



## ***Benefits Administration Letter***

Number: 19 - 102

Date: 05/20/2019

### **Subject: Additional Guidance on Phased Retirement**

The Office of Personnel Management (OPM) published final regulations in August of 2014 to implement phased retirement. The purpose of this Benefits Administration Letter (BAL) is to identify and address significant errors encountered by OPM with phased retirement and to provide guidance to ensure the compliance and elimination of these errors. The most common errors for phased retirement are inaccurate effective dates, incomplete or missing documentation, incorrect retirement estimates, and the timely counsel and action on the completion of the civilian and/or military deposits prior to the finalization of the phased retirement annuity.

The [Agency Checklist for Phased Retirement – CSRS](#) and [Agency Checklist for Phased Retirement – FERS](#) are now available and should be completed and included with the documentation to elect phased employment/retirement status. Several instructional BAL's on phased retirement have previously been issued which include the following:

- [BAL - 14-108](#) – Phased Retirement Employee Frequently Asked Questions
- [BAL – 14-109](#) – Phased Retirement Instructions for Personnel and Payroll Offices
- [BAL – 14-110](#) – Instructions for Personnel and Payroll Offices
- [BAL – 14-111](#) – New CSRS and FERS Instruction Pamphlets Available for Completing Applications for Phased Retirement and Full Retirement Status from Phased Employment
- [BAL – 14-112](#) – Standard Form (SF) 3116: Phased Employment/Phased Retirement Status Elections

The phased retirement statutory provisions can be found at 5 U.S.C. 8336a and 5 U.S.C. 8412a and the regulations can be found at 5 CFR part 831, subpart Q, and 5 CFR part 848.

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## WORKING PERCENTAGE AND OFFICIAL ESTABLISHED HOURS FOR PHASED EMPLOYMENT

**Problem:** Agencies have approved employees who have applied for phased retirement who seemingly are not working the full 40 hours per pay period per the statutory requirement. A work schedule of less than 40 hours per pay period does not meet the 50% working percentage requirement of phased retirement, which will result in OPM disallowing the phased retirement. This means that the final full status retirement will convert to a regular retirement in which the phased employment service will be processed as part-time service. This also means that all annuity payments made during phased retirement are erroneous and the employee will be responsible to pay the full amount of the annuity received to OPM.

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**Rules:**

- The established working percentage for phased retirement is 50 percent which equates to 40 hours per pay period.
- The working percentage of 50 percent is defined as half of the full time schedule of 80 hours per pay period (5 CFR 831.1702).
- There are no exceptions that allow employees to work less than 50 percent of the full time schedule.
- By regulation, only the Director of the Office of Personnel Management may provide for working percentages other than the currently established working percentage. The Director has not provided for any new working percentages pursuant to her/his authority at 5 U.S.C. 8331a (b) and 5 U.S.C. 8412a (b).
- Agencies do not have the authority to approve a working percentage other than 50 percent.
- The working percentage for a phased retiree may not be changed during the phased retiree's phased retirement period (5 U.S.C. 8412a).
- In rare and exceptional circumstances, an authorized agency official may approve an employee in phased retirement status to temporarily perform hours of work in excess of the officially established work schedule of 40 hours per pay period as long as certain requirements are met. There is more information on granting an exception to the established work schedule of an employee in phased retirement status in the regulations in 5 CFR 831.1715 and 5 CFR 848.205 as well as in [BAL 14-110](#), section 4.

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**Example:** An employee on phased retirement has an official work schedule resulting in only 36 hours per pay period instead of the required 40 hours per pay period. This working percentage is not at 50%, therefore this employee does not meet the requirements for phased retirement.

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**Action Required:** Employees must not have a working percentage other than 50 percent, 40 hours per pay period. Should this occur, the phased retirement SF-50 must be canceled. A new SF-50 should be processed to reflect the change in work schedule to part time, and the employee will be subject to the part time proration for the period of time they were erroneously placed in phased retirement. The employee is responsible for repaying any phased retirement annuity received to the OPM.

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## EFFECTIVE DATES

**Problem:** Incorrect effective dates have been input on the SF 3116 and SF 50 for employees electing to enter phased employment and/or electing to end phased employment.

