

**CSRS**

**FERS**

**Survivor Benefit Elections**

**Chapter 52**

***Important Notice***

***On June 26, 2013, the Supreme Court ruled that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional. As a result of the Supreme Court's decision, the United States Office of Personnel Management (OPM) will now be able to extend certain benefits to Federal employees and annuitants who have legally married a spouse of the same sex, regardless of the employee's or annuitant's state of residency. OPM is currently in the process of updating and revising the website to reflect this change, and will be updating this information as soon as possible. Please check back in the coming weeks for updates.***

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**Subchapter 52A CSRS  
Part 52A1 General Information****Section 52A1.1-1 Overview**

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**A. Introduction**

For most retiring employees, decisions about survivor benefits are quite straightforward. Married employees whose spouses also have earned retirement benefits need to decide what combination of benefits will work best for them to provide the best combination of income, health insurance coverage, etc. However, situations can become more complicated if the retiring employee has a former spouse who is entitled under a court order to survivor benefits, or if the retiree expects to marry after retirement.

NOTE: Survivor benefits payable to a former spouse because of a court order are discussed in Chapter 5, Court Orders.

This subchapter covers the various survivor benefit elections under CSRS.

NOTE: Survivor benefits payable to the children of deceased employees and retirees are covered in Chapter 73, Children's Benefits.

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**B. Topics Covered**

This subchapter covers:

- Types of survivor elections;
  - The spousal consent requirement;
  - Election of a current spouse survivor annuity or a self-only annuity;
  - Election of a former spouse survivor annuity;
  - Election of an insurable interest annuity;
  - Changes in survivor elections before and after final adjudication of a retirement claim; and
  - The relationship between survivor benefit elections and court-ordered survivor benefits for former spouses.
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**Section 52A1.1-1 Overview (Cont.)****C. Organization of  
Subchapter**

The CSRS subchapter has seven parts.

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Subchapter 52B, which covers the survivor elections under FERS, begins on page 29.

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**D. Statement of  
Authority**

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

- United States Code: 5 U.S.C. 8339 (j), (k), and (o); 8341
  - Code of Federal Regulations: 5 CFR 831, Subpart F and 5 CFR Part 838
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**Chapter 52**

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**Section 52A1.1-2 Definitions**

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- A. Current Spouse** "Current spouse" means a living person who is married to the employee or retiree at the time of the employee's or retiree's death.
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- B. Current Spouse Survivor Annuity** "Current spouse survivor annuity" means a recurring benefit that is payable (after the employee's or retiree's death) to a current spouse who meets the marriage duration requirements described in Chapter 71, Spouse Benefits - Death of an Annuitant, section 71A2.1-2, paragraph B.
- 
- C. Former Spouse** "Former spouse" means a living person who was married for at least 9 months to an employee or retiree who performed at least 18 months of creditable service in a position covered by CSRS and whose marriage to the employee or retiree was terminated prior to the death of the employee or retiree. "Former spouse" includes only a person who was married to an employee on or after May 7, 1985, or who was the spouse of a retiree who retired on or after May 7, 1985, regardless of the date of the termination of the marriage.
- 
- D. Former Spouse Survivor Annuity** "Former spouse survivor annuity" means a recurring benefit that is payable to a former spouse after the employee's or retiree's death.
- 
- E. Fully Reduced Annuity** "Fully reduced annuity" means the recurring payments received by a retiree who has elected the maximum allowable reduction in annuity to provide a current spouse survivor annuity and/or a former spouse survivor annuity or annuities.
- 
- F. Insurable Interest Annuity** "Insurable interest annuity" means the recurring payments to a retiree who has elected a reduction in annuity to provide a survivor annuity to a person with an insurable interest in the retiree.
- 
- G. Partially Reduced Annuity** "Partially reduced annuity" means the recurring payments under CSRS to a retiree who has elected less than the maximum allowable reduction in annuity to provide a current spouse or former spouse survivor annuity.
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- H. Self-Only Annuity** "Self-only annuity" means the recurring unreduced payments to a retiree who has elected not to provide a survivor annuity to anyone.
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**Part 52A2 Survivor Elections Made at Retirement****Section 52A2.1-1 Types of Survivor Elections**

