent of High 3-Year Average Earnings
5	7.50%	15	26.25%	25	46.25%	35	66.25%
6	9.25%	16	28.25%	26	48.25%	36	68.25%
7	11.00%	17	30.25%	27	50.25%	37	70.25%
8	12.75%	18	32.35%	28	52.25%	38	72.25%
9	14.50%	19	34.25%	29	54.25%	39	74.25%
10	16.25%	20	36.25%	30	56.25%	40	76.25%
11	18.25%	21	38.25%	31	58.25%	41	78.25%
12	20.25%	22	40.25%	32	60.25%	42	80.00%
13	22.25%	23	42.25%	33	62.25%	43	80.00%
14	24.25%	24	44.25%	34	64.25%		

If the employee’s high-3 average pay had been \$50,000 and the employee had 20 years of service, the math would work out as follows:

$$\$50,000 \times .015 = \$750 \times 5 \text{ years} = \$3,750$$

$$\$50,000 \times .0175 = \$875 \times 5 \text{ years} = \$4,375$$

$$\$50,000 \times .02 = \$1,000 \times 10 \text{ years} = \$10,000$$

The employee’s annual self-only annuity would be \$18,125.⁵

5. OPM PUBL’N: INFORMATION FOR DISABILITY ANNUITANTS, RI 30-13 (rev. May 2009).

A CSRS participant is vested in the CSRS basic retirement annuity after five years of service. Participants with less than five years of service who separated from service without entitlement to an immediate pension could leave their money in the retirement fund and apply for a deferred annuity if they are reemployed and later meet the age and service requirements, or they could take a refund of employee contributions.

The maximum pension benefit a participant in CSRS can receive is 80 percent of his or her high-3 average pay plus credit for the participant's unused sick leave. This limit generally affects only those who have more than 41 years of service when they retire.

Under CSRS, a participant can retire with full, unreduced benefits under the following conditions: with at least 30 years of service at age 55; with at least 20 years of service at age 60; and with five or more years of service at age 62.⁶

CSRS has various components over which federal law permits the state court at divorce to exercise authority: the employee annuity (paid during the lifetime of the employee), the survivor annuity, cost-of-living adjustments (COLAs), and the refund of employee contributions. For how to divide each of these elements at divorce, see Chapter 2 and Section 5.1.

1.1.2 CSRS Eligibility for Retirement

For CSRS participants, eligibility for retirement is determined with reference to the minimum retirement age (MRA), a combination of the age and years of service of the employee and the type of position. A summary is provided in the following table:

CSRS—Regular	Age	Years of Service
	62	5
	60	20
	55	30
CSRS Special/Early Optional Requirements: The agency must be undergoing a major reorganization, reduction in force, or transfer of function determined by the OPM. The annuity is reduced if the employee is under age 55.	50	20
	Any Age	25
CSRS Special Requirements: For air traffic controllers or law enforcement and firefighter personnel, nuclear materials couriers, Supreme Court Police, and Capitol Police.	50	20
	Any Age (air traffic controllers)	25
CSRS Discontinued Service: Separation is involuntary and not a removal for misconduct or delinquency.	50	20
	Any Age	25
CSRS Disability: Disabled for useful and efficient service in current position and any other vacant position at the same grade or pay level within commuting area and current agency for which employee is qualified. Must have been disabled prior to retirement, and the disability should be expected to last for more than one year.	Any Age	5

6. KATELIN P. ISAACS, CONG. RESEARCH SERV., FEDERAL EMPLOYEES' RETIREMENT SYSTEM: BENEFITS & FINANCING (2015).

1.1.3 CSRS Voluntary Contribution Account and Excess Deductions

An employee covered by the CSRS or the CSRS Offset provisions has the option to establish a Voluntary Contribution Account to purchase additional annuity benefits.⁷ The employee may withdraw such voluntary contributions at any time, with interest, before starting to receive the annuity.⁸

A CSRS participant may not receive a pension that exceeds 80 percent of his or her high-3 average salary. When such an employee reaches the years of service that will qualify him or her for a pension that would exceed the 80 percent maximum, his or her retirement deductions thereafter are Excess Deductions. At the retirement or death of the employee, the Excess Deductions are treated in the same way as voluntary contributions.⁹