**Rules:** *Phased Employment and Commencing Date of Phased Retirement Annuity:*

- The effective date and commencing date of the phased retirement annuity is the beginning of the next pay period following the authorized agency official's approval of the phased retirement election or the first day of a later pay period if approved by the authorized official.

*Effective Date of Full Status Retirement Benefit:*

- An employee in phased retirement status may enter full retirement status at any time by submitting an application for retirement to their Human Resources office.

*End Phased Employment/Phased Retirement Status and Return to Regular Employment:*

- Should an authorized official approve the employee's election to end phased employment/phased retirement to return to regular employment and end phased retirement, the effective date of this change in status is based on the date of this approval.

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**Example:**

If approved by the agency between the first and fifteenth of the month, the effective date of the termination of phased retirement would be the day before the first day of the first full pay period in the next month. For example, if a return to regular employment was approved by the agency on January 9, 2019, the effective date of the termination of phased retirement would be February 2, 2019; and the effective date for the return to regular employment would be February 3, 2019, which is the beginning of the first pay period in February (i.e., the month after the January 9<sup>th</sup> agency approval).

Should the authorized official approve the employee's request to end phased employment/retirement to return to regular employment between the sixteenth of the month to the end of the month, the effective date of termination of the phased retirement would be the day before the first day of the first full pay period beginning in the second month after the month of the agency approval. For example, if the agency approved a return to regular employment on January 16, 2019, the effective date of the termination of phased employment would be March 2, 2019; and the effective date for the return to regular employment would be March 3, 2019, which is the beginning of the first pay period in March.

NOTE: The Phased Employment/Phased Retirement Status Election form ([Standard Form 3116](#)) provides detailed guidance on **how to determine the correct effective dates for phased retirement.**

## DOCUMENTATION

**Problem:**

Phased retirement packages are being received without all required documentation, which causes a delay in processing times to obtain the needed information. There are different documentation needs for each component of phased retirement/phased employment. In addition, some payroll providers are not including the required employee deductions through the day before the employee enters phased employment/phased retirement.

**Rules:**

The following documents and/or action are required for the election, application, or termination of phased employment:

*To Elect Phased Employment/Retirement Status*

- Agency Checklist for Phased Retirement (SF 2801 PR – CSRS, SF 3107 PR FERS)
- Certified Summary of Federal Service (CSRS – SF 2801-1, FERS – SF 3107-1)

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- Phased Employment/Phased Retirement Status Elections, [SF 3116](#), Part 1A
    - File a copy of the election in the Official Personnel Folder (OPF or eOPF)
  - Application for Immediate Retirement – [SF 2801](#) for CSRS, [SF 3107](#) for FERS (Adhere to the Information & Instructions for Completing an Application for Phased Retirement pamphlet, [SF 2825](#) for CSRS, [SF-3117](#) for FERS)
  - Complete deposits for post-1956 military service and/or civilian deposits/redeposits (if applicable) **before** the effective date of Phased Employment/Phased Retirement
  - SF-50, Notification of Personnel Action (Nature of Action Code (NOAC) 615 – Entering Phased Retirement, [Chapter 27 – Guide to Processing Personnel Actions](#))
  - Phased Retirement Estimate of Annuity
  - Individual Retirement Record (IRR) – the IRR must contain a complete service history and fiscal record data up through the day before entry into phased employment/phased retirement. **The fiscal data must include all deductions withheld through the day before phased retirement and any accompanying fiscal data such as Leave Without Pay or Additional Pay Status indications.** The amount of deductions are used for various benefits as well as for Internal Revenue Service tax compliance purposes. Agency and payroll provider provision of this information is a mandatory requirement to be met in order for OPM to process the phased retirement.
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*To Elect to End Phased Employment/Retirement to Return to Regular Employment Status*