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**A. General**

Retiring employees may make one of three types of spousal survivor benefit elections at the time of retirement:

- Self-only annuity (no survivor benefits) (see section 52A2.1-3.C);
- Partially reduced annuity (see section 52A2.1-3.A.2); or
- Fully reduced annuity (see section 52A2.1-3.A.1).

The benefits may be used to provide one of the following types of benefits:

- Current spouse survivor annuity (full or partial survivor benefits) (see section 52A2.1-3);
- Former spouse survivor annuity or annuities (full or partial survivor benefits) see section 52A2.1-4); or
- A combination of the two.

In addition to the spousal survivor benefits elections, the employee, if eligible, may elect an insurable interest annuity (see part 52A3).

**NOTE:** Payment based on any of the above elections may be restricted to the extent it would conflict with a valid court order awarding survivor benefits to a former spouse. See part 52A5 for a complete discussion of the relationship between court orders and survivor benefit elections.

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**Section 52A2.1-2 Spousal Consent Requirement**

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**A. Rule**

If a retiree who is married at the time of retirement does not wish to provide the maximum current spouse survivor annuity, he or she must obtain the spouse's consent.

Spousal consent must be given on SF 2801-2, Spouse's Consent to Survivor Election. OPM regulations require that spousal consent be given by completing the OPM consent form before a notary public or other official authorized to take oaths.

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**B. Who May Properly Witness Spousal Consent**

1. The proper officials to witness spousal consent are officials authorized to administer oaths for all purposes and to take acknowledgements, such as notaries.

NOTE: The function notaries perform in witnessing spousal consent is taking an acknowledgement. An acknowledgement is the act of a person who has executed a document by going before an official authorized to take the acknowledgement and declaring it to be his or her voluntary action.

Most officials authorized to administer oaths and take acknowledgements receive their authority under State law. County Clerks, Clerks of Court, Judges, and Justices of the Peace are usually so authorized under State law.

2. Persons authorized by heads of agencies under 5 U.S.C. 2903(b) may only administer oaths on matters affecting an employee's Federal employment and may not take acknowledgements. They may not witness spousal consent.
- 

**C. Waiver of Spousal Consent Requirement**

1. OPM may waive the spousal consent requirement if the employee shows that the spouse's whereabouts cannot be determined. A request for waiver on this basis must be accompanied by:
  - A judicial determination that the spouse's whereabouts cannot be determined; or
  - Affidavits by the employee and two other persons, at least one of whom is not related to the employee, attesting to the inability to locate the current spouse and stating the efforts made to locate the spouse. The employee also should submit documentary evidence, such as newspaper stories about the spouse's disappearance.

**Section 52A2.1-2 Spousal Consent Requirement (Cont.)****C. Waiver of Spousal Consent Requirement (Cont.)**

2. The spousal consent requirement will be waived based on exceptional circumstances if the employee presents a judicial determination finding that exceptional circumstances warrant waiver of the consent requirement. The court order must state:
    - The case before the court involves a Federal employee who is in the process of retiring from Federal employment and the spouse of that employee;
    - The non-employee spouse has been given notice and an opportunity to be heard concerning this order;
    - The court has considered 5 U.S.C. 8339(j)(1) and 5 CFR 831.618(b) as it relates to waiver of the spousal consent requirement for a married Federal employee to elect an annuity without reduction to provide a survivor benefit to a spouse at retirement; and
    - The court finds that exceptional circumstances exist justifying waiver of the non-employee spouse's consent.
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**Section 52A2.1-3 Electing a Current Spouse Survivor Annuity or a Self-Only Annuity**

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**A. Current Spouse  
Survivor Annuity****1. Maximum Survivor Benefits**

A married employee retiring under CSRS automatically will receive a fully reduced annuity to provide a current spouse survivor annuity unless the spouse consents to an election not to provide maximum survivor benefits.