1.1.4 CSRS Special, Also Known as 6(c) Retirement

Certain employees receive enhanced retirement benefits under CSRS, referred to as “6(c) Retirement”¹⁰ or “CSRS Special.” CSRS Special participants are law enforcement officers, firefighters, nuclear materials couriers, or customs and border protection officers. Employees in these positions contribute 7.5 percent of pay, an extra one-half percent over the contribution amount for regular CSRS participants. The employees in this category have more generous retirement benefits and can retire at age 50 and after completing 20 years of service.¹¹

The employee’s pension is 2.5 percent of the employee’s high-3 average pay for each of the first 20 years of law enforcement/firefighter service and 2 percent per year of service thereafter.

The employee must also have been under CSRS coverage for one out of the last two years before retirement. The minimum age and service requirements apply even if the employee retires involuntarily or due to disability. The employee does not need to be in a special 6(c) covered position at the time of his or her retirement.¹² After the employee accumulates 20 years of 6(c) service, he or she can move to a regular position and still receive the 6(c) special retirement computation. Under the special 6(c) provisions, the employee would have been subject to mandatory separation based on age if occupying a law enforcement position at age 57 or firefighter position at age 55, once the employee completed 20 years of service.

The basic annuity of an employee eligible to retire under the special provisions for law enforcement officers and firefighters is expressed in the following chart. Unlike most other federal employees, there is no reduction in the basic annuity for retirement under age 55.

50 percent of the high-3 average salary

plus

2 percent of the high-3 average salary multiplied by years and whole months of service exceeding 20, plus credit for unused sick leave

7. FERS participants do not have this option.

8. OPM PUBL’N: VOLUNTARY CONTRIBUTIONS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM, RI 83-10 (rev. Apr. 1998).

9. 5 U.S.C. § 8342(h).

10. 5 U.S.C. § 8336(c).

11. *Id.*

12. OPM PUBL’N: RETIREMENT FACTS 14, LAW ENFORCEMENT & FIREFIGHTER CSRS RETIREMENT, RI 83-20 (rev. Oct. 1997).

Under CSRS, an Air Traffic Controller (“Controller”) can retire at age 50 after 20 years of service or at any age after 25 years as a Controller. While there is no special benefit formula, there is a guaranteed benefit after at least 20 years of Controller service of 50 percent of the employee’s high-3 average pay. If the employee retires after 25 years, it works out to earning 2 percent per year. If the employee retires after 27 years, the guarantee provides no more than the regular formula would have. Other than the guaranteed benefit and mandatory retirement, there are no other special CSRS rules for Controllers.

A military reserve technician (also known as a National Guard technician) is a civilian employee who is a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve who is assigned to duties in one of these components and who is required to maintain a specific military grade in order to continue in his or her civilian employment.¹³ Under CSRS, a technician is treated the same as any other employee under CSRS. A technician who is involuntarily separated (not for delinquency or misconduct) from his or her position can get a discontinued service annuity at any age with 25 years of service or at age 50 with 20 years of service. The annuity is reduced at a rate of 2 percent for each year the employee is under 55 years of age.

1.2 CSRS Offset

Federal employees hired or rehired on or after January 1, 1984, who were covered by both CSRS and Social Security at the same time are CSRS Offset participants. The legislation that created FERS also created the CSRS Offset plan. Typically, CSRS Offset retirement applies to employees who had a break in service that exceeded one year and ended after 1983 and who had five years of creditable civilian service as of January 1, 1987. Another category of CSRS Offset employee is an employee who was hired before January 1, 1984, acquired CSRS interim coverage between 1984 and 1987, and had at least five years of creditable civilian service by January 1, 1987.¹⁴

Participants in CSRS Offset earn credit for both their CSRS pension and their Social Security benefits. When they retire, the same rules regarding retirement eligibility and calculation of the pension apply as under the regular CSRS system. However, when the employee becomes eligible for Social Security, the pension annuity is reduced (hence the “offset”) by the value of the Social Security benefit earned during the CSRS Offset service. The reduction also applies to the employee’s survivor benefit, if there is a Social Security survivor benefit payable.

