

5 USC 8401: Definitions

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From Title 5-GOVERNMENT ORGANIZATION AND EMPLOYEES**PART III-EMPLOYEES**

Subpart G-Insurance and Annuities

CHAPTER 84-FEDERAL EMPLOYEES' RETIREMENT SYSTEM**SUBCHAPTER I-GENERAL PROVISIONS****Jump To:**

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§8401. Definitions

For the purpose of this chapter-

- (1) the term "account" means an account established and maintained under section 8439(a) of this title;
- (2) the term "annuitant" means a former employee or Member who, on the basis of that individual's service, meets all requirements for title to an annuity under subchapter II or V of this chapter and files claim therefor;
- (3) the term "average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect over any 3 consecutive years of service or, in the case of an annuity under this chapter based on service of less than 3 years, over the total service, with each rate weighted by the period it was in effect;
- (4) the term "basic pay" has the meaning given such term by section 8331(3);
- (5) the term "Board" means the Federal Retirement Thrift Investment Board established by section 8472 (a) of this title;
- (6) the term "Civil Service Retirement and Disability Fund" or "Fund" means the Civil Service Retirement and Disability Fund under section 8348;
- (7) the term "court" means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court;
- (8) the term "Director" means the Director of the Office of Personnel Management;
- (9) the term "dynamic assumptions" means economic assumptions that are used in determining actuarial costs and liabilities of a retirement system and in anticipating the effects of long-term future-
 - (A) investment yields;
 - (B) increases in rates of basic pay; and
 - (C) rates of price inflation;
- (10) the term "earnings", when used with respect to the Thrift Savings Fund, means the amount of the gain realized or yield received from the investment of sums in such Fund;
- (11) the term "employee" means-
 - (A) an individual referred to in subparagraph (A), (E), (F), (H), (I), (J), or (K) of section 8331(1) of this title;
 - (B) a Congressional employee as defined in section 2107 of this title, including a temporary Congressional employee and an employee of the Congressional Budget Office; and
 - (C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;

whose civilian service after December 31, 1983, is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986, except that such term does not include-

- (i) any individual referred to in-
 - (I) clause (i), (vi), or (ix) of paragraph (1) of section 8331;
 - (II) clause (ii) of such paragraph; or
 - (III) the undesignated material after the last clause of such paragraph;
- (ii) any individual excluded under section 8402(c) of this title;

(iii) a member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980;
or

(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);

(12) the term "former spouse" means a former spouse of an individual-

(A) if such individual performed at least 18 months of civilian service creditable under section 8411 as an employee or Member; and

(B) if the former spouse was married to such individual for at least 9 months;

(13) the term "Executive Director" means the Executive Director appointed under section 8474(a);

(14) the term "firefighter" means-

(A) an employee, the duties of whose position-

(i) are primarily to perform work directly connected with the control and extinguishment of fires; and

(ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Director considering the recommendations of the employing agency; and

(B) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) for at least 3 years;

(15) the term "Government" means the Federal Government, Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);

(16) the term "Indian court" has the meaning given such term by section 8331(24);

(17) the term "law enforcement officer" means-

(A) an employee, the duties of whose position-

(i) are primarily-

(I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or

(II) the protection of officials of the United States against threats to personal safety; and

(ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Director considering the recommendations of the employing agency;

(B) an employee of the Department of the Interior or the Department of the Treasury (excluding any employee under subparagraph (A)) who occupies a position that, but for the enactment of the Federal Employees' Retirement System Act of 1986, would be subject to the District of Columbia Police and Firefighters' Retirement System, as determined by the Secretary of the Interior or the Secretary of the Treasury, as appropriate;

(C) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) and (B) for at least 3 years; and

(D) an employee-

(i) of the Bureau of Prisons or Federal Prison Industries, Incorporated;

(ii) of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated; or

(iii) in the field service at Army or Navy disciplinary barracks or at any other confinement and rehabilitation facility operated by any of the armed forces;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniform Code of Military Justice (chapter 47 of title 10) require frequent direct contact with these individuals in their detention and are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the head of the employing agency;

(18) the term "loss", as used with respect to the Thrift Savings Fund, includes the amount of any loss resulting from the investment of sums in such Fund, or from the breach of any responsibility, duty, or obligation under section 8477.¹

(19) the term "lump-sum credit" means the unrefunded amount consisting of-

(A) retirement deductions made from the basic pay of an employee or Member under section 8422(a) of this title (or under section 204 of the Federal Employees' Retirement Contribution Temporary

Adjustment Act of 1983);
 (B) amounts deposited by an employee or Member under section 8422(e);
 (C) amounts deposited by an employee, Member, or survivor under section 8411(f) or 8422(i); and
 (D) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 8348(c), (d), and (e), as determined by the Secretary (compounded annually);

but does not include interest-

- (i) if the service covered thereby aggregates 1 year or less; or
- (ii) for a fractional part of a month in the total service;

(20) the term "Member" has the same meaning as provided in section 2106, except that such term does not include an individual who irrevocably elects, by written notice to the official by whom such individual is paid, not to participate in the Federal Employees' Retirement System, and who (in the case of an individual who is a Member of the House of Representatives, including a Delegate or Resident Commissioner to the Congress) serves as a Member prior to the date of the enactment of the Legislative Branch Appropriations Act, 2004;

(21) the term "net earnings" means the excess of earnings over losses;

(22) the term "net losses" means the excess of losses over earnings;

(23) the term "normal-cost percentage" means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Office in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

(24) the term "Office" means the Office of Personnel Management;

(25) the term "price index" has the same meaning as provided in section 8331(15);

(26) the term "service" means service which is creditable under section 8411;

(27) the term "supplemental liability" means the estimated excess of-

(A) the actuarial present value of all future benefits payable from the Fund under this chapter based on the service of current or former employees or Members, over

