



# Department of Defense INSTRUCTION

NUMBER 1400.25, Volume 336

January 22, 2015

*Incorporating Change 1, December 1, 2017*

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USD(P&R)

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

References: See Enclosure 1

## 1. PURPOSE

a. Instruction. This instruction is composed of several volumes, each containing its own purpose. The purpose of the overall instruction, in accordance with the authority in DoD Directive 5124.02 (Reference (a)), is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the DoD.

b. Volume. In accordance with the authority in DoD Directive 1400.25 (Reference (b)), this volume:

(1) Reissues Volume 336 of DoD Instruction 1400.25 (Reference (c)) to establish policy, assign responsibilities, and provide procedures regarding the employment of civilian firefighters and law enforcement officers in the DoD.

(2) Pursuant to sections 3307(d) and 3307(e) of Title 5, United States Code (Reference (d)), sets the maximum entry age for selected firefighter and law enforcement officer positions.

(3) Delegates the authority to approve waivers of the entry age and establishes procedures to be used in the waiver process, including waivers for preference eligible applicants pursuant to section 3312(a)(1) of Reference (d).

(4) Defines procedures to be used in mandatory separation situations and delegates authority to approve exceptions to mandatory separation in accordance with sections 8335(b)(1) and 8335(f) of Reference (d) for Civil Service Retirement System (CSRS) employees and sections 8425(b)(1) and 8425(e) of Reference (d) for Federal Employees Retirement System (FERS) employees.

2. APPLICABILITY. This volume applies to:

a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this volume as the “DoD Components”).

b. Covered civilian firefighter and law enforcement positions in the DoD, except for Defense Intelligence Personnel System positions established under section 1601 of Title 10, United States Code (Reference (e)).

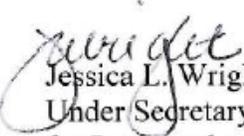
3. POLICY. It is DoD policy in accordance with sections 3307(d) and 3307(e) of Reference (d) to set a maximum age for original entry of qualified applicants into covered primary or rigorous civilian firefighter and law enforcement officer positions.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. RELEASABILITY. **Cleared for public release.** ~~This instruction is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>. This instruction is available on the Directives Division Website at <http://www.esd.whs.mil/DD/>.~~

7. EFFECTIVE DATE. This volume is effective January 22, 2015.

  
Jessica L. Wright  
Under Secretary of Defense  
for Personnel and Readiness

Enclosures

1. References
2. Responsibilities
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Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- (b) DoD Directive 1400.25, “DoD Civilian Personnel Management System,” November 25, 1996
- (c) DoD Instruction 1400.25, Volume 336, “DoD Civilian Personnel Management System: Civilian Firefighters and Law Enforcement Officers,” December 1996, as amended (hereby cancelled)
- (d) Title 5, United States Code
- (e) Section 1601 of Title 10, United States Code
- (f) DoD 6055.06-M, “DoD Fire and Emergency Services Certification Program,” February 23, 2006, *as amended*
- (g) DoD Instruction 1400.25, Volume 830, “DoD Civilian Personnel Management System: Civil Service Retirement System (CSRS),” August 22, 2014
- (h) DoD Instruction 1400.25, Volume 840, “DoD Civilian Personnel Management System: Federal Employees Retirement System (FERS),” August 22, 2014
- (i) Title 5, Code of Federal Regulations

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR READINESS AND FORCE MANAGEMENT (ASD(R&FM)) ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)). Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), and in accordance with Reference (a), the ~~ASD(R&FM)-ASD(M&RA)~~ has overall responsibility for the development of DoD *civilian personnel* policy ~~regarding the employment of civilian firefighters and law enforcement officers in the DoD covered by this volume.~~

2. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY (DASD(CPP)). Under the authority, direction, and control of the ~~ASD(R&FM)~~ ~~ASD(M&RA)~~, the DASD(CPP) supports the development of civilian personnel policy covered by this volume and monitors its execution by DoD Components, ensuring consistent implementation and continuous application throughout DoD.

3. DIRECTOR, DEPARTMENT OF DEFENSE HUMAN RESOURCES ACTIVITY (DoDHRA). Under the authority, direction, and control of the USD(P&R), the Director, DoDHRA provides support to the DASD(CPP), as appropriate, in execution of the duties and responsibilities of this volume.

4. DOD COMPONENT HEADS WITH INDEPENDENT APPOINTING AUTHORITY AND DIRECTOR, WASHINGTON HEADQUARTERS SERVICES (WHS). The DoD Component heads with independent appointing authority and the Director, WHS, on behalf of OSD and the DoD Components receiving civilian personnel support from WHS:

- a. Ensure that the procedures in Enclosure 3 of this instruction are followed by their respective Components.
- b. Verify that position coverage determinations have been made by the proper authority (i.e., the USD(P&R)) before filling a vacant position. The USD(P&R) may not delegate the authority to approve coverage.
- c. Hire only those individuals as firefighters and law enforcement officers who meet all applicable qualifications, including DoD firefighter certification requirements as stated in DoD 6055.06-M (Reference (f)).
- d. Document all exceptions to the maximum entry age and mandatory separation provisions in accordance with this volume, and ensure that all such exceptions are recorded in the official personnel folder (OPF) of the appointee.

ENCLOSURE 3

PROCEDURES

1. POSITION COVERAGE DETERMINATIONS

a. Position coverage determinations will be made pursuant to the procedures established in Volumes 830 and 840 of DoD Instruction 1400.25 (References (g) and (h), respectively).

b. Servicing human resources offices will:

(1) Establish coverage determination files that include all background material used in the determination made pursuant to paragraph 4b of Enclosure 2.