The age and service requirements for retirement as a CSRS Offset participant are the same as those for a regular CSRS participant. The CSRS Offset participant will receive a full CSRS annuity at retirement that is computed under the CSRS rules, using average salary and years of service.

The CSRS annuity for offset participants will be reduced when the participant becomes eligible for Social Security old-age benefits, usually at age 62. OPM contacts the Social Security Administration (SSA) just before the offset employee is 62 years old to ask how much SSA will pay, figuring the annuitant’s benefit with and without the CSRS Offset service. Based on its reply, OPM makes the annuity reduction.

13. 10 U.S.C. § 10216, Military technicians (dual status).

14. OPM PUBL’N: CSRS OFFSET RETIREMENT, RI 83-19 (Apr. 1998).

The offset reduction is the lesser of the

1. difference between the SSA monthly benefit amounts with and without CSRS Offset service, or
2. product of the SSA monthly benefit amount with federal earnings multiplied by a fraction where the numerator is the employee's total CSRS Offset service rounded to the nearest whole number of years and the denominator is 40.

$$\text{Social Security benefit} \times \frac{\text{Total Years of Offset Service}}{40}$$

The amount that the employee contributes is likewise reduced by his or her Social Security tax.

- Most U.S. workers contribute 6.2 percent of their pay as Social Security tax (up to the first \$128,400 of earnings, as of December 31, 2019).
- CSRS participants pay 7 percent to OPM for their pension coverage.
- However, most CSRS Offset participants pay 0.8 percent of pay for CSRS Offset coverage (7.0 percent minus 6.2 percent for Social Security equals 0.8 percent for offset coverage).¹⁵

1.3 Federal Employees' Retirement System (FERS)

1.3.1 Who Is Covered

The Federal Employees' Retirement System (FERS) was created by H.R. 2672 (99th Congress), Federal Employees' Retirement System Act of 1986. The bill was introduced on June 5, 1985, and signed June 6, 1986.¹⁶ FERS became effective January 1, 1987. Over 90 percent of current federal employees are covered by FERS. FERS is a three-part retirement program consisting of a defined benefit pension (the FERS pension), a defined contribution account (the TSP), and Social Security.

There were various timing requirements that took effect between 1984 and 1987 that dictated whether an employee would be covered by FERS or CSRS and whether they also participated in the Social Security system. Employees with fewer than five years of non-military experience on December 31, 1986, were covered under interim rules under which they were covered by both CSRS and the Social Security system (CSRS Offset, described in Section 1.2 herein). CSRS Offset participants with more than five years of nonmilitary CSRS service on December 31, 1986, had the option to switch to FERS between July 1, 1986, and December 31, 1987. Employees covered only by CSRS when FERS came into effect remained covered by it unless they opted to switch to FERS.¹⁷

FERS covers employees of the CIA who are not covered by the CIARDS pension (see Section 1.9) and employees of the State Department who are not covered by one of the Foreign Service pensions (see Chapter 3).

15. OPM PUBL'N: CSRS OFFSET RETIREMENT, RI 83-19 (rev. Apr. 1998).

16. 5 U.S.C. § 8402 *et seq.*

17. *New Retirement System for Federal Employees*, MONTHLY LABOR REV. (1986).

1.3.2 FERS Pension—How It Works

The federal employee is fully vested in the FERS basic retirement annuity after five years of service; there is no partial vesting prior to five years. Employees with less than five years of service who separate from service (i.e., leave federal employment but do not retire) may leave their money in the retirement fund and apply for a deferred annuity, assuming they eventually meet the age and service requirements, or they may take a refund of employee contributions. A refund of employee contributions voids any entitlement to an annuity. If an employee eventually meets the age and service requirements, the employee can go into pay status any time after meeting the requirements, up to the day he or she reaches 62 years of age.

The FERS annuity is calculated and paid as follows:

Age	Formula (FERS)
Under age 62 at separation for retirement, OR— Age 62 or older with less than 20 years of service	1 percent of high-3 average salary for each year of service
Age 62 or older at separation with 20 or more years of service	1.1 percent of high-3 average salary for each year of service

Most FERS participants hired before 2013 contribute 0.8 percent of their gross wages toward their future annuity on a per-paycheck basis. Those contributions are withheld from the employee's after-tax income—that is, the contributions are subject to income and payroll taxes. The contribution rates for most employees hired after 2012, however, are much higher, as described below.

