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Subchapter 101A CSRS and FERS**Part 101A1 General Information****Section 101A1.1-1 Overview**

A. Introduction

This Chapter explains the special retirement provisions that apply to a limited group of senior officials who hold certain senior positions, or who previously held such a position, that became subject to mandatory Social Security (OASDI) coverage on January 1, 1984, as required by the Social Security Amendments of 1983, Public Law 98-21. The special retirement rules covered in this Chapter are only those rules that apply to the following senior officials:

- Those individuals in the Executive Schedule positions listed in 5 U.S.C. 5312 through 5317 except the positions previously removed from those sections as a result of the Civil Service Reform Act (see section 101A2.1-1, paragraph C);
- Noncareer appointees of the Senior Executive Service;
- Personal staff of the President and Vice President;
- Members of Congress; and
- Certain Federal judges.

NOTE 1: Retirement coverage for other high level officials whose positions were **not** affected by Public Law 98-21 is determined under the regular rules in Chapter 10, Coverage, or Chapter 12, Special Coverage Rules.

NOTE 2: The employing agency has the basic responsibility for determining whether an employee is covered by Social Security. OPM has no role concerning Social Security program administration (for example, coverage, tax rates, and wages subject to taxation). However, as the central personnel agency for the Federal government, OPM disseminates information affecting employment and benefits supplied by the Social Security Administration or the Internal Revenue Service.

Section 101A1.1-1 Overview (Cont.)**B. Using This Chapter**

Refer to part 101A2 for a discussion of the positions covered by the special rules that apply to senior officials.

Refer to part 101A3 for the rules to be followed in making current coverage determinations for senior officials. See Appendix A for historical information about the special opportunities afforded to individuals who held senior official positions from December 31, 1983, through the FERS open season in 1987, as well as 1988 legislation affecting certain Presidential appointees.

C. Topics Covered

This Chapter covers:

- Identification of positions covered by the provisions of this Chapter;
- Current coverage determinations for senior officials;
- Coverage of reemployed annuitants who are appointed or elected to senior official positions;
- Service credit rules and circumstances when excess deductions exist; and
- Background information.

D. Organization of Chapter

This Chapter has four parts.

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Section 101A1.1-1 Overview (Cont.)**E. Statement of
Authority**

This Chapter and its contents are based on the laws and regulations cited below.

- United States Code: 5 U.S.C. chapter 84; Sections 301, 302, and 303 of Public Law 99-335 (as amended); Section 101 of Public Law 98-21; and Public Law 100-647
 - Code of Federal Regulations: 5 CFR 842 and 846
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Section 101A1.1-2 Definitions

- A. Mandatory Social Security Coverage** For the purpose of this Chapter, the phrases "mandatory Social Security coverage" **and** "mandatory Social Security provisions" mean the requirement in the Social Security Amendments of 1983 (Public Law 98-21) that certain senior officials be subject to Social Security coverage as of January 1, 1984.
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- B. Senior Official** For purposes of this Handbook, the term "senior official" means an individual who is required to have Social Security coverage because he or she holds (or held) a position covered by the Social Security Amendments of 1983. These positions are listed and discussed in section 101A2.1-1 of this Chapter.
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Part 101A2 Senior Officials Mandatorily Covered by Social Security**Section 101A2.1-1 Senior Officials Covered by the Social Security Amendments of 1983**

A. General

Before 1984, most Federal employees who were senior officials were covered by CSRS and were excluded from Social Security (OASDI) coverage. Before 1984, Members of Congress could elect CSRS coverage, but were not required to participate in any retirement system. Members of Congress were excluded from Social Security coverage.

The Social Security Amendments of 1983 (Public Law 98-21, enacted April 20, 1983) extended mandatory OASDI coverage to certain senior officials, including Members of Congress, effective January 1, 1984, even though most of these senior officials also had other retirement coverage as Federal employees. The senior officials affected by the 1983 amendments are as follows.

