

Employment as a Phased Retiree

Overview

Phased retirement is a new human resources tool that allows full-time employees to work a part-time schedule while beginning to draw retirement benefits. As a phased retiree, the employee is treated as a part-time employee for most employment issues. The following questions and answers are intended to provide clarification on the use of this new authority as it relates to the phased retiree's treatment as a part-time employee. The questions and answers listed here are not meant to be a substitute for reading the regulations. These questions and answers are organized into the following categories:

- Purpose of Phased Retirement
- Entering Phased Retirement
- Effect of Phased Employment
- Mentoring
- Time Limits and Ending Phased Retirement
- Work Schedules
- Leave

Purpose of Phased Retirement

What is phased retirement?

Phased retirement is a human resources tool for Federal agencies to retain employees who would have fully retired, but who are willing to continue in Federal service for a period of time on a part-time schedule while engaging in mentoring. Employees participating in phased retirement will be paid for the part-time service they continue to provide the government and will receive additional credit for that service toward their full retirement. These employees will also begin receiving partial annuity payments, prorated based on the portion of the workweek that they are not scheduled to work.

What is the purpose of phased retirement?

Phased retirement is designed not only to assist agencies with knowledge management and continuity of operations in the short term, but also to prepare the next generation of experts for success. Agencies may use phased retirement as a tool to manage their workforce, promote best practices and share knowledge with less experienced employees. The main purpose of phased retirement is to enhance the mentoring and training of the employees who will be filling the positions or taking on the duties of more experienced retiring employees, but it may also be used for any learning activities that would allow for the transfer of knowledge and skills from one employee to others.

Can phased retirement apply to any Federal employee?

No. Only individuals covered under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) are eligible for participation in phased retirement, consistent with the provisions of the implementing statute and regulations.

Employees who qualify for retirement under the retirement provisions for law enforcement officers, firefighters, nuclear materials couriers, air traffic controllers, members of the Capitol Police, members of the Supreme Court Police, and customs and border protection officers (except for certain employees hired as customs and border protection officers prior to July 6, 2008) are excluded from participation in phased retirement.

Also, Federal employees who qualify for retirement under non-CSRS or non-FERS retirement systems (e.g., the Foreign Service retirement system) are ineligible for participation in phased retirement under these provisions.

Who is eligible for phased retirement?

In general, the employee must have been employed on a full-time basis for not less than the 3-year period ending on the effective date of entry into phased retirement status. The employee must also be a retirement-eligible employee, meaning an employee, who if separated from service, would meet specific eligibility criteria for retirement.

For CSRS employees, participation is limited to persons:

- Eligible for an immediate retirement with at least 30 years of service, and
- Who are at least age 55 or who have at least 20 years of service and who are at least age 60.

For FERS employees, participation is limited to those persons:

- Eligible for an immediate retirement with at least 30 years of service, and
- Who have attained their minimum retirement age (between ages 55 and 57 depending on year of birth) or who have at least 20 years of service and who are at least age 60.

Entering Phased Retirement

May an agency delegate the authority to approve requests to enter phased retirement?

Yes, the authority to approve requests for phased retirement may be delegated within the agency.

Are employees entitled to participate in phased retirement?

No, participation in phased retirement is not an employee entitlement. Participation is voluntary and requires the consent of the employee and the employing agency. An employee must receive written approval from his or her employing agency to participate in phased retirement.

Must agencies have written plans or criteria established before their employees can participate in phased retirement?

Yes. Agencies must have written criteria in place before the agency can allow its employees to participate in phased retirement.

What kinds of conditions or criteria should agency written plans include?

Written plans should address the criteria that will be used to approve requests and any process or procedures needed to implement the program within the agency. The plan may include but is not limited to the following information:

- Criteria that will be considered when approving requests;
- Designation of officials with authority to approve requests;
- Use of time limits as a condition of approval of requests;
- Positions or geographic locations that may be included or excluded; and
- Process for handling multiple requests when the agency is unable to approve all requests received.

Is an agency required to explain the criteria it will use to approve or deny phased retirement applications?

Yes, an agency must provide employees written guidance on the criteria that will be used to approve or deny phased retirement applications.

What criteria should an agency consider when approving a request to enter phased retirement?