FERS participants hired after December 31, 2012, fall into one of two newer categories based on date of hire: FERS-RAE (Federal Employees' Retirement System—Revised Annuity Employee) or FERS-FRAE (Federal Employees' Retirement System—Further Revised Annuity Employee).¹⁸ The applicable abbreviation is typically found on the employee's paystub. With the exception of members of Congress, there is no difference in the FERS basic benefit paid to FERS, FERS-RAE, and FERS-FRAE employees; the only difference is the amount of pay the employee contributes.

FERS-RAE. The Middle Class Tax Relief and Job Creation Act of 2012¹⁹ made a significant change to the FERS by increasing the employee contribution rate from 0.8 percent of gross pretax pay to 3.1 percent for most new employees (as defined in the statute) hired after December 31, 2012.²⁰ For such employees, their paystub will reflect FERS-RAE as opposed to simply FERS.²¹

FERS-FRAE. Section 401 Bipartisan Budget Act of 2013, signed into law on December 26, 2013, further increased the employee's contribution rate to 4.4 percent for most

18. See 5 CFR § 841.403.

19. 47 U.S.C. § 1512.

20. CONG. BUDGET OFF., *OPTIONS FOR REDUCING THE DEFICIT: 2017 TO 2026—INCREASE FEDERAL CIVILIAN EMPLOYEES' CONTRIBUTIONS TO THE FEDERAL EMPLOYEES RETIREMENT SYSTEM* (Dec. 8, 2016).

21. U.S. OFF. OF PERSONNEL MGMT. BENEFITS ADMIN. LETTER No. 12-104 (Oct. 3, 2012) sets forth agency and employee contribution rates for all categories of employees.

employees newly hired after December 31, 2013.²² For such employees, their paystub will reflect FERS-FRAE.²³

The following table summarizes FERS retirement employee contribution categories:

Retirement Coverage	Affected Individuals	Employee Contribution Rate
FERS	Employees first hired on/after January 1, 1987 (or rehired after that date with less than five years creditable or potentially creditable service under CSRS)	0.8 percent
FERS-RAE	Employees first hired on/after January 1, 2013 (or rehired after that date with less than five years creditable or potentially creditable service under FERS)	3.1 percent
FERS-FRAE	Employees first hired on/after January 1, 2014 (or rehired after that date with less than five years creditable or potentially creditable service under FERS)	4.4 percent

1.3.3 FERS Eligibility for Retirement

An employee must meet certain age and service requirements to receive an annuity under FERS. Depending on the employee's age and years of service, the employee may be eligible to enter into pay status with an unreduced annuity immediately, may have the option to take a reduced annuity immediately or sooner than age 62, or may have to wait until reaching age 62 before being eligible to go into pay status.

The chart below summarizes the age and service requirements for eligibility for a reduced or an unreduced annuity:²⁴

Years of Service	Type of Annuity, Age of Eligibility
Less than five	Not eligible
Five to ten	Unreduced annuity at age 62
At least ten	Unreduced annuity at age 62; OR a reduced annuity at MRA
At least 20	Unreduced annuity at age 60; OR a reduced annuity at MRA
At least 30	Unreduced annuity at any age

22. 5 U.S.C. § 8401(38).

23. U.S. OFF. OF PERSONNEL MGMT. BENEFITS ADMIN. LETTER NO. 14-201 (Jan. 30, 2014) sets forth agency and employee contribution rates for all categories of employees.

24. *Voluntary Retirement*, OFF. OF PERSONNEL MGMT., <https://www.opm.gov/retirement-services/fers-information/types-of-retirement/#url=Voluntary-Retirement> (last visited Nov. 12, 2020).