- Phased Employment/Phased Retirement Status Elections, [SF 3116](#) – Part 2A
    - Send electronic copy to [phasedret@opm.gov](mailto:phasedret@opm.gov) for immediate awareness
    - Send paper copy to the OPM within 15 days of the election
    - File scanned copy of the election in the OPF/eOPF
  - SF-50 – NOAC 616 – Opt Out Phased Employment/Retirement ([Chapter 27 – Guide to Processing Personnel Actions](#))
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*To Elect to Continue Phased Employment/Retirement upon a Move to another Agency*

- Phased Employment/Phased Retirement Status Elections, [SF 3116](#) - Part 3A
    - File a copy of the election in the Official Personnel Folder (OPF or eOPF)
  - Written consent from the authorized agency official from the agency where the employee is transferring
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*To Elect to End Phased Employment/Phased Retirement Status upon a Move to another Agency*

- Phased Employment/Phased Retirement Status Elections, [SF 3116](#) – Part 3B
  - Send electronic copy to [phasedret@opm.gov](mailto:phasedret@opm.gov) for immediate awareness
  - Send hard copy to the OPM within 15 days of the election
  - File scanned copy of the election in the OPF/eOPF

*To Elect to end Phased Retirement to enter Full Immediate Voluntary Retirement*

- Retirement application should be completed in accordance to Instruction Pamphlets [SF 2826](#) (CSRS), [SF 3118](#) (FERS)
- SF-50 should reflect the full retirement status – voluntary, NOAC 307, or full retirement Status – ILIS, NOAC 308, for full retirement status in lieu of involuntary separation ([Chapter 30 – Guide to Processing Personnel Actions](#))

NOTE: The application package for a Full Retirement Status separation should contain all of the applicable documents that a regular retirement would contain. See [BAL 12-103](#), [Attachment C](#) for instructions on assembling a complete retirement package.

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## RETIREMENT ESTIMATES AND COUNSELING

**Problem:**

OPM is receiving copies of inaccurate retirement estimates which employing agencies have been provided to the employees electing phased employment and/or ending phased employment. Employees are receiving estimates for an immediate retirement instead of a phased retirement estimate. This causes confusion for the employees and does not provide the sound information the

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employees need for informed consent and financial planning purposes.

**Rules:**

It is imperative that phased retirement estimates and counseling are completed accurately and timely for employees transitioning to phased retirement status, opting out of phased employment/phased retirement, and upon their election to apply for full retirement (composite). When the agency estimates the employee's retirement annuity, it is important to ensure that the employee's work schedule and status are correctly changed to phased retirement with the effective date of this election. The certified summary of service should also reflect this change.

*Election of Phased Employment/Retirement Status*

The estimate provided to employees should be specific to the annuity that will be paid during phased retirement. Please note that this estimate will **not** include any reductions or deductions for benefits. For FERS employees the phased retirement estimate will **not** include the FERS annuity supplement as this is not paid during phased retirement. The phased retirement estimate should not have the converted sick leave included since this leave may continue to be used and earned during phased employment and the balance will later be converted and added to the total service used in the composite annuity upon employees' transition to full retirement.

*Election to End Phased Employment/Retirement to Return to Regular Employment Status*

Employees should be counseled to ensure that they are made aware of how the time in phased employment/phased retirement will affect their future annuity upon any election to return to regular employment and end their participation in phased retirement. A new annuity estimate may be provided to accurately reflect the period of phased employment/phased retirement as part time service, thus applying a part time proration to the annuity upon a future immediate retirement computation.

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*Application for Full retirement status (composite annuity)*

Some agencies are computing the composite annuity as if it were a regular retirement. The estimate of annuity upon completion of the phased retirement status and election of full retirement status should reflect **the result of the composite formula**, in which the initial phased retirement annual benefit (updated with applicable Cost of Living Adjustments) is added to the full status retirement benefit (i.e., the annual benefit for the entire service history, including unused sick leave, x 50%). The appropriate reductions

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(such as for survivor benefit) and deductions are then taken from the resulting composite benefit. Please note that the CSRS 80% benefit is also subject to the composite formula and therefore, the 80% calculation is different from the regular 80% amount.