B. Members of Congress

The term "Members of Congress" as used in this Chapter includes:

- a Member of the Senate (including the Vice President) or the House of Representatives;
 - a Delegate to the House of Representatives; and
 - the Resident Commissioner of Puerto Rico.
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C. Officials in Executive Schedule and SES Positions

1. Certain individuals who were in executive schedule positions, levels I through V, listed in 5 U.S.C. 5312 through 5317, became subject to mandatory Social Security coverage on January 1, 1984, (for example, most cabinet secretaries, deputy and assistant secretaries, and heads and top officials of agencies, boards and commissions).

Section 101A2.1-1 Senior Officials Covered by the Social Security Amendments of 1983 (Cont.)**C. Officials in
Executive
Schedule and SES
Positions (Cont.)**

NOTE: Some individuals in level IV and V positions listed in 5 U.S.C. 5315-5317 did not become subject to Social Security Coverage in 1984. These individuals were in positions not requiring Senate confirmation that were placed in the Senior Executive Service (SES) under 5 U.S.C. 3132 when the SES was established in 1979. Even though the creation of the SES effectively removed such positions from the Executive Schedule, a revision to delete these positions from the listing in 5 U.S.C. 5315-5317 has not been made. Individuals in these positions were mandatorily covered by Social Security on January 1, 1984, only if they held a noncareer SES appointment (see paragraph D below).

2. Persons serving in positions that were not specifically listed in sections 5312 through 5317, but which were designated to be treated for pay purposes as if they were so listed when they were established, did not mandatorily come under Social Security coverage on January 1, 1984. A note following 5 U.S.C. 5317 lists many of these positions.
3. Career SES appointees normally are covered by the regular rules described in Chapters 10 and 12 of this Handbook.

NOTE: "Career" applies to a person's appointment, not position. There is no such thing as "Career Senior Executive Service," only career (or other) appointments in SES.

Section 101A2.1-1 Senior Officials Covered by the Social Security Amendments of 1983 (Cont.)**D. Noncareer SES
Appointees**

Noncareer appointees in the Senior Executive Service (SES) are subject to mandatory Social Security coverage.

NOTE: "Limited term" and "limited appointee emergency" appointees in the SES are specifically excluded from the definition of a "noncareer" appointee as given in title 5 of the United States Code. (See 5 U.S.C. 3132 for definitions of these types of appointments.) Limited term appointee means an individual appointed under a nonrenewable appointment for a term of 3 years or less to an SES position the duties of which will expire at the end of such term. Limited emergency appointee means an individual appointed under a nonrenewable appointment, not to exceed 18 months, to an SES position established to meet a bona fide, unanticipated, urgent need.

Limited term and limited emergency appointees are covered by Social Security, but not under mandatory coverage provisions of Public Law 98-21. Limited term and limited emergency appointees are eligible for FERS coverage. However, they are excluded from CSRS coverage by regulation unless the CSRS coverage the employee had in a prior position continued under the continuity of service rule because there has not been a break in service of at least 4 days. Therefore, if a career employee under CSRS moves to a limited term or limited emergency appointment in the SES without a break in service of 4 or more days, CSRS coverage continues and the employee continues to be excluded from Social Security. The official is not eligible to elect FERS based on the change in position.

Section 101A2.1-1 Senior Officials Covered by the Social Security Amendments of 1983 (Cont.)

E. Personal Staff of the President and Vice President Individuals on the personal staff of the President and Vice President appointed under section 105(a)(1), 106(a)(1), or 107(a)(1) or (b)(1) of title 3 of the United States Code, including the Domestic Policy Staff and the Office of Administration, if the maximum rate of pay payable for their positions is at or above the rate for level V of the Executive Schedule, are subject to mandatory Social Security coverage. What governs is whether the maximum rate **payable** for the position is at or above the rate for level V of the Executive Schedule -- not the rate actually paid to an individual. (For example, if a statute states that the rate of pay for a position is not to exceed level V of the Executive Schedule, but the actual rate paid to the individual is less than level V, the individual is subject to mandatory Social Security Coverage.)

F. Certain Federal Judges Certain Federal judges became subject to mandatory Social Security coverage. These judges include:

- Judges of the U.S. Claims Court;
- Judges of the U.S. Tax Court who do not participate in the special retirement plan for Tax Court judges;
- U.S. magistrates and bankruptcy judges; and
- Judges of the U.S. Court of Military Appeals.