The employee's MRA under FERS is the earliest age on which the employee is eligible to retire and is based on the year of the employee's birth. To determine the employee's MRA, refer to the following table:²⁵

Year of birth	MRA is
Before 1948	55
In 1948	55 and 2 months
In 1949	55 and 4 months
In 1950	55 and 6 months
In 1951	55 and 8 months
In 1952	55 and 10 months
In 1953–1964	56
In 1965	56 and 2 months
In 1966	56 and 4 months
In 1967	56 and 6 months
In 1968	56 and 8 months
In 1969	56 and 10 months
In 1970 and after	57

If the employee elects to defer the annuity payment to a date after his or her MRA but before age 62, there are additional implications to be aware of, particularly as they relate to life insurance (see Chapter 12), health insurance (see Chapter 11), and long-term care insurance (see Section 14.3).

If the employee elects to go into pay status prior to age 62 or that employee's specific age on which he or she is eligible to receive an unreduced annuity, then the annuity will be permanently reduced. The reduction amount is 5 percentage points for each year from the date the employee goes into pay status to his or her age 62 or other date on which he or she would otherwise be eligible for an unreduced pension.²⁶

For example, if the employee retired at age 56 with at least ten years of service, the employee is eligible as of his or her MRA to go into pay status. Assume the employee's MRA is age 56. That's six years younger than age 62, so the employee's annuity would be reduced by 30 percent if the employee went into pay status as of age 56.²⁷ However, the employee can elect to defer the annuity until age 62, at which time there would be no reduction, or to a date between age 56 and age 62, in which case there would be a lesser reduction.

25. *Eligibility Information*, OFF. OF PERSONNEL MGMT., <https://www.opm.gov/retirement-services/fers-information/eligibility/> (last visited Nov. 12, 2020).

26. OPM PUBL'N: INFORMATION FOR FERS ANNUITANTS, RI 90-8 (rev. May 2012).

27. KATELIN P. ISAACS, CONG. RESEARCH SERV., *FEDERAL EMPLOYEES' RETIREMENT SYSTEM: BENEFITS & FINANCING* (2015).

1.3.4 FERS Eligibility for Early Retirement and Disability

Employees falling within certain categories may be eligible for early retirement. Regular employees²⁸ may be eligible for early retirement in certain involuntary separation circumstances, such as a major reorganization or reduction in workforce. In such circumstances, the employee is entitled to an unreduced annuity with at least 25 years of service at any age or an unreduced annuity with at least 20 years of service at age 50.²⁹

Employees may receive disability at any age so long as they have completed 18 months of civil service. The employee must have become disabled because of a disease or injury that prevents or limits useful and efficient service in the employee's current position. The disability must be expected to last for at least one year. The employing agency must certify that it is unable to accommodate the disability medical condition in the present position and that it has considered the employee for any vacant positions in the same agency that are at the same grade/pay level and commuting area for which the employee is qualified.

1.3.5 FERS Special

1.3.5.1 Law Enforcement, Firefighting, and Air Traffic Control

FERS provides enhanced benefits for law enforcement and firefighting personnel and air traffic controllers, with some special rules (referred to as FERS Special). First, the FERS definition of a law enforcement or firefighting position includes a requirement that the position be limited to "young and vigorous" personnel. Second, in order to qualify for the special benefits, the employee must have occupied a primary or first-line law enforcement or firefighting position for at least three years before moving to a secondary (administrative or supervisory) position. Agency heads may determine that some supervisory positions are primary because they meet the young and vigorous requirement.³⁰

The contribution rate for FERS special law enforcement and firefighting benefits is a half percentage point more pay than for regular coverage, depending on date of hire.

Employees covered by FERS Special accrue 1.7 percent of the high-3 average pay for each of the first 20 covered years of FERS service and 1 percent of the high-3 average pay per year of service thereafter.³¹

Law enforcement officers and firefighters are employees who occupy a position "designated by their employing agency head (or designee) as a law enforcement or firefighter position."³² Employees in these positions contribute to the pension at a higher rate, the amount of which differs among the categories.³³ Law enforcement officers and firefighters have mandatory separation from service at age 57 and after completing 20 years of service.³⁴

28. Law enforcement and firefighting personnel and other FERS Special employees have mandatory retirement provisions as well as different rules regarding their regular retirement. See Section 1.3.5 for information specific to these employees.