(B) the sum of-

(i) the actuarial present value of deductions to be withheld from the future basic pay of employees and Members currently subject to this chapter pursuant to section 8422;

(ii) the actuarial present value of the future contributions to be made pursuant to section 8423(a) with respect to employees and Members currently subject to this chapter;

(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable-

(I) to the System, or

(II) to contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 by or on behalf of an individual who became subject to the System; and

(iv) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles;

(28) the term "survivor" means an individual entitled to an annuity under subchapter IV of this chapter;

(29) the term "System" means the Federal Employees' Retirement System described in section 8402(a);

(30) the term "military technician (dual status)" means an employee described in section 10216 of title 10;

(31) the term "military service" means honorable active service-

(A) in the armed forces;

(B) in the commissioned corps of the Public Health Service after June 30, 1960; or

(C) in the commissioned corps of the National Oceanic and Atmospheric Administration, or a predecessor entity in function, after June 30, 1961;

and includes service as a cadet at the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, but does not include service in the National Guard except when ordered to active duty in the service of the United States or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990;

(32) the term "nonforfeitable account balance" means any amounts in an account, established and maintained under subchapter III, which are nonforfeitable (as determined under section 8432(g));

- (33) "Nuclear materials courier" has the meaning given that term in section 8331(27);
- (34) the term "Government physician" has the meaning given such term under section 5948;
- (35) the term "air traffic controller" or "controller" means-
- (A) a controller within the meaning of section 2109(1); and
 - (B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B);

(36) the term "customs and border protection officer" means an employee in the Department of Homeland Security (A) who holds a position within the GS-1895 job series (determined applying the criteria in effect as of September 1, 2007) or any successor position, and (B) whose duties include activities relating to the arrival and departure of persons, conveyances, and merchandise at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years;

- (37) the term "revised annuity employee" means any individual who-

- (A) on December 31, 2012-
 - (i) is not an employee or Member covered under this chapter;
 - (ii) is not performing civilian service which is creditable service under section 8411; and
 - (iii) has less than 5 years of creditable civilian service under section 8411; and

(B) after December 31, 2012, and before January 1, 2014, becomes employed as an employee or becomes a Member covered under this chapter performing service which is creditable service under section 8411; and

- (38) the term "further revised annuity employee" means any individual who-

- (A) on December 31, 2013-
 - (i) is not an employee or Member covered under this chapter;
 - (ii) is not performing civilian service which is creditable service under section 8411; and
 - (iii) has less than 5 years of creditable civilian service under section 8411; and

(B) after December 31, 2013, becomes employed as an employee or becomes a Member covered under this chapter performing service which is creditable service under section 8411.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 517 ; amended Pub. L. 99-556, title I, §§107, 109, 119, Oct. 27, 1986, 100 Stat. 3132 , 3134; Pub. L. 100-238, title I, §§103(a)(2), (c), (d)(2), 113 (b)(1), Jan. 8, 1988, 101 Stat. 1744 , 1745, 1750; Pub. L. 100-679, §13(a)(2), Nov. 17, 1988, 102 Stat. 4071 ; Pub. L. 101-335, §6(a)(1), July 17, 1990, 104 Stat. 322 ; Pub. L. 101-474, §5(o), Oct. 30, 1990, 104 Stat. 1100 ; Pub. L. 101-508, title VII, §7202(k)(1), Nov. 5, 1990, 104 Stat. 1388-338 ; Pub. L. 103-337, div. A, title XVI, §1677(a)(4), Oct. 5, 1994, 108 Stat. 3019 ; Pub. L. 103-353, §5(c), (e)(1), Oct. 13, 1994, 108 Stat. 3174 ; Pub. L. 104-208, div. A, title I, §101(f) [title VI, §659 [title II, §206(a)(1)]]], Sept. 30, 1996, 110 Stat. 3009-314 , 3009-372, 3009-378; Pub. L. 105-261, div. C, title XXXI, §3154(f), Oct. 17, 1998, 112 Stat. 2255 ; Pub. L. 106-65, div. A, title V, §522(c)(2), Oct. 5, 1999, 113 Stat. 597 ; Pub. L. 106-571, §3(c)(2), Dec. 28, 2000, 114 Stat. 3056 ; Pub. L. 108-83, title I, §104(a), Sept. 30, 2003, 117 Stat. 1017 ; Pub. L. 108-176, title II, §226(a)(2), Dec. 12, 2003, 117 Stat. 2529 ; Pub. L. 110-161, div. E, title V, §535(b)(1), Dec. 26, 2007, 121 Stat. 2076 ; Pub. L. 110-181, div. A, title XI, §1115(b), Jan. 28, 2008, 122 Stat. 361 ; Pub. L. 111-84, div. A, title XIX, §1904(b)(1), Oct. 28, 2009, 123 Stat. 2616 ; Pub. L. 112-96, title V, §5001 (a), Feb. 22, 2012, 126 Stat. 199 ; Pub. L. 113-67, div. A, title IV, §401(a), Dec. 26, 2013, 127 Stat. 1183 .)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (11), is act Aug. 14, 1935, ch. 531, 49 Stat. 620 . Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Chapter 21 of the Internal Revenue Code of 1986, referred to in par. (11), is classified to chapter 21 (§3101 et seq.) of Title 26, Internal Revenue Code.

Section 103(6) of the Foreign Service Act of 1980, referred to in par. (11)(iii), is classified to section 3903(6) of Title 22, Foreign Relations and Intercourse.

The Federal Employees' Retirement System Act of 1986, referred to in par. (17)(B), is Pub. L. 99-335, June 6, 1986, 100 Stat. 514 . For complete classification of this Act to the Code, see Short Title note set out under section 8401 of this title and Tables.

The Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, referred