Any decision to approve or deny a request should be based on a sound business case and uphold merit system principles. Considerations should include but are not limited to:

- Have collective bargaining obligations been met regarding the use of this program?
- Is a part-time work schedule appropriate for the employee's position?
- Is the employee willing and able to meet the mentoring requirement?
- Can management identify appropriate mentoring activities for the employee to perform?
- How will the employee's change in work schedule affect the work unit's ability to meet goals and objectives?
- Will operational needs require the employee to work in excess of a 50% work schedule?

Does an agency have the discretion to determine whether it will implement the phased retirement program?

Yes, the implementing statute provides agencies with discretion as to whether the agency will implement phased retirement. However, agencies' decisions related to the implementation of phased retirement are subject to collective bargaining requirements. Some matters relating to the implementation of phased retirement, which may be subject to collective bargaining, include procedures and arrangements for adversely affected employees.

Can an employee appeal an agency's decision to deny the employee's application for phased retirement?

An agency's denial of an employee's application for phased retirement is not an appealable adverse action under 5 U.S.C. chapter 75. Depending on the agency's administrative grievance procedures, a denial of an employee's application for phased retirement may be grievable. Further, for bargaining unit employees, the agency's collective bargaining agreement may also provide a method for challenging certain management decisions.

How many hours can a phased retiree work?

The number of hours a phased retiree can work must be equal to one-half the number of hours the phased retiree would have been scheduled to work had he or she remained in a full-time work schedule.

The Federal Employees Part-time Career Employment Act of 1978 (5 U.S.C. chapter 34) defines part-time work as employment of 16 to 32 hours per week. Phased retirement limits part-time employment to 20 hours per week. Can an individual work 32 hours a week and participate in phased retirement?

No. The Federal Employees Part-time Career Employment Act does not apply to employees in phased retirement. All phased retirees will work on a half-time tour of duty (i.e., 40 hours per biweekly pay period).

Are agencies required to “advertise” phased retirement opportunities within their workforces?

No, agencies are not required to advertise phased retirement opportunities. Employees eligible for phased retirement may request participation in phased retirement at any time.

If there are more individuals willing to elect phased retirement than the agency/organization is willing to grant, on what basis does the agency determine which employee(s) get to participate in phased retirement?

The agency has the discretion to determine the criteria used to approve requests to enter phased retirement. The agency should create criteria that allow for a fair and equitable determination of who will be approved to participate in phased retirement. The criteria used to determine which employee(s) get to participate in phased retirement may be subject to bargaining for employees represented by a labor organization.

How does an agency document an employee’s phased retirement election under these provisions?

Documentation of phased retirement elections under this authority can be found in The Guide to Processing Personnel Actions; chapter 30. The Guide is available on the OPM website at: <http://www.opm.gov/feddata/gppa/gppa.asp>

Which codes should agencies use on the Standard Form (SF) 50 when processing actions under this authority?

Entering Phased retirement:

- If the employee is CSRS eligible:
 - The Nature of Action code (NOAC) is 615;
 - The authority code is SAB;
 - And the authority is 5 USC 8336A(c)(7)
- If the employee is FERS eligible:
 - The Nature of Action code (NOAC) is 615;
 - The authority code is SAC;
 - And the authority is 5 USC 8412a(b)(6)

Effect of Phased Employment

When an employee elects phased retirement, is he or she moved into a different position, or will the individual continue to encumber the same position?

The individual remains in the same position and simply changes his or her tour of duty.

May a phased retiree hold two half-time jobs?

No, a phased retiree may not be appointed to more than one position at the same time.

May the beginning of phased retirement coincide with a change in position or even a move to a different agency?

Yes, as long as there is no break in service, this would be possible, though unusual.

When an employee elects phased retirement, can the employing agency back-fill the phased retiree's position on a full-time basis?

No, the agency cannot back-fill the position on a full-time basis because the phased retiree would continue to encumber the current position until fully retiring. The agency could, however, fill the position on a part-time basis so that the total time of both employees equals 80 hours per pay period.

How are phased retirees different from re-employed annuitants?