**2. Partial Survivor Benefits**

A married employee retiring under CSRS may elect a partially reduced annuity to provide less than maximum survivor benefits. If a married person elects partial survivor benefits, spousal consent must be obtained or waived.

NOTE 1: The rules for computing the amount and cost of survivor benefits under CSRS are covered in Chapter 50, Computation of Annuity Under the General Formula, section 50A3.1-3.

NOTE 2: In making a survivor election, a retiring employee and his or her spouse need to consider things such as the spouse's future retirement benefits based on his or her own employment, other sources of income such as savings, whether other sources of income are protected against inflation with cost-of-living adjustments, the spouse's need for continued FEHB coverage (coverage can only be retained if some annuity has been elected), expected expenses, etc.

While there is an opportunity to increase survivor benefits being provided within the 18-month period after an employee's annuity begins, delaying the election may be much more expensive than making the appropriate election at retirement. (See Part 52A4, Changes in Survivor Elections at Retirement.)

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**B. Termination of  
Reduction for  
Current Spouse  
Survivor Annuity**

Any reduction in an annuity to provide a current spouse survivor annuity will terminate on the first day of the month after the current spouse dies.

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**Section 52A2.1-3 Electing a Current Spouse Survivor Annuity or a Self-Only Annuity (Cont.)**

- C. Self-Only Annuity** Each retiring employee, married or unmarried, may elect an annuity payable only during his or her lifetime with no survivor benefits. However, in the case of a married employee, this election may be made only if spousal consent is obtained or waived.
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**Section 52A2.1-4 Electing a Former Spouse Survivor Annuity or a Combination Current/Former Spouse Annuity**

**A. General Rules**

1. An unmarried employee retiring under CSRS may elect a fully reduced annuity or partially reduced annuity to provide a former spouse survivor annuity. Employees considering this election should be aware that if they later remarry this election may limit the amount available to provide for the new spouse.
2. A married employee retiring under CSRS may elect a fully reduced annuity or a partially reduced annuity to provide a former spouse survivor annuity instead of a fully reduced annuity to provide a current spouse survivor annuity, provided the current spouse consents to the election or spousal consent is waived. See Section 52A6.1-2 for more detailed information about providing benefits for a current spouse when a court-ordered former spouse survivor annuity is payable.

**B. Maximum Survivor Benefits Payable**

The maximum combined total of all current and former spouse survivor annuities payable based solely on the service of an employee or former employee equals 55 percent of the rate of the self-only annuity that would have been paid to the employee or retiree.

NOTE: The maximum combined total of current and former spouse survivor annuities does not include benefits based on an election of an insurable interest annuity.

**C. When Election to Provide a Former Spouse Survivor Annuity is Void**

An election to provide a former spouse survivor annuity is void to the extent it:

1. Provides a benefit smaller than the amount required by a qualifying court order; or
2. Would cause the total of all elected current and former spouse survivor annuities to exceed 55 percent of the self-only annuity to which the employee would be entitled.

**Section 52A2.1-4 Electing a Former Spouse Survivor Annuity or a Combination Current/Former Spouse Annuity (Cont.)****D. Termination of Former Spouse Survivor Annuity**

Any reduction in an annuity to provide a former spouse survivor annuity will terminate as expressly provided for in a court order or on the first day of the month after the former spouse dies or remarries before age 55.

EXCEPTION 1: The reduction will continue if the retiree elects, within 2 years after the former spouse's death or remarriage, to continue the reduction to provide or increase a former spouse survivor annuity for another former spouse, or to provide or increase a current spouse survivor annuity.