NOTE: The Department of Defense determined that Public Law 98-21 applied to these judges even though they were not specifically listed in that law. These judges are appointed by the President and confirmed by the Senate.

Part 101A3 Current Coverage Determinations**Section 101A3.1-1 Coverage Determinations**

- A. General** The following paragraphs describe the rules that apply to current coverage determinations for individuals who are appointed to a senior official position or are newly elected Members of Congress. For historical information, see Appendix A, which covers the special election opportunities available to officials who served continuously during the 1984-1988 period, as well as options available to career SES members who, upon appointment to Executive Schedule positions before November 10, 1988, were entitled under 5 U.S.C. 3392(c) to retain their CSRS coverage.
- B. New Hires** An individual without previous Federal service who is newly appointed as a senior official is automatically covered by FERS unless the appointment is excluded by law or regulation. Like any other new hire, such an employee has Social Security as part of his or her FERS package.
- C. New Members of Congress** New Members of Congress are covered by FERS unless they irrevocably elect not to participate in FERS. This irrevocable election remains in effect until the individual has a break in service as a Member.
- D. Transfers from Positions With Mandatory Social Security Coverage** Individuals who transfer, without a break in service exceeding 3 days, from a senior official position with mandatory Social Security coverage to another such position, continue to have the same retirement coverage and Social Security coverage in the new position. An individual who was a senior official with special election opportunities in 1983, 1984, **and** 1987 that are described in Appendix A who has CSRS Offset coverage, only Social Security coverage, or both full Social Security and CSRS coverage, continues to have the same coverage in the new position and does not have an opportunity to elect FERS.
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Section 101A3.1-1 Coverage Determinations (Cont.)**E. Transfers or
Conversions from
Positions Without
Mandatory Social
Security Coverage**

1. Employees with FERS coverage who transfer to a senior official position continue their FERS coverage.
2. An individual who was covered by CSRS Offset during his or her previous appointment will remain in CSRS Offset as a senior official.
3. An individual who was a senior official with special election opportunities in 1983, 1984, **and** 1987 that are described in Appendix A continues to have the coverage elected at that time and does not have an opportunity to elect FERS unless he or she subsequently elected FERS coverage.
4. When employees with full CSRS coverage accept appointments to senior official positions with mandatory Social Security coverage, these senior officials become covered by CSRS Offset. Since they were not covered by Social Security as a Federal employee immediately before the appointment (that is, they were covered under full CSRS rather than CSRS Offset) they have a 6-month opportunity to elect FERS. (Because of the acquisition of Social Security and the change it makes in a person's benefit package, they are considered to have a break in service for retirement coverage purposes even though there is no actual break or the break is less than 4 days.)

EXAMPLE: SUSAN**Career appointment (CSRS): 1-1-77****Career SES (CSRS): 4-25-86****Appointment to Executive Level IV (CSRS Offset): 10-7-94**

Upon her appointment to the Executive Level IV position, Susan was subject to mandatory Social Security coverage. However, because she had at least 5 years of civilian service prior to this appointment, she was covered under CSRS Offset. In addition, because Susan was covered by full CSRS prior to mandatory Social Security coverage, she has a 6-month window to elect FERS.

Section 101A3.1-1 Coverage Determinations (Cont.)**E. Transfers or Conversions from Positions Without Mandatory Social Security Coverage (Cont.)**

NOTE: An individual covered by CSRS Offset who moves to a senior official position does not have an opportunity to elect FERS unless there is a break in service exceeding 3 days.

EXAMPLE: MARTIN

Career appointment (CSRS): 3-21-70

Separated: 12-30-82

Rehire Career SES (CSRS Offset): 7-14-88

Appointment to Executive Level V (CSRS Offset): 5-3-94

Martin had an opportunity to elect FERS upon returning to Federal service in 1988, but chose to stay under CSRS Offset coverage. Upon appointment to the Executive Level V senior official position in 1994, he did not have a new 6-month opportunity to elect FERS because he was already covered by Social Security at the time he accepted the appointment.