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## OPPORTUNITY TO COMPLETE UNPAID DEPOSITS/REDEPOSITS

**Problem:** Employees who elect phased employment who also have unpaid deposits and/or redeposits are unaware that they **MUST** pay all deposits/redeposits upon the processing of their phased retirement. They will **NOT** have another opportunity to make a service credit payment upon separation for the full final retirement status. Benefits Specialists should counsel and provide estimates for comparison of the employee's annuity with and without the deposits paid and stress the importance of completing the deposits either prior to entering phased retirement or within the limited time allotted per the Deposit/Redeposit letter sent to them by OPM during the adjudication of the phased retirement benefit.

**Rules:** It is imperative that employees who owe retirement creditable deposits for Federal civilian service during which no retirement deductions were performed or redeposits for periods of service during which deductions were withheld but were later refunded, be advised that deposit(s) must be completed **prior** to the finalization of their phased retirement annuity. Upon receipt of the phased retirement election, OPM will provide employees **only 30 days** to pay the deposit and/or redeposit in a lump-sum payment.

It is important to note that if these deposits and redeposits are not paid, the employee in phased retirement status will **not** have an opportunity to pay them upon entering full retirement status.

### *Post-1956 Military Deposits*

Employees who elect phased retirement who owe a deposit for active duty military service performed after December 31, 1956 must complete payment on the deposit **before** their phased retirement annuity commences. There will **not** be an opportunity to pay this deposit after the phased retirement annuity begins.

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## THE USE OF THE PHASED RETIREMENT EMAIL ADDRESS

**Problem:** The email address specific for phased retirement is being utilized incorrectly causing an erroneous influx of email requests and

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inquiries which could cause unnecessary delays due to time taken to redirect the agency contact or employee to the appropriate personnel to contact.

**Rules:**

Employees should contact their agency human resources office for further information about the implementation of phased retirement within their agency. Agency field offices should contact their appropriate headquarters-level agency human resources office. Agency headquarters-level human resources offices may contact their servicing OPM liaison. Requests from individual employees will be returned or forwarded to the appropriate agency human resources office. For general information on phased retirement, the following website should be used as a resource:

<http://www.opm.gov/retirement-services/phased-retirement/>.

The phased retirement email address, [phasedret@opm.gov](mailto:phasedret@opm.gov) is **only** to be used in the following circumstances:

- **Ending phased retirement to go back to being a regular employee**
  - Agencies must email a copy of the election to [phasedret@opm.gov](mailto:phasedret@opm.gov) within 15 days of the election.
- **Moving to another agency where phased employment will be continued**
  - To move to another agency during phased employment/phased retirement, the phased retiree must complete **Part 3A** of SF 3116 and obtain the signed written approval of the authorized agency official in the gaining agency.
  - This form should be submitted to the phased retiree's losing agency, who must email a copy to [phasedret@opm.gov](mailto:phasedret@opm.gov) to alert OPM to the change in agency.
- **Moving to another agency where phased employment will not be continued**
  - To end phased employment/phased retirement status upon a move to another agency, the phased retiree must complete Part 3b of form SF 3116 and submit it to the agency that initially approved the phased retirement. The agency must immediately send the election form to the [phasedret@opm.gov](mailto:phasedret@opm.gov) email box to alert Retirement to the

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termination of phased employment/phased retirement. The phased employment/phased retirement status ends as of close of business on the day before the move to the new agency. The effective date of the termination of the phased annuity is the date of transfer.

- **Death of phased retiree while in phased employment/phased retirement status**
  - If a phased retiree receiving phased retirement annuity dies before separating for full retirement benefits, the phased retiree will be deemed to have been a deceased employee. Consequently, the agency will handle the death of the phased retiree as a death in service claim. Agencies must submit the death in service package in the Data Exchange Gateway (DEG) as a death application. Agencies must immediately send a notice of the death to Retirement via the [phasedret@opm.gov](mailto:phasedret@opm.gov) email address.
  
- **Phased retiree begins receipt of workers compensation**
  - If a phased retiree begins receiving workers compensation, agencies must notify OPM via the [phasedret@opm.gov](mailto:phasedret@opm.gov) email address immediately of the type and duration (if known) of the OWCP. Receipt of certain types of OWCP affects the status of the phased retirement annuity.