Individuals in phased retirement remain employees while working a 50% schedule and receiving a phased retirement annuity. Re-employed annuitants are retirees who have entered full retirement and have been rehired by an agency. In contrast, an individual in phased retirement has not separated from employment and is treated the same as other part-time employees in most cases.

Would entering phased retirement affect the bargaining unit status of the employee?

Whether an employee is in a particular bargaining unit depends on the bargaining unit's description found in the Certification of Representative issued by the Federal Labor Relations Authority. Phased retirees are part-time employees. Therefore, it is possible that a phased retiree's bargaining unit status could change, for example, if full-time employees are covered by that particular bargaining unit's Certification of Representative, but part-time employees are excluded from that bargaining unit. Disputes pertaining to the scope of a Certification of Representative are resolved by the Federal Labor Relations Authority.

Is there a limitation on the number of times an individual can enter phased retirement status?

Yes, an individual can only enter phased retirement status one time. The ending of phased retirement status or the entering of full retirement status does not create a new opportunity for the individual to elect phased retirement status again.

Under what conditions can a phased retiree return to regular employment status?

A phased retiree may, with the permission of an authorizing agency official, return to regular employment status provided that:

- the employee submits a written and signed request, using an OPM-approved form, to an authorizing agency official, and
- the authorizing agency official signs the request

The employing agency must notify OPM that the phased retiree's status has ended by sending a copy of the signed approval (within 15 days of approval) to: phasedret@opm.gov

Does a phased retiree have the same due process rights as they did before entering phased retirement?

A phased retiree is considered a part-time employee, and thus any adverse action based on performance or conduct problems would provide a phased retiree with the same due process rights as were applicable before the employee entered phased retirement. Certain rights provided as a result of an employee's bargaining unit status could change if, as described above, the employee's bargaining unit status changes as a result of transition to part-time status.

May an employee in phased employment move to a position in another agency or accept a detail to a different position or another agency?

Yes, an employee in phased employment may move to a position in a different agency or accept a detail to another position or agency. If the employee accepts a position in a different agency and wants to continue participation in phased retirement the new agency must approve participation in phased retirement prior to the transfer.

How are phased retirees considered for purposes of a Reduction in Force (RIF)?

For purposes of a RIF, phased retirees are treated the same as any other part-time employees. Additional information on RIF is available in 5 CFR part 351.

Are employees who elect phased retirement eligible for Voluntary Separation Incentive Payments (VSIP) at the time they enter phased retirement?

No. An employee entering phased retirement is not separating from Federal employment and is not eligible for a VSIP.

Are employees currently participating in phased retirement eligible for Voluntary Separation Incentive Payments (VSIP)?

Yes. An employee leaving phased retirement to separate and enter full retirement may be eligible for a VSIP consistent with the agency's VSIP authority and any eligibility criteria in 5 U.S.C. chapter 35, subchapter II, and 5 CFR part 576.

Is an employee who accepts an offer of voluntary early retirement eligible for phased retirement?

No, an employee who accepts an offer for voluntary early retirement is not eligible for phased retirement.

Is an employee participating in phased retirement eligible to receive a salary offset (dual compensation) waiver?

No, an employee participating in phased retirement is not eligible to receive a salary offset (dual compensation) waiver, because he or she is not subject to the salary offset (dual compensation) restrictions.

Which codes should agencies use on the Standard Form (SF) 50 when processing a phased retiree's return to regular employment?

Returning to regular employment:

- If the employee is CSRS eligible:
 - The Nature of Action code (NOAC) is 616;
 - The authority code is SAD;
 - And the authority is 5 USC 8336a(g)
- If the employee is FERS eligible:
 - The Nature of Action code (NOAC) is 616;
 - The authority code is SAE;
 - And the authority is 5 USC 8412a(g)

MENTORING

Is a phased retiree required to mentor the successor to his or her position?

Mentoring the potential successor to the phased retiree's position is just one potential way that the mentoring requirement could be met. The agency and employee may choose from any learning activities that would allow for the transfer of knowledge and skills from one employee to others.

Is a phased retiree required to be participant in a formal mentoring program to meet the mentoring requirement?

Being a participant in a formal mentoring program is just one potential way that the mentoring requirement could be met. The agency and employee may choose from any learning activities that would allow for the transfer of knowledge and skills from one employee to others.