F. Individuals Who Become Senior Officials after December 31, 1986

The general rule described in Chapter 10 that a 4-day break in service triggers a FERS election opportunity also applies to senior officials. If a senior official not previously covered by FERS has a break in service that exceeds 3 days, he or she has a 6-month opportunity to elect FERS (unless covered automatically or under an appointment that precludes FERS coverage).

G. Rehires

1. A person with prior Federal service who is appointed or elected as a senior official after December 31, 1986 (including a Member of Congress who does not irrevocably elect out of FERS), following a break in service exceeding 3 days, is automatically covered under Social Security. The person has FERS unless he or she meets the 5-year test (see Chapter 10).

If the person is not automatically covered by FERS, he or she is covered under the CSRS Offset provision and has a 6-month opportunity to elect FERS coverage.

2. Appendix A contains the rules for an individual who was a senior official with any of the special election opportunities in 1983, 1984, and 1987.

Section 101A3.1-2 Annuitants Reemployed in Senior Official Positions

A. CSRS Annuitants Reemployed CSRS annuitants, while generally exempt from Social Security coverage, are subject to Social Security coverage when reemployed as senior officials. Consequently, CSRS and CSRS Offset annuitants reemployed as senior officials under circumstances in which the annuity continues, have CSRS Offset coverage, and any new benefits are computed under CSRS Offset rules. (See Chapter 100, Reemployed Annuitants.) The reemployed annuitant who is reemployed after a 3-day break in service also has a 6-month window to elect FERS unless the appointment is excluded from FERS coverage.

If a CSRS annuitant who was not previously subject to the CSRS Offset provisions is reemployed in a position in which he or she is subject to CSRS Offset (that is, reemployed in a senior official position mandatorily covered by Social Security) and the reemployed annuitant earns a supplemental or redetermined annuity, the offset for Social Security will be based on the period of CSRS Offset service only.

B. FERS Annuitants A FERS annuitant who is appointed or elected to a senior official position remains subject to FERS coverage upon reemployment. In general, the rules governing reemployed FERS annuitants who are senior officials are the same as for other reemployed FERS annuitants. For further information, see subchapter B in Chapter 100.

NOTE: Special rules apply to a FERS annuitant who is appointed as a judge as defined by section 451 of title 28, or elected President.

C. Reemploying a Retired Member of Congress Special rules apply to the reemployment of Members of Congress. Agency headquarters level retirement counselors should consult their liaison in the Agency Services Division at OPM.

Section 101A3.1-2 Annuitants Reemployed in Senior Official Positions (Cont.)

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|--|---|
| D. Reemployed Annuitants Receiving OWCP Benefits | See Chapter 102, section 102A3.1-2, Relationship Between Retirement Annuity and Compensation for Work-Related Injuries and Diseases, for guidance. |
| <hr/> | |
| E. Reemployment of Civilian and Military Retirees Under 5 CFR Part 553 to Meet Exceptional Employment Needs | For guidance concerning the reemployment requirements for any CSRS or FERS annuitant rehired under 5 CFR Part 553, which allows reemployment without offset of pay by annuity when there are exceptional employment needs, see Handbook Chapter 100, Reemployed Annuitants. |
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Part 101A4 Service Credit and Return of Excess Deductions**Section 101A4.1-1 Service Credit and Return of Excess Deductions**

A. General

The same service credit rules apply to senior officials as apply to the general employee population. The following paragraph addresses the special situations of senior officials who had special elections.

