
Subpart 46A3.3 Retirement Eligibility (LEO/FF)**Section 46A3.3-1 Eligibility Requirements****A. General**

CSRS law enforcement officers and firefighters may retire voluntarily or involuntarily at an early age with entitlement to a special annuity computation if all of the following conditions are met:

- Age and service requirements;
- Separation from a position subject to CSRS coverage; and
- "1-out-of-2" requirement.

NOTE 1: A law enforcement officer or firefighter's retirement may be triggered by mandatory separation based on age. See section 46A3.3-2.

NOTE 2: For the special annuity computation rules that apply to law enforcement officers and firefighters who retire after meeting the above requirements, see Chapter 54, section 54A3.1-1.

B. Minimum Age and Service

An employee must be at least age 50 at the time of separation and have at least 20 years of service as a law enforcement officer and/or firefighter (but does not have to be in a law enforcement officer or firefighter position at separation) to be eligible for retirement under the special provisions.

NOTE 1: Accrued and unused sick and/or annual leave cannot be used to meet the minimum service requirement.

NOTE 2: Military service, even if creditable under CSRS generally, cannot be credited under the special provisions for law enforcement officers and firefighters. Thus, military service cannot be used to meet the minimum service requirement.

However, under certain circumstances, an individual entering military service directly from a civilian position is entitled to have that period of service treated as if it were civilian. (See Chapter 22, part 22A6.) If the individual is in a law enforcement or firefighter position at the time of entry into the military, the period creditable as civilian service may be used toward satisfying the minimum service requirement.

**Special Retirement Provisions for Law Enforcement
Officers, Firefighters, Air Traffic Controllers,
and Military Reserve Technicians
Chapter 46**

Section 46A3.3-1 Eligibility Requirements (Cont.)

- B. Minimum Age and Service (Cont.)** NOTE 3: The minimum age and service requirements apply even if the employee retires involuntarily or due to a disability, or dies before meeting the minimum age and service requirements. Thus, the disability annuity of someone who does not meet the special age and service requirements at the time of retirement is computed under the regular provisions. (See Chapter 50, Computation of Annuity Under the General Formula, Chapter 60, Disability Retirement, and Chapter 61, Computation of Disability Annuity Benefits.) If an employee qualifies for a disability retirement and also meets the age and service requirements for annuity under the special provisions, the employee may elect which benefit he or she wants to receive. If the employee elects the disability benefit, it is computed under the regular provisions. Also, the annuity paid to the survivor of an employee who dies in service without reaching these minimum age and service requirements is computed under the regular survivor provisions. (See Chapter 70, Spouse Benefits - Death of an Employee.)
-
- C. Separation from Covered Position** The employee must be separated from a position covered by retirement deductions.
- NOTE: An employee is not required to separate from a law enforcement officer or firefighter position to retire under the special group provisions. Once an employee meets the minimum service requirement, he or she may exercise the right to retire under the special group provisions even if the employee is no longer covered by these provisions at the time of retirement.
-
- D. "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.
-
- E. Erroneous Separations** If the employee is separated for retirement under the special provisions and OPM finds that the employee does not meet one of the above eligibility requirements, the separation may be found to be erroneous. See Chapter 40 for additional information about erroneous separations.
-

Section 46A3.3-2 Mandatory Separation

A. General

In general, all law enforcement officers and firefighters are subject to mandatory separation based on age. However, mandatory separation does not apply to employees who are eligible for retirement under the special provisions but who are not currently occupying a law enforcement officer or firefighter position.

NOTE 1: For retirement purposes, an employee is considered to reach a year of age on the day before his or her birthday.

NOTE 2: A mandatory separation is considered an involuntary separation for purposes of other CSRS provisions.

**B. Standard
Mandatory
Separation**

The standard mandatory separation age for law enforcement officers is age 57 and for firefighters it is age 55. Except as provided under later paragraphs of this section, the mandatory separation is effective as follows:

1. If the law enforcement officer or firefighter has completed 20 years of service under the special provisions, he or she must be separated on the last day of the month in which he or she reaches the standard mandatory separation age.
2. If the law enforcement officer or firefighter attains the standard mandatory separation age and has not yet completed the required 20 years of service under the special provisions, he or she must be separated on the last day of the month in which he or she completes the 20 years of service.

NOTE: The standard mandatory separation age for law enforcement officers was changed from 55 to 57 by Public Law 101-509 (November 5, 1990). The change applies to any separation that is effective on or after November 5, 1990.

**C. Exemption From
Mandatory
Separation Until
Age 60**

Agency heads are authorized to exempt law enforcement officers and firefighters from mandatory separation until age 60 if it is in the public interest.

Section 46A3.3-2 Mandatory Separation

A. General

In general, all law enforcement officers and firefighters are subject to mandatory separation based on age. However, mandatory separation does not apply to employees who are eligible for retirement under the special provisions but who are not currently occupying a law enforcement officer or firefighter position.

NOTE 1: For retirement purposes, an employee is considered to reach a year of age on the day before his or her birthday.

NOTE 2: A mandatory separation is considered an involuntary separation for purposes of other CSRS provisions.

**B. Standard
Mandatory
Separation**

The standard mandatory separation age for law enforcement officers is age 57 and for firefighters it is age 55. Except as provided under later paragraphs of this section, the mandatory separation is effective as follows:

1. If the law enforcement officer or firefighter has completed 20 years of service under the special provisions, he or she must be separated on the last day of the month in which he or she reaches the standard mandatory separation age.
2. If the law enforcement officer or firefighter attains the standard mandatory separation age and has not yet completed the required 20 years of service under the special provisions, he or she must be separated on the last day of the month in which he or she completes the 20 years of service.

NOTE: The standard mandatory separation age for law enforcement officers was changed from 55 to 57 by Public Law 101-509 (November 5, 1990). The change applies to any separation that is effective on or after November 5, 1990.

**C. Exemption From
Mandatory
Separation Until
Age 60**

Agency heads are authorized to exempt law enforcement officers and firefighters from mandatory separation until age 60 if it is in the public interest.

**Special Retirement Provisions for Law Enforcement
Officers, Firefighters, Air Traffic Controllers,
and Military Reserve Technicians
Chapter 46**

Section 46A3.3-2 Mandatory Separation (Cont.)

- D. Exemption From Mandatory Separation After Age 60**
1. If an agency wishes to secure an exemption from mandatory separation for one of its employees (other than a Presidential appointee) beyond the employee's 60th birthday, the Secretary must submit a recommendation to that effect to the Chief of the Retirement Policy Division at OPM. The recommendation must contain --
 - A statement that the employee is willing to remain in service;
 - A statement of facts that tend to establish that his/her retention would be in the public interest;
 - The period (which may not exceed 1 year) for which the exemption is desired; and
 - The reasons why the simpler method of retiring the employee and immediately rehiring him or her is not being used.

This recommendation must be accompanied by a medical certificate showing the physical fitness of the employee to perform his or her work.
 2. OPM may approve an exemption only before the mandatory separation date applicable to the employee. For this reason, the department or agency must forward the recommendation to OPM at least 30 days before his or her separation date.
-
- E. Notice Requirement**
- Once the date of mandatory separation is determined for a law enforcement officer or firefighter, the employing agency must notify the employee in writing of the date of separation at least 60 days in advance of the date. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.
-
- F. Appeal Rights**
- A mandatory separation is not an adverse action under 5 CFR Part 752 or a removal action under 5 CFR Part 359. In other words, a mandatory separation is not an appealable action.
-