Can a phased retiree mentor more than one person?

Yes. The agency and the retiree have the discretion to determine if it will be appropriate for the phased retiree to mentor more than one person.

What happens if the phased retiree decides to fully retire before the person being mentored is fully trained?

The agency would have to find another way to complete the mentee's training, just as they would outside of the phased retirement program.

May an agency waive the mentoring requirement?

An authorized agency official may waive the mentoring requirement in the event of an emergency or other unusual circumstances (including active duty in the armed forces), when the authorized agency official determines that the event or circumstance would make it impracticable for a phased retiree to fulfill the mentoring requirement.

Does OPM have any resources available to assist agencies and phased retirees with the development of mentoring activities?

Information on developing mentoring programs and activities is available on OPM's website at <http://www.opm.gov/wiki/training/Mentoring-and-Coaching.ashx>.

Time Limitations Ending Phased Retirement

Can an agency require a time limitation for an employee entering phased retirement?

Yes, an agency may establish a time limitation as a condition of approving an employee's request to enter phased retirement. The time limitation must be expressed in writing as required by 5 CFR 831.1713(d) or 5 CFR 848.203(d).

Is an agency required to use time limitations as a condition of approval?

No, an agency is not required to use time limitations when approving requests for phased retirement.

If an agency does not require a time limitation as a condition of approving participation in phased retirement, may it later require the employee to agree to a time limit?

Once the agency has approved a request to enter phased retirement the time limitation may only be added at the mutual agreement of the agency and the employee. The agency cannot require an employee to agree to a time limitation after an election of phased retirement has been approved by the agency.

Is there a maximum period of time that an employee may spend as a phased retiree?

No, there is no maximum limitation on the amount of time an employee may spend in phased retirement. However, an agency may limit the time spent in phased retirement by requiring the employee to agree to a time limit as a condition of approval.

May an employee in phased retirement who has signed a time limitation agreement voluntarily retire before the expiration date of the agreement?

Yes, an employee in phased retirement may voluntarily retire at any time.

May a phased retiree leave phased retirement and return to regular employment?

An employee in phased retirement may return to regular employment with the approval of the employing agency. The employee must obtain written approval by submitting Part 2 of the Phased Employment/Phased Retirement Status Election Form SF-3116 to the agency.

What happens if a phased retiree's request to return to regular employment is not approved by the agency?

If an employee's request to return to regular employment is not approved, the employee has the option to continue work as a phased retiree or enter full retirement.

Is there an appeal process if an agency denies a phased retiree's request to return to regular employment status?

No, an employee cannot appeal an agency's decision to deny the employee's request to return to regular employment status. However, any issue can be grieved through the agency's administrative grievance process. Depending on the agency's grievance procedures, a disapproval of the phased retiree's request to return to regular employment status may be grievable. Further, for bargaining unit employees, the agency's collective bargaining agreement may also provide a method for challenging certain management decisions. Finally, this disapproval is not an appealable adverse action under 5 U.S.C. chapter 75.

What happens to an employee in phased retirement when the expiration date of the time limitation agreement occurs?

When the time limitation agreement expires the employee may:

1. Enter full retirement;
2. Return to regular employment with the approval of the current agency;
3. Transfer to another agency as a phased retiree or return to regular employment upon transfer within three days of the expiration date, subject to the gaining agency's approval; or
4. Enter a new time limit agreement with the agency prior to the expiration date of the current agreement.

Work Schedules

What is a phased retiree's work schedule?

As provided by 5 CFR 831.1712 and 848.202, the number of officially established hours per pay period to be worked by an employee in phased retirement status must equal one-half the number of hours the phased retiree would have been scheduled to work had the phased retiree remained in a full-time work schedule and not elected to enter phased retirement status (i.e., 40 hours per pay period). Otherwise, a phased retiree's work schedule is subject to any applicable agency policy or collective bargaining agreement.

Will a phased retiree be permitted to have a working percentage other than 50 percent?