**B. Senior Officials
With Special
Elections**

- For senior officials who have FERS coverage service after 1983 that was subject to the special rules for certain senior officials, the service is credited under FERS rules.
 - For senior officials who changed from no retirement coverage, other than Social Security, to FERS, the service after 1983 for which only Social Security deductions were made becomes FERS service and the deposit is made under FERS deposit rules. As with the general employee population, a deposit may not be made for post-1988 nondeduction service.
 - For senior officials who have CSRS Offset coverage, service as a senior official after 1983 is subject to CSRS Offset rules. Previous creditable service (all service not subject to the special rules for senior officials) remains subject to the regular CSRS rules, regardless of when it occurred.
 - Senior officials who initially chose full CSRS coverage and elected CSRS Offset coverage during the 1987 open season have the service treated under CSRS Offset rules. Officials who elected FERS in 1987 or a later opportunity have the service treated as FERS service. Officials who made such elections were entitled to a return of what became excess deductions as described in the following paragraphs.
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Section 101A4.1-1 Service Credit and Return of Excess Deductions (Cont.)**C. Return of Excess Deductions**

Chapter 33, Return of Excess Contributions, explains in detail the procedures governing the return of excess CSRS retirement deductions to certain eligible FERS transferees and employees automatically covered by FERS.

The following paragraphs illustrate situations when excess deductions may exist.

1. A senior official who elected full CSRS coverage in December 1983 or September 1984 and then transferred either to FERS or CSRS Offset during the 1987 open season or to FERS during another transfer opportunity has excess deductions. Service for which withholdings were made at the full CSRS rate becomes either FERS or CSRS Offset service and the amount withheld for that period (if not previously refunded) that exceeds the amount due as deposit is the excess deductions amount.
2. A senior official who elected full CSRS coverage in December 1983 and changed to Interim CSRS coverage in September 1984 has excess deductions for the period that was subject to the full CSRS withholding rate.
3. A senior official who changes from CSRS Offset to FERS is due a return of excess deductions each year of the offset service that his or her pay exceeded the Social Security maximum taxable amount before the transfer to FERS was effective.
4. If a senior official who transferred to FERS has less than 5 years of non-offset/non-interim system civilian service, then all the service becomes FERS service. If CSRS withholdings were made (and not refunded) for the service or if the senior official had made a CSRS deposit (for civilian or military service) that exceeds the amount now due, there are excess deductions.

Section 101A4.1-1 Service Credit and Return of Excess Deductions (Cont.)

- C. Return of Excess Deductions (Cont.)**
5. If a senior official elected CSRS Offset coverage, there can be no excess deductions for service performed before January 1, 1984, because such service is subject to full CSRS rules. However, if an official with CSRS Offset coverage has a break of 4 or more days and elects FERS, the rules stated in 3. and 4. above apply and there may be excess deductions.

Interest is paid on returns of excess deductions. The computation of the excess deductions and interest depends on whether the senior official elected the retirement coverage or was automatically covered by FERS and when OPM received the senior official's application for the return of excess deductions. If the senior official has not applied for the return of the excess deductions before retirement, OPM automatically pays the excess deductions when it processes the retirement application. Interest on excess retirement deductions is eligible under "rollover" provisions of Public Law 102-318. See Chapter 30, Employee Deductions and Agency Contributions, for the employee deduction rates and the Social Security maximum taxable amounts for each year.

APPENDIX A -- Historical Information

**A. Retirement
Coverage for
Certain Senior
Officials**

Before 1984, most Federal employees who were senior officials were covered by the Civil Service Retirement System (CSRS). Some were excluded by law; for example, justices and judges who were appointed for life and senior officials who were subject to another retirement system, such as the Foreign Service Retirement System. Others were excluded by regulations because of time-limited appointment; for example, temporary and term appointments.

Federal employees, including senior officials, who were covered by CSRS were excluded from Social Security (Old Age, Survivors, and Disability Insurance) coverage.

NOTE: In the past, some appointees in the SES were never covered under CSRS and instead had Social Security coverage because the positions to which they were appointed were excluded from CSRS retirement coverage. For example, employees who were serving under noncareer (designated as "indefinite") SES appointments were (and still are) excluded from CSRS coverage by OPM regulations. Public Law 98-21, therefore, had no real effect on their status.

Members of Congress were excluded from Social Security coverage whether or not they had CSRS coverage. Members of Congress had CSRS coverage only if they chose to have it.

B. The Social Security Amendments of 1983

The Social Security Amendments of 1983 (Public Law 98-21, enacted April 20, 1983) extended mandatory Social Security coverage (Old Age, Survivors, and Disability Insurance) to certain senior officials, effective January 1, 1984, even though these senior officials also had other retirement coverage as Federal employees. These senior officials are identified in section 101A2.1-1.