29. *Voluntary Retirement*, OFF. OF PERSONNEL MGMT., <https://www.opm.gov/retirement-services/fers-information/types-of-retirement/#url=Voluntary-Retirement> (last visited Nov. 12, 2020).

30. There are special rules that apply to Customs and Border Protection officers that this book does not cover. Contact the benefits officer at the employee's agency for additional information. Nuclear materials couriers, Supreme Court police, and Capitol police are also subject to special rules. 5 U.S.C. § 8415(e).

31. See 5 U.S.C. § 8415.

32. For precise definitions of law enforcement officers and firefighters, see 5 U.S.C. § 8401.

33. See 5 U.S.C.A. § 8422.

34. See 5 U.S.C.A. § 8423.

FERS Special law enforcement and firefighter retirees receive cost-of-living adjustments beginning at retirement. By contrast, most other FERS retirees begin to receive cost-of-living adjustments only at age 62.

In addition, FERS Special law enforcement and firefighter retirees will receive the FERS Annuity Supplement (also sometimes referred to as the FERS Special Retirement Supplement) until age 62. The earnings test does not apply to the FERS Annuity Supplement until the employee reaches the MRA. After the employee reaches the MRA, if the employee has earnings from wages or self-employment that exceed the Social Security annual exempt amount, the employee's supplement will be reduced or stopped.

Unlike most other federal employees, for FERS Special employees, there is no reduction in the basic annuity for retirement prior to age 55. Other FERS provisions, including participation in Social Security and the TSP, are the same as for regular employees.

Air traffic controllers are eligible for FERS retirement under the same rules as air traffic controllers covered by CSRS. They receive the same enhanced FERS pension benefits as are provided to law enforcement and firefighting personnel.

1.3.5.2 *Military Technicians*

A military reserve technician, also known as a National Guard technician, is a civilian employee who is a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve who is assigned to duties in one of these components and who is required to maintain a specific military grade in order to continue in his or her civilian employment.

Under FERS, a technician who is separated from civilian service because he or she no longer qualifies as a member of a military reserve component may retire and receive an unreduced annuity at age 50 if the technician also has 25 years of service. If the technician loses military status due to a disability, FERS disability benefits are payable after 18 months of FERS service. Also, the FERS Annuity Supplement is payable until the employee reaches age 62. The earnings test does not apply to the FERS Annuity Supplement until the employee reaches the MRA. Technicians are not eligible for the 1.1 percent annuity formula under FERS, no matter how long they work or their age at retirement.

1.4 FERS Annuity Supplement

The FERS Annuity Supplement (FAS) provides for a FERS participant who separates from service, and who has met the minimum work and age requirements for early retirement, to receive a supplement to their retirement annuity until age 62.³⁵ The employee does not have the option of taking FAS until eligible for full unreduced pension benefits.

- Employees at their MRA can retire on an unreduced annuity if they have 30 years of creditable service, which, dependent on year of birth, could occur as early as age 55.³⁶
- FERS Special employees (law enforcement, firefighters, air-traffic controllers, and members of Congress (before January 1, 2013)) can retire as early as age 50 with 20 years of service or after 25 years of service at any age.

35. 5 U.S.C. § 8421.

36. 5 U.S.C. §§ 8412, 8414.

The FAS amount is an approximation of what the annuitant's Social Security benefit would have been, if such benefits were payable at the age that the employee retired, and is paid until the annuitant's age 62, at which point he or she can apply for Social Security old-age benefits.³⁷ The amount is calculated to be the equivalent of the Social Security old-age benefit starting at age 62.³⁸ The FAS payment can range from \$900 to \$1,700 per month and can be paid for as many as 12 years, such as for a federal law enforcement officer or firefighter who retires at age 50.

The OPM first estimates what the employee's full-career (40 years) Social Security benefit would be. Then OPM calculates the duration of civilian service under FERS and reduces the estimated Social Security benefit accordingly. For example, if the employee's estimated full-career Social Security benefit would be \$1,000 per month and the employee worked 30 years under FERS, OPM would divide 30 by 40, resulting in 0.75, and apply it to the estimated full-career benefit ($\$1,000 \times 0.75 = \750). The result is the employee's FAS, prior to any reductions.