As noted in the supplementary information of the proposed rule (see 78 FR 33914), the phased retirement statute permits a working percentage of 50 percent (i.e., a half-time work schedule) and contemplates additional working percentages, at OPM's discretion. Although a working percentage of 50 percent would be the only working percentage permitted under 5 CFR 831.1712, the section has been drafted using general descriptive language to easily allow OPM to

amend the regulations in the future to allow working percentages other than 50 percent, if and when OPM determines that such an amendment is appropriate. Unless and until OPM evaluates the phased retirement program and publishes regulations permitting a different working percentage, a phased retiree will not be permitted to have a working percentage other than 50 percent.

May a phased retiree vary his or her work schedule from one week to the next?

Yes, a phased retiree may vary the number of hours he or she works per week within a pay period, but must have a half-time (i.e., 40-hour) schedule per biweekly pay period. Phased retirees must have an established schedule and may not work on an intermittent basis.

Does a phased retiree receive paid Federal holidays?

A phased retiree is treated as a part-time employee for the purposes of holiday pay. A part-time employee is entitled to a paid holiday when the holiday falls on a day when he or she would otherwise be required to work or take leave. If a holiday falls on a non-workday, a part-time employee is not entitled to an “in lieu of” holiday.

May a phased retiree be assigned work hours in excess of his or her fixed part-time schedule?

No, as provided by 5 CFR 831.1415(h) and 848.205(j), a phased retiree may not be assigned hours of work in excess of the officially established part-time schedule except under the very limited circumstances described in the regulations. (See 5 CFR 831.1415(h) and 848.205(j) for detailed provisions.)

May a phased retiree participate in an agency’s alternative work schedule program?

Yes, a phased retiree may participate in an agency’s flexible or compressed work schedule program under subchapter II of 5 U.S.C. 6101 and subpart D of 5 CFR part 610 on the same basis as any other part-time employee.

May a phased retiree earn credit hours under an agency’s flexible work schedule program?

Yes, a phased retiree may participate in a flexible or compressed work schedule program on the same basis as any other part-time employee. If an agency’s flexible work schedule program permits credit hours, the agency may approve a phased retiree’s request to work credit hours to be applied to another workday, workweek, or biweekly pay period. (See 5 U.S.C. 6126.) Phased retirees are limited to 40 hours of work in each biweekly pay period, except under very limited circumstances. Therefore, any credit hours resulting from work in excess of 40 hours would have to be applied to a future pay period.

May a phased retiree be employed in an intermittent status?

No. An intermittent employee does not have a scheduled tour of duty. A phased retiree must be a part-time employee with a scheduled tour of duty equal to one-half the number of hours the phased retiree would have been scheduled to work had the phased retiree remained in a full-time work schedule and not elected to enter phased retirement status (i.e., 40 hours per pay period).

Will employees who work uncommon tours of duty be able to elect phased retirement?

No. By definition, an uncommon tour of duty is a tour that exceeds 80 hours in a biweekly pay period. (See 5 CFR 630.201 and 630.210.) It usually applies only to those receiving standby duty premium pay under 5 U.S.C. 5545(c)(1) or firefighter pay under 5 U.S.C. 5545b. A phased retiree must be a part-time employee with a scheduled tour of duty equal to one-half the number of hours the phased retiree would have been scheduled to work had the phased retiree remained in a full-time work schedule and not elected to enter phased retirement status (i.e., 40 hours per pay period).

Are the work schedules of a phased retiree subject to collective bargaining?

Work schedules, meaning the days and hours of work in an employee's regular tour of duty, may be subject to bargaining for employees represented by a labor organization. The negotiability of a particular proposal relating to work schedules of a phased retiree, as for any part-time employee, will depend on the specific facts of each situation.

Leave

How much annual and sick leave does a phased retiree accrue per pay period?

As provided by 5 CFR 831.1715(g) and 848.205(i), except as otherwise expressly provided by law or regulation, a phased retiree is treated like any other employee on a part-time tour of duty for all other purposes. Therefore, leave accrual rates for part-time employees apply to phased retirees. Leave accrual for part-time employees is prorated based on hours in a pay status. (See 5 U.S.C. 6302(c) and 5 CFR 630.303.) All phased retirees will have at least 15 years of service and therefore will be accruing leave at the rate of 1 hour of annual leave for each 10 hours in a pay status and 1 hour of sick leave for each 20 hours in a pay status. (See our [Annual Leave \(General Information\)](#) and [Sick Leave \(General Information\)](#) fact sheets for more information.) A phased retiree with a 50% working percentage who works 40 hours per pay period will earn 4 hours of annual leave and 2 hours of sick leave per pay period.