EXAMPLE: Jill's husband Steve was injured in an accident, leaving Jill as the breadwinner in the family. When they divorced, Steve was awarded a survivor annuity as part of the divorce. However, 2 years after Jill retired, Steve died. Jill elected to continue the reduction in her annuity to provide survivor benefits for Bill, her current spouse.

EXCEPTION 2: The reduction will continue if a qualifying court order requires the retiree to provide another former spouse survivor annuity.

EXAMPLE: During Leon's working years, he was married to Marie, Peggy and Sharon. Leon's divorce from Marie required him to provide her with all of his future survivor annuity. Later the court order in his divorce from Peggy provided a full survivor annuity for her until she remarries. Leon was married to Sharon when he retired.

When Leon retired, his annuity was reduced to provide a full former spouse survivor annuity for Marie. Three years after Leon retired, Marie remarried. Since she was only 52 at the time, she lost entitlement to a former spouse survivor annuity.

Leon's annuity continued to be reduced to provide a benefit for Peggy. However, she remarried at age 59. Her right to a future survivor annuity ended, since this court order provided that her right to any survivor annuity would end upon remarriage, without regard to her age. Leon could have then received his full annuity if Sharon had waived her right to a survivor annuity when Leon retired. However, the reduction continued because Leon had already elected a full benefit for Sharon when he retired.

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**Part 52A3 Electing to Provide a Survivor Annuity to Someone With an Insurable Interest****Section 52A3.1-1 Electing to Provide a Survivor Annuity to Someone With an Insurable Interest****A. General Rule**

At retirement, an employee in good health, who is applying for a nondisability retirement, may elect an insurable interest annuity. An insurable interest annuity may be elected by an employee electing a fully reduced annuity or a partially reduced annuity to provide a current spouse survivor annuity or a former spouse survivor annuity or annuities. See section 52A3.1-2 below for more detailed information about electing an insurable interest annuity for a current spouse.

NOTE 1: A retiring employee may name only one natural person as the named beneficiary of an insurable interest annuity. OPM will not accept designations of contingent beneficiaries and such a designation is void.

NOTE 2: Insurable interest elections are not available after retirement.

**B. Spousal Consent Requirement**

Spousal consent is not required. However, in the case of a married retiring employee, an insurable interest election may not be made on behalf of a current spouse unless the current spouse has consented to an election not to provide a regular current spouse survivor annuity.

**C. Medical Documentation Required**

If the retiring employee makes an insurable interest election, he or she is responsible for arranging and paying the costs of a current medical examination required to show that he or she is in good health.

A report of the medical examination, signed and dated by a licensed physician, should be attached to the application for retirement. OPM will contact the retiree if further information is required.

**D. Beneficiary Must Have an Insurable Interest**

An insurable interest annuity may be elected only for a beneficiary who has an "insurable interest" in the employee. "Insurable interest" is an insurance term applying to a person who would benefit from the employee continuing to be alive.

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**Section 52A3.1-1 Electing to Provide a Survivor Annuity to Someone With an Insurable Interest (Cont.)****E. Individuals Presumed to Have an Insurable Interest**

An insurable interest is presumed to exist if the retiring employee names one of the following individuals as the beneficiary for the insurable interest annuity:

- The current spouse;
- A blood or adoptive relative closer than first cousins;
- A former spouse;
- A person to whom the employee is engaged to be married; or
- A person with whom the employee is living in a relationship that would constitute a common-law marriage in jurisdictions that recognize common-law marriages.

**F. When No Presumption of Insurable Interest Exists**

If the person named is not one of those listed in paragraph E above, the employee must submit affidavits from one or more persons with personal knowledge of the named beneficiary's insurable interest in the employee.

The affidavits must set forth:

- The relationship, if any, between the employee and the person named to receive the annuity;
- The extent to which that person is dependent on the employee; and
- The reasons why he or she might reasonably expect to derive financial benefit from the employee's continued life.

The affidavit(s) should be attached to the retirement application.