Like Social Security benefits, the employee's FAS is subject to an earnings test.³⁹ It is reduced if the employee earns more than the exempt amount of earnings (called the minimum level of earnings) in the immediately preceding year. The employee's supplement is reduced by \$1.00 for every \$2.00 of earnings over the minimum level. It is possible that the employee's FAS could reduce to \$0. There is no reduction until after the first calendar year the employee receives the FAS. Then, the employee's earnings during that first calendar year are compared to the Social Security minimum level of earnings for the same year. If the employee earned more than the minimum level of earnings in the previous year, then the current year's FAS will be reduced accordingly. The employee's monthly FAS in the second calendar year is then reduced by 1/12 of the excess earnings. Excess earnings are 50 percent of the amount by which the employee's earnings exceed the Social Security minimum.

The amount the employee may earn without affecting the employee's FAS is determined by the Social Security Administration each year. It will increase with the annual increases in average wages for the national workforce. The employee can obtain the current year's amount on the Social Security Administration website.

The reduction to the FAS for excess earnings does not apply to employees retiring under the special provisions for law enforcement officers, firefighters, air traffic controllers, and military reserve technicians.⁴⁰

The employee's FERS basic benefit is not considered earnings. The employee's earnings for any year will consist of the total sum of wages for service performed in the year, plus all net earnings from self-employment for the year, minus any net loss from self-employment for the year.

37. See 5 U.S.C. § 8421; C.F.R. §§ 404.409, 404.310.

38. C.F.R. § 404.312.

39. U.S. OFF. OF PERSONNEL MGMT., CSRS & FERS HANDBOOK, ch. 51 (Apr. 1998).

40. *Id.*

1.5 FERS and CSRS—Refund of Employee Contributions

An employee may receive a refund of his or her CSRS or FERS contributions if the employee⁴¹

1. separates from federal service for at least 31 consecutive days or transfers to a position in which he or she is not subject to CSRS or FERS deductions and remains in such a position for at least 31 consecutive days;
2. files an application with OPM for a refund of his or her retirement contributions;
3. is not reemployed in a position subject to retirement deductions within 31 days;
4. will not become eligible to receive an annuity within 31 days after filing the application;
5. notifies his or her spouse and any former spouse who has rights under a COAP (a court order that grants pension rights to a spouse) that he or she has filed an application for a refund;⁴² and
6. does not have a former spouse with the court-ordered right to future pension benefits based on the employee's service.

The receipt of a refund of employee retirement contributions voids any future annuity rights unless the employee is later reemployed and works long enough to earn new retirement rights. In such case, a former CSRS employee would be reemployed as a FERS employee. A refund of employee contributions is irreversible.

Interest is payable on a refund of employee contributions covering service of one to five years. For service under FERS, the interest rate is the same as is paid for government securities for employees who have invested their retirement funds in the G Fund. For service under CSRS, interest will be included in the refund of those contributions if the employee had more than one but less than five years of service. Interest is paid at 3 percent. While the return of employee contributions is not taxable, the interest is taxable.

A former employee may request a refund of FERS or CSRS employee contributions by filing form SF 3106.⁴³ The form inquires about current and previous federal employment and about marital status. If the employee is married or divorced, the employee must complete Form SF 3106A, "Current/Former Spouse's Notification of Application for Refund of Retirement Deductions." Before the refund can be made, the spouse or former spouse must consent.

The refund can be made by check (subject to 20 percent federal income tax withholding on the taxable portion) or can be payable to an IRA or an eligible employer plan (including the participant's TSP).

1.6 FERS and CSRS—Cost-of-Living Adjustments

Cost-of-living adjustments (COLAs) will increase the amount of the annuity paid to the retiree or to the survivor, as the case may be. COLAs are applied once per year in December, with each monthly payment in the following year increased accordingly.

41. OPM PUBL'N: RETIREMENT FACTS 9: REFUNDS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM, RI 83-9 (rev. Oct. 1997).

42. However, a CSRS participant need not notify a former spouse if divorced before May 7, 1985; the marriage to that person lasted less than nine months; or the employee had less than 18 months of CSRS-covered service.

43. A copy of the form is in the downloadable resources provided with this book, available at <https://ambar.org/RepFed>.