How much annual and sick leave does a phased retiree accrue if he or she works more than 40 hours in a pay period?

If a phased retiree works more than 40 hours in a particular pay period under the exceptions provided by 5 CFR 831.1715(h) and 848.205(j), he or she may accrue additional leave for that pay period on a prorated basis based on hours in a pay status. For example, if a phased retiree works 20 hours beyond the established 40-hour biweekly work schedule for a total of 60 hours in the pay period, he or she would accrue 6 hours of annual leave and 3 hours of sick leave for that pay period. If a phased retiree has hours in a pay status that are less than the number necessary to accrue additional leave, the employing agency must carry forward those hours into the next pay period and credit them toward the phased retiree's future leave accrual.

What is a phased retiree's annual leave ceiling?

As provided by 5 CFR 630.304, a part-time employee may carry over not more than 240 or 360 hours of annual leave on the same basis that a full-time employee may carry over not more than 30 or 45 days of annual leave into a new leave year. Therefore, the election of phased retirement will not alter an employee's annual leave ceiling.

Does an employee receive a lump-sum payment for annual leave upon electing phased retirement?

An employee does not receive a lump-sum payment for annual leave upon electing phased retirement. The employee's lump-sum annual leave payment would be made in full when the phased retiree fully retires. (See 5 U.S.C chapter 55, subchapter VI, and 5 CFR part 550, subpart L.) Therefore, an employee would maintain his or her annual leave balance upon transition to

phased retirement. The phased retirement statute does not provide a new authority for liquidating annual leave upon an employee's election of phased retirement.

May an agency grant a phased retiree leave without pay?

Agencies may approve leave without pay for phased retirees in the same manner as for other part-time employees.

What happens to an employee's sick leave upon electing phased retirement?

Sick leave cannot be used in the computation of the phased retirement annuity. However, at full retirement, the unused sick leave will be taken into account. Therefore, an employee would maintain his or her sick leave balance upon transition to phased retirement.

Pay

How is a phased retiree's pay rate determined?

A phased retiree's pay rate is determined under the rules of the pay system covering the employee. For example, a phased retiree under the General Schedule is paid based on the applicable grade and step. Gross pay is computed by multiplying the employee's hourly rate of basic pay by the number of paid hours in the employee's work schedule during the pay period.

May a phased retiree earn within-grade increases?

As provided by 5 CFR 831.1715(g) and 848.205(i), except as otherwise expressly provided by law or regulation, a phased retiree is treated as any other employee on a part-time tour of duty for all other purposes. Therefore, the normal within-grade increase rules for part-time employees apply to phased retirees. Days of full-time and part-time service are equally creditable towards within-grade increase waiting periods. (See 5 CFR 531.405(a).)

May a phased retiree earn overtime pay or compensatory time off in lieu of overtime pay?

Overtime pay and compensatory time off generally is earned for work in excess of 8 hours in a day or 40 hours in a workweek. (See 5 U.S.C. 5542 and 5 CFR 550.101–113 for FLSA-exempt employees and 5 CFR part 551, subpart E, for FLSA-covered employees.) Phased retirees ordinarily will work only the basic hours in their established part-time schedule and thus will not be performing overtime work. However, work beyond their established part-time schedule is possible under the limited exceptions discussed at 5 CFR 831.1715(h) and 848.205(j). If a phased retiree is allowed to work more than 40 hours in a biweekly pay period under an approved exception, then he or she could receive either overtime pay or compensatory time off under the normal rules for any overtime work in excess of the 40-hour weekly or 8-hour daily overtime threshold.

How is a phased retiree compensated for official travel outside of his or her regular working hours?

Travel time outside of regular working hours generally is not considered hours of work. Therefore, a phased retiree's travel time outside of his or her officially established part-time schedule usually will not cause a violation of the restriction on work hours provided by 5 CFR 831.1715(h) and 848.205(j). If the travel outside of the officially established part-time schedule would be considered hours of work under the applicable rules (see note below), then the travel may be assigned only under the circumstances listed in 5 CFR 831.1715(h) and 848.205(j).