**G. Reference to Chapter 50**

The rules for computing the amount and cost of an insurable interest annuity are covered in Chapter 50, section 50A3.1-5.

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**Chapter 52**

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**Section 52A3.1-2 Electing an Insurable Interest Annuity to Benefit a Current Spouse****A. General**

If a former spouse's court-ordered survivor annuity will prevent the current spouse from receiving a survivor annuity that is sufficient to meet anticipated needs, the employee may want to provide an insurable interest annuity for the current spouse.

EXAMPLE: The maximum regular survivor annuity payable at the time of Joe's retirement is \$2,000 per month. Under the terms of their divorce, Joe's ex-wife Susan is entitled to half the survivor annuity or, at the current rate, \$1,000. However, Joe wants to provide the largest amount he can for Jeanne, his current wife, so he elects an insurable interest annuity for her.

**B. Rules**

1. In order to elect an insurable interest annuity to benefit a current spouse, the retiring employee and spouse must jointly waive the current spouse survivor annuity. The retiree's annuity will be reduced to pay for both the court-ordered survivor annuity and the insurable interest election.
2. If the former spouse loses entitlement to the court-ordered benefit before the retiree dies, the retiree may, within 2 years after the former spouse loses entitlement, request that the reduction in annuity to provide the insurable interest annuity be converted to the less costly fully reduced annuity to provide a current spouse survivor annuity. The current spouse would then be entitled to the regular survivor annuity benefit.
3. If the former spouse loses entitlement after the retiree dies, the current spouse can request, within 2 years after the former spouse loses entitlement, that the regular survivor annuity be substituted for the insurable interest annuity.

Employees should be advised that the regular current spouse survivor annuity is higher than the benefit based on an insurable interest election but the regular current spouse survivor annuity > may terminate < in the event of remarriage before age 55. An insurable interest annuity would not be affected by remarriage. (See next section.)

> Note: The Treasury and General Government appropriations Act, 1998 (P.L. 105-61) amends CSRS and FERS law provisions providing for termination of a survivor annuity upon remarriage before 55. The change applies if the remarried spouse was married for at least 30 years to the individual on whose service the annuity is based. In such cases, the survivor annuity will no longer be terminated. <

**Section 52A3.1-3 When Entitlement to an Insurable Interest Annuity Ends**

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**A. Conditions That Cause an Insurable Interest Annuity to Terminate**

An insurable interest annuity automatically ends if:

- The person named to receive the insurable interest annuity dies;
- The person named is the current spouse and the retiree changes the election as explained in section 52A3.1-2; or
- After retirement, the retiree marries the insurable interest beneficiary and elects to provide a current spouse survivor annuity for that person.

NOTE: If the retiree marries someone other than the insurable interest beneficiary after retirement and elects to provide a current spouse survivor annuity for the new spouse, the retiree may elect to cancel the insurable interest reduction.

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**B. Insurable Interest Annuity to a Former Spouse**

A retiree whose annuity is reduced to provide both a current spouse survivor annuity and an insurable interest annuity for a former spouse is not permitted to convert the insurable interest annuity to a regular survivor annuity for the former spouse upon the death of the current spouse.

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**Part 52A4 Changes in Survivor Elections Made at Retirement****Section 52A4.1-1 Changes of Election Before Final Adjudication**

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**A. Rule**

An employee may revoke or change a survivor election if, not later than 30 days after the date of the first regular monthly payment, he or she files a new written election with OPM. After the 30-day period following the date of the retiree's first regular monthly payment has passed, the retiree cannot change his or her survivor election except as discussed in section 52A4.1-2 below.

NOTE 1: The retiree's first regular monthly payment is the first annuity check payable on a recurring basis (other than interim payments or a retroactive adjustment check) after OPM has initially adjudicated his or her regular annuity rate and has paid the annuity accrued since the time of retirement.

NOTE 2: Within the designated period, the employee may increase or reduce the amount of the survivor benefit and/or may change the type of election to any of the survivor elections listed in section 52A2.1-1, if he or she is otherwise eligible to make such an election.