(2) On retirement, certify to the Office of Personnel Management that the employee's service was in a covered position.

2. MAXIMUM ENTRY AGE

a. Entry Age Limit. Except as provided in section 3 of this enclosure, the maximum entry age for covered primary firefighter and law enforcement officer positions is 37. An individual not appointed by the last day of the month in which the individual becomes age 37 will not be originally appointed or assigned to these positions.

b. Reentry into a Covered Position

(1) Individuals who are past the maximum entry age limit of 37 but who previously served in a covered primary position may be reinstated to a covered primary position only if they:

(a) Meet the applicable qualification requirements for the position.

(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 57.

(2) Example 1

(a) An individual receives his or her original appointment to a covered primary position 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.

(b) The 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.

(c) 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.

(3) Example 2

(a) An individual received his or her original appointment to a covered primary position at age 34. After working for 5 years, the employee resigned to work in the private sector and took a refund of his or her retirement contributions. Now at age 42, the individual is applying for another rigorous law enforcement officer position.

(b) Law enforcement officers must have 20 years of covered service before the last day of the month in which they become age 57. Because the individual received a refund for 5 years of service in the rigorous position, the refunded service is not creditable for retirement and is not covered service for computing the individual's reentry age, unless he or she redeposits their time.

(c) The individual still needs 20 years to reach 20 years of covered service by age 57. Subtract 20 from 57 to arrive at the maximum reentry age of 37. The individual is 42. This exceeds his or her maximum reentry age of 37. Therefore, this applicant cannot be rehired into a primary position without an age waiver.

3. EXCEPTIONS TO THE MAXIMUM ENTRY AGE

a. A DoD Component head may approve the original entry of an individual who has passed the entry age limits in section 2 of this enclosure. Such an exception will be extremely rare and based only on a compelling hardship to the DoD Component mission, such as overcoming a recruitment shortage. Age waivers are not required for entry into a covered secondary firefighter or law enforcement officer position.

b. DoD Components will waive the maximum entry age requirements in section 2 of this enclosure, pursuant to section 3312(a)(1) of Reference (d), for preference eligibles, unless it is determined that the age is essential to the performance of the duties of the position being filled.

c. Each exception will be in writing and signed by the DoD Component head.

d. A copy of the approved exception will be filed in the OPF of the person concerned.

e. An employee in this category who is not otherwise eligible for immediate retirement may remain employed in a covered position until he or she meets the retirement requirements of section 8336(c) of Reference (d) for CSRS employees and section 8412(d) of Reference (d) for

FERS employees, provided the employee continues to meet the physical requirements for his or her position.

4. FILLING POSITIONS. When filling positions, a determination of whether age is essential to the performance of the duties of the position will be made before announcing the position. A copy of the determination will be provided to the human resources office and retained in the case file. The human resources office will refer individuals who may be eligible for waivers in accordance with section 3 of this enclosure along with other equally qualified candidates. Referral lists must be annotated to identify those candidates who would require a waiver. If a candidate requiring a waiver is selected, a tentative offer pending the age waiver approval may be made.

5. MANDATORY SEPARATION.

a. Age Requirements. Pursuant to section 8335(b) of Reference (d) for CSRS employees and section 8425(b) of Reference (d) for FERS employees, a firefighter or law enforcement officer who is otherwise eligible for immediate retirement pursuant to section 8336(c) of Reference (d) for CSRS employees and section 8412(d) of Reference (d) for FERS employees, 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 the employee has not yet completed 20 years of service and a waiver has been granted. In that case, the employee will be separated on the last day of the month in which he or she completes 20 years of service. However, the employee must continue to meet the physical requirements of the position, and if the employee cannot meet those requirements, he or she will have to be removed from the position.

b. Notification Requirements. Employing offices are responsible for notifying covered employees in writing of the date of separation at least 60 days before that date. In accordance with sections 8335(b)(1) and 8425(b)(1) of Reference (d), action to separate such an employee will 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.

c. Exceptions

(1) The DoD Component head 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 DoD Component head, the public interest so requires. In such a case, the employee will be separated on the date specified by the Component head and no later than the day the firefighter or law enforcement officer becomes 60 years of age.

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

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

~~ASD(R&FM) Assistant Secretary of Defense for Readiness and Force Management~~

~~ASD(M&RA) Assistant Secretary of Defense for Manpower and Reserve Affairs~~

CSRS Civil Service Retirement System

DASD(CPP) Deputy Assistant Secretary of Defense for Civilian Personnel Policy

DoDHRA Department of Defense Human Resources Activity

FERS Federal Employees Retirement System

OPF official personnel folder

USD(P&R) Under Secretary of Defense for Personnel and Readiness

WHS Washington Headquarters Services

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purposes of this volume.

covered position. A position that has been identified by a DoD Component and approved by the USD(P&R) as a primary, rigorous, or secondary position for special retirement coverage pursuant to Reference (g) for CSRS employees and Reference (h) for FERS employees.

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) of Reference (d) for CSRS employees and section 8412(d) of Reference (d) for FERS employees.

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

preference eligible. Defined in section 2108(3) of Reference (d).

primary, rigorous, and secondary positions. Defined in section 831.902 of Title 5, Code of Federal Regulations (Reference (i)) for CSRS employees and section 842.802 of Reference (i) for FERS employees.