Note: The rules applicable to travel as hours of work depend on whether an employee is covered by or exempt from the Fair Labor Standards Act of 1938 (FLSA), as amended. For FLSA-exempt employees, the crediting of travel time as hours of work is governed under title 5, United States Code. In particular, see 5 U.S.C. 5542(b)(2) and 5544(a)(3) and 5 CFR 550.112(g) and (j). For FLSA-covered employees, travel time is credited if it is qualifying hours of work under either the title 5 rules or under OPM's FLSA regulations. In particular, see 5 CFR 551.401(h) and 551.422.

May a phased retiree earn compensatory time off for travel?

Under 5 U.S.C. 5550b and 5 CFR part 550, subpart N, compensatory time off for travel is earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. A phased retiree is eligible to earn compensatory time off for travel under the normal rules.

May a phased retiree earn compensatory time off for religious observances?

Under 5 U.S.C. 5550a and 5 CFR part 550, subpart J, an employee, whose personal religious beliefs require the abstention from work during certain periods of time, may elect to perform overtime work to make up for time lost for meeting those religious obligations. A phased retiree may earn and use compensatory time off for religious purposes under the normal rules.

Are phased retirees eligible to receive law enforcement availability pay?

No. Law enforcement availability pay (LEAP) recipients may not have part-time work schedules. The LEAP law presumes covered criminal investigators have a 40-hour basic workweek with 8-hour workdays. (See 5 U.S.C. 5545a(a)(3)(A) and (b).)

In addition, employees who have law enforcement officer (LEO) retirement coverage are not eligible for phased retirement. Almost all LEAP recipients have LEO retirement coverage, since they must be criminal investigators who are LEOs as defined in 5 U.S.C. 5541. (See 5 U.S.C. 5545a.)

Are phased retirees eligible to receive standby duty premium pay?

No. Standby duty premium pay under 5 U.S.C. 5545(c)(1) applies only to employees who are regularly required to remain at a work location during “longer than ordinary periods of duty” that involve being in standby status for substantial periods. As provided by 5 CFR 550.143(c), “longer than ordinary periods of duty” means more than 40 hours a week. Thus, a phased retiree cannot meet the requirements for standby duty premium pay.

Are phased retirees eligible to receive administratively uncontrollable overtime pay?

No. Administratively uncontrollable overtime pay (AUO) pay is designed for employees who are working significant amounts of unscheduled overtime. (See 5 U.S.C. 5545(c)(2).) Thus, a phased retiree should not be receiving AUO pay. In addition, most AUO recipients are law enforcement officers (LEOs) covered by LEO retirement provisions and thus are not eligible for phased retirement.

Are phased retirees eligible to receive firefighter pay?

No. Only firefighters who average at least 106 hours per biweekly pay period are eligible for firefighter pay. (See 5 U.S.C. 5545b(a).) Thus, no phased retiree would be able to meet the eligibility requirements for firefighter pay.

Since the phased retirement law requires that an employee be converted from full-time to part-time, 5 CFR 831.1711 and 848.201 make clear that phased retirement may not be elected by

employees covered by a special work schedule authority that does not allow for a regularly recurring part-time schedule, such as a firefighter covered by 5 U.S.C. 5545b.

In addition, employees who have firefighter retirement coverage are not eligible for phased retirement. Almost all firefighters covered by 5 U.S.C. 5545b have firefighter retirement coverage.

Are phased retirees eligible to receive reservist differential payments?

Yes. For purposes of reservist differential payments, a phased retiree should be treated like any other part-time employee. Military pay and allowances should be compared to civilian basic pay for the part-time biweekly tour of duty established for leave usage purposes. (See section V.A of OPM Policy Guidance Regarding Reservist Differential under 5 U.S.C. 5538.)

Would a phased retiree be eligible for severance pay if involuntarily separated?

No, an employee is not entitled to severance pay if he or she is eligible upon separation for an immediate annuity from a Federal retirement system. (See 5 U.S.C. 5595(a)(2)(iv) and 5 CFR 550.704(b)(5).) Since phased retirees must be eligible for an immediate retirement annuity, they are not eligible for severance pay.