At the time the Social Security Amendments of 1983 passed, no change was made in the CSRS coverage of the officials who held these positions. If Congress had taken no further action, effective January 1, 1984, these individuals would have been faced with CSRS withholdings at 7, 7.5, or 8 percent of pay, medicare withholdings at 1.3 percent of pay up to the Social Security maximum (\$37,000 in 1984), **plus** Social Security Old Age, Survivors, and Disability Insurance withholdings at 5.4 percent of pay up to the Social Security maximum. (Federal employees had been paying medicare since January 1983.)

C. Interim Plan

Title II of Public Law 98-168, the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, enacted November 29, 1983, provided an interim plan for employees and officials who would have been fully covered under both CSRS and Social Security as a result of the Social Security Amendments of 1983. In addition, affected senior officials were given the opportunity to make elections concerning their retirement coverage.

Under the interim plan, which was meant to bridge the gap until a new retirement system could be enacted and implemented, the CSRS withholding rate for individuals covered by both CSRS and Social Security was reduced to 1.3 percent of pay for all employees--even those in special groups who normally paid more.

In addition, some adjustments were made for retirement, disability, and survivor annuities that began during the interim period. To get credit for service performed during the interim period, senior officials who retired under the interim plan had to pay a deposit of the difference between the amount that was withheld from pay during the interim period and the amount that would have been withheld for full CSRS coverage. Senior officials who became disabled during the interim period did not

**C. Interim Plan
(Cont.)**

have to make a deposit to get credit for service performed during the interim period, but their disability annuity was offset by the amount of any Social Security benefit attributable to the Federal service performed during the interim period. The survivor annuities based on the service of senior officials who died during the interim period were similarly offset.

Senior officials were also given an opportunity to elect, instead of the interim plan, either full CSRS coverage with 7, 7.5, or 8 percent withholdings or no CSRS coverage with no CSRS withholdings. Senior officials (other than members of Congress) who made no election were automatically covered under the interim plan on January 1, 1984. (Regardless of their elections regarding their CSRS coverage, they remained mandatorily covered by Social Security.) Senior officials who elected no CSRS coverage could receive a refund of their CSRS contributions if they were not eligible for an immediate annuity.

Under CSRS, Members of Congress were covered by CSRS only if they elected to be covered. Under the interim plan, Members of Congress who were not participating in CSRS before December 31, 1983, could elect, by December 31, 1983, either interim or full CSRS coverage. If they made no election, they continued to have no CSRS coverage. Members of Congress who were participating in the CSRS on December 31, 1983, could elect, by December 31, 1983, either no CSRS coverage or full CSRS coverage. If they made no election, they would be covered under the interim plan on January 1, 1984. Members of Congress who were not participating in CSRS on December 31, 1983, (including new Members) could later elect interim CSRS, but not full CSRS (Section 208 of Public Law 98-168).

**C. Interim Plan
(Cont.)**

When it was discovered that senior officials who elected no CSRS coverage could not get a refund of their retirement deductions if they were eligible for an immediate annuity, there was additional legislation. Public Law 98-369, enacted July 18, 1984, amended the law to allow senior officials who found themselves in this circumstance to withdraw their retirement contributions. It also allowed senior officials a second opportunity to make elections regarding their CSRS coverage if they did so before September 16, 1984. If they made no election, they continued to have the retirement status in effect on January 1, 1984. (Only those senior officials who had been eligible to make elections in December 1983 were eligible to make new elections in 1984.)

Persons who were not in one of the affected categories on December 31, 1983, and who later became one of these senior officials, were mandatorily covered by Social Security and, unless excluded from CSRS, they were covered under the CSRS interim plan with no opportunity to make elections regarding their retirement coverage. During the interim period, new Members of Congress (who had CSRS coverage only if they chose it) could elect coverage under the interim plan, but not full CSRS coverage.

**D. Federal
Employees
Retirement System
(FERS)**

The Federal Employees Retirement System (FERS) was established by Public Law 99-335, the Federal Employees' Retirement System Act of 1986.