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**B. Spousal Consent Requirement**

The retiree must obtain the consent of his or her spouse for any changes in election before final adjudication that do not provide the maximum current spouse survivor annuity.

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**Section 52A4.1-2 Changes of Election After Final Adjudication**

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**A. General Rules**

1. A retiree may request, in writing, to change **only** a current spouse survivor annuity election no later than 18 months after the commencing date of annuity if the retiree is:

- Changing his or her election not to provide a survivor annuity for his or her spouse at retirement; or
- Increasing a less than maximum survivor annuity elected at retirement for his or her spouse.

NOTE 1: An election during this 18-month period cancels any joint waivers the retiree and his or her spouse made at retirement regarding survivor annuity benefits.

NOTE 2: An election during this 18-month period is void if it is received by OPM after the retiree dies.

NOTE 3: If the retiree elects to change the survivor benefit election under one of the circumstances described above, he or she must make a deposit. See paragraph C below for further details.

2. The retiree may **not** reduce the survivor benefit for his or her current spouse.

**B. When a Former Spouse Survivor Annuity is Payable**

If a retiree who had elected a fully reduced annuity or a partially reduced annuity to provide a former spouse survivor annuity (or annuities) makes an election within the 18-month period to provide a current spouse survivor annuity that would cause the combined current and former spouse survivor annuities to exceed the maximum survivor annuity, the former spouse survivor annuity (or annuities) must be reduced to not exceed the maximum allowable. (See section 52A2.1-4, paragraph B.)

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**C. Deposit Required**

The retiree must pay a deposit that includes:

1. The difference between the reduction in annuity for the new survivor election and the original survivor election; **plus**
2. A charge of 24.5 percent of the amount of the increase from the original survivor base to the new survivor base (computed as of the time of retirement); **plus**

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**Section 52A4.1-2 Changes of Election After Final Adjudication (Cont.)****C. Deposit Required  
(Cont.)**

3. Any applicable interest. (The interest rate that applies is determined each year by the Secretary of the Treasury based on certain U.S. Treasury Department interest rates for the previous fiscal year.)

EXAMPLE: Thaddeus retired 3-1-90 and elected, with spousal consent, a self-only annuity that amounted to \$15,000 per year. Had he elected to provide a full current spouse survivor annuity at time of retirement, his annuity would have been reduced by \$1,230 annually.

One year later, Thaddeus changed the survivor election to provide a full current spouse survivor annuity. To effect this change, he must deposit the amount that would have been taken from his annuity had he elected full survivor benefits at time of retirement (\$1,230) **plus** 24.5 percent of the increase in the survivor base ( $\$15,000 \times 24.5\% = \$3,675$ ) **plus** interest. The amount due must be paid in a single payment. Neither installment payments nor the actuarial reduction are available.

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**Part 52A5 Survivor Elections Made After Retirement****Section 52A5.1-1 Survivor Election for a Spouse Acquired After Retirement**

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**A. Rule: Unmarried at Retirement**

1. If the retiree was unmarried at retirement, he or she may elect, within 2 years after the marriage, a reduced annuity to provide a current spouse survivor annuity for the spouse.
2. The reduction in the retiree's monthly annuity is effective no earlier than the first of the month beginning 9 months after the date of marriage.

NOTE: The election described in this paragraph is subject to the requirements described in paragraphs C and D below.

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**B. Rule: Married at Retirement**

If the retiree was married at retirement, that marriage ends, and he or she marries again, the retiree may elect, within 2 years of remarriage, a reduced annuity to provide a current spouse survivor annuity for the new spouse.

NOTE 1: If the retiree remarries the same person he or she was married to at time of retirement and that person had previously consented to an election of less than the maximum survivor annuity, the retiree may not later elect to provide a greater survivor annuity for that person upon remarriage.