Public Law 99-335 also amended the CSRS law to provide for "CSRS Offset" coverage. CSRS Offset coverage replaced the CSRS interim plan. Rather than automatically placing all persons covered by the CSRS interim plan in the new retirement system (as contemplated under Public Law 98-168), the FERS Act grandfathered most employees who had 5 years of civilian service and were under the interim plan on December 31, 1986. Certain senior officials were also excluded regardless of the length of their service. Therefore, many employees who had been covered under the interim plan became covered under the CSRS Offset provisions on January 1, 1987. However, these employees could elect FERS during the open season from July 1, 1987, through December 31, 1987.

**D. Federal
Employees
Retirement System
(FERS) (Cont.)**

FERS excluded senior officials with mandatory Social Security coverage who had been senior officials continuously from December 31, 1983, without a break in senior official service exceeding 365 days. The elections these senior officials made in December 1983 and September 1984 remained in force after FERS began (regardless of the amount of civilian service they had), subject to retirement coverage elections these individuals could make during the July 1, 1987, through December 31, 1987, open season.

Generally, senior officials whose mandatory Social Security coverage began after January 1, 1984, were subject to the same FERS coverage rules as regular Federal employees; that is, if they were under the interim plan on December 31, 1986, and had at least 5 years of creditable civilian service, they continued under CSRS Offset provisions, with an opportunity to elect FERS coverage during the open season. If they had less than 5 years of creditable civilian service, they were automatically covered under FERS on January 1, 1987. However, Members of Congress who entered Congress during the interim period and who had prior Federal service giving them 5 years or more of service as of December 31, 1986, were automatically covered by FERS on January 1, 1987, unless they elected not to participate in FERS. (Members of Congress have the right to irrevocably elect not to participate in FERS. If they do so, their irrevocable election remains in effect until the individual has a break in service as a Member.)

**E. Special FERS
Open Season
Election
Opportunities for
Senior Officials**

The senior officials who were given special election opportunities under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 were also given special election opportunities during the FERS open season under the Federal Employees' Retirement System Act of 1986. Those eligible for the special election opportunities were senior officials who:

- Were senior officials covered under CSRS (unless a Member of Congress) on December 31, 1983, and
- Were mandatorily covered by Social Security beginning January 1, 1984; and
- Had an opportunity to make retirement elections in December 1983 and September 1984 (the September 1984 election opportunity is not required if the senior official missed it because of a break in service of 1 year or less as a senior official); and
- Remained in service as senior officials (including service as a Member of Congress) since December 31, 1983, without a break of more than 1 year; and
- Continued to be senior officials on the effective date of their election regarding retirement coverage.

Special election forms (OPM Form 1561 and OPM Form 1563) document that they were given their special election opportunities.

The retirement coverage that senior officials elected in December 1983 or September 1984 continued unless the senior official elected to transfer to the:

- Federal Employees Retirement System (FERS); or
- CSRS Offset retirement provisions (if not already under CSRS Offset).

Only those senior officials who were already covered under the full civil service retirement provisions could elect to retain full civil service coverage. In the same way, only those officials who had no civil service retirement coverage could elect no civil service coverage.

E. Special Election Opportunities for Senior Officials (Cont.)

Eligible senior officials could exercise their election opportunities only during the open season from July 1, 1987, through December 31, 1987. If they made no election, the prior election remained in effect and their retirement status would continue unchanged.

Senior officials who were not in this special group (a senior official on December 31, 1983, mandatorily covered by Social Security on January 1, 1984, and continuously in the special group without a break in senior official service exceeding 1 year) did not have special election opportunities. Generally, their retirement coverage on January 1, 1987, and their election opportunities during the 1987 open season were the same as for Federal employees who were not senior officials. However, as indicated in paragraph D, individuals who became Members of Congress during the interim period were not exempt from automatic coverage under FERS on January 1, 1987, even though prior service gave them 5 or more years of creditable service as of December 31, 1986. However, these Members could irrevocably elect not to be covered by FERS.

Effect of post-election events on retirement coverage. The retirement coverage chosen by the special group of senior officials during the FERS open season continues throughout their Federal careers unless some very specific events occur.

- If the senior official elected FERS, full CSRS, or CSRS-Offset coverage, that coverage continues during all future Federal service or service as a Member of Congress unless the service is excluded from FERS or CSRS coverage (such as, for CSRS, an indefinite appointment, or for both CSRS and FERS, a temporary appointment of less than a year, following a break in service of more than 3 days).
- A senior official who did not elect FERS coverage during the open season may do so in the future if he or she has a break in service of more than 3 days.

E. Special Election Opportunities for Senior Officials (Cont.)

- A senior official, other than a Member, who elected no retirement coverage (other than Social Security) in 1983 and 1984, and who didn't change during the 1987 open season may not obtain CSRS or CSRS Offset coverage in the future.
 - Members of Congress who chose no retirement coverage during the open season may elect CSRS Offset later under 5 U.S.C. 8331(2), so long as they have not previously become covered under FERS.
 - Members of Congress who made an affirmative election of no retirement coverage during the open season may not obtain FERS coverage so long as the irrevocable election not to participate in FERS remains in effect until the individual has a break in service as a Member.
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F. Individuals Who Became Senior Officials After December 31, 1983, or Had a Break in Senior Official Service of More Than a Year

Individuals who became senior officials with mandatory Social Security coverage after December 31, 1983, were not eligible to make any special elections concerning their retirement coverage. If they became one of these senior officials during 1984, 1985, or 1986, they were covered under the CSRS interim provisions, regardless of their previous coverage under CSRS, unless, as explained in paragraph H below, the individual was a career SES appointee who received a Presidential appointment and, before November 10, 1988, elected to retain CSRS coverage under 5 U.S.C. 3392(c).

NOTE: Members of Congress are not covered under CSRS unless they elect to be covered.

In other ways, the rules regarding their retirement coverage are the same as for other Federal employees. The retirement coverage of these senior officials (other than Members of Congress) who were in the interim plan on December 31, 1986, depended on how much civilian service they had on December 31, 1986. If they had at least 5 years of civilian service creditable under CSRS rules on that date, they were covered by CSRS Offset provisions. If they did not have the 5 years of civilian service, they were automatically covered by FERS on January 1, 1987.

NOTE: Individuals who became Members of Congress during the interim period were covered by FERS regardless of the length of their service, unless they irrevocably elected not to be covered by FERS.

Senior officials who were mandatorily covered by Social Security at the time of the 1987 open season, but had a break in senior official service of more than a year between December 31, 1983, and January 1, 1987, could elect FERS coverage during the open season if they had not automatically become covered by FERS earlier.

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- G. Senior Officials Who Served Continuously From December 31, 1983, Through December 31, 1986, But Were Not Senior Officials During the Open Season**
- For persons who served continuously as senior officials from December 31, 1983, through December 31, 1986, without a break in service as a senior official of more than 1 year, the law provided special election opportunities only during the open season from July 1, 1987, through December 31, 1987. However, senior officials who served throughout 1984, 1985, and 1986, but were not senior officials during the FERS open season, had no special election opportunities. The elections they made in December 1983 and September 1984 have no bearing on their coverage upon their return to service as a senior official. That is, the normal 5-year rule applies and they are covered by either CSRS Offset or FERS. If they are covered by CSRS Offset, they have a 6-month opportunity to elect FERS.
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- H. Career SES Members Appointed to Executive Schedule Positions Before November 10, 1988**
- Before November 10, 1988, career SES members who were appointed to an Executive Schedule position listed in 5 U.S.C. 5312 through 5317 with Senate confirmation were entitled under 5 U.S.C. 3392(c) to elect to retain their full CSRS coverage and not be subject to Social Security. They could also choose to have Social Security coverage while in the Executive Schedule position and drop it upon returning to the career SES. Public Law 100-647 terminated these options for officials appointed to one of these positions on or after November 10, 1988, and requires that they must now have Social Security coverage. Public Law 100-647 did not, however, affect elections of no Social Security coverage made by officials appointed before November 10, 1988, who continued to serve in the same position.
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