NOTE 2: The election described in this paragraph is subject to the requirements described in paragraphs C and D below.

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**C. Restrictions**

Qualifying court orders prevent payment of current spouse survivor annuities to the extent necessary to comply with the court order and the maximum limitation.

If an election causes the total of all current and former spouse survivor annuities provided by a qualifying court order or an election to exceed the maximum, OPM will accept the election but pay only the portion not in excess of the maximum.

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**D. Deposit Required**

In the case of a survivor election for a spouse acquired after retirement, the retiree must agree to pay a deposit equal to the difference between the amount of annuity actually paid and the amount of annuity that would have been paid if the survivor election had been in effect continuously since

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**Section 52A5.1-1 Survivor Election for a Spouse Acquired After Retirement (Cont.)**

- D. Deposit Required (Cont.)**      the time of retirement or since the date the reduction terminated, whichever is applicable. Interest is assessed against the amount owed at the rate of 6 percent, compounded annually. This deposit is paid by permanent actuarial reduction that, in most cases, is less than 5 percent of the employee's annuity.
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**Section 52A5.1-2 Survivor Election for a Former Spouse After Retirement**

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**A. General Rule**

The reduction in the retiree's annuity to provide a survivor annuity for his or her current spouse ends if the marriage terminates because of death, divorce, or annulment.

However, the retiree may elect, within 2 years after the marriage ends, to continue the reduction to provide a former spouse survivor annuity. If the retiree marries again before electing a former spouse survivor annuity, the current spouse must consent to the election.

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**B. Restrictions**

A qualifying court order for another spouse prevents payment of elected former spouse survivor annuities to the extent necessary to comply with the court order and the maximum limitations.

A retiree who elects a fully or partially reduced annuity to provide a former spouse survivor annuity may not elect to provide a former spouse survivor annuity in an amount that either:

1. Is smaller than the amount required by a qualifying court order; or
  2. Would cause the sum of all current and former spouse survivor annuities based on a retiree's elections to exceed 55 percent of the rate of the retiree's self-only annuity. (See section 52A2.1-4, paragraph B.)
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**Part 52A6 Relationship Between Survivor Benefit Elections and Court-Ordered Survivor Benefits****Section 52A6.1-1 Effect of Court Orders**

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**A. General Rules**

1. The former spouse of an employee or retiree may be awarded a full or partial survivor annuity based on a court order. OPM will honor the court order without any action on the part of the employee or retiree.
2. Since a court-ordered survivor benefit is not an "elected" survivor benefit, the employee should make an election(s) at retirement to provide a current spouse (or former spouse) survivor annuity as if the court order did not exist.
  - If the employee's election is inconsistent with the court order, OPM will honor the order.
  - If the court order becomes inoperative (see section 52A6.1-3 below), the election(s) automatically take(s) effect.

NOTE: The drafting and filing of court orders is discussed more fully in Chapter 5.

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**Section 52A6.1-2 Electing a Current Spouse Survivor Annuity When a Court-Ordered Former Spouse Survivor Annuity is Payable****A. General Rule**

A court-ordered former spouse survivor annuity requires no election by a retiring employee. Thus, even if a court order provides a former spouse survivor annuity, a married employee must elect a fully reduced annuity to provide a current spouse survivor annuity unless the spouse consents to another election or spousal consent is waived.

A court order may prevent payment of the current spouse survivor annuity as long as the former spouse is entitled by the court order. However, by electing the maximum survivor benefit for the current spouse, the employee protects the spouse's rights with a contingent benefit in case the former spouse loses entitlement to the court-ordered benefits in the future.

NOTE: Only one survivor benefit reduction is taken from the retiree's annuity for the court-ordered former spouse survivor annuity and the contingent current spouse survivor annuity.

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**B. Rule: Maximum Benefits to Former Spouse**

If a court order gives the maximum survivor annuity to the former spouse, the current spouse will receive no survivor annuity after the retiree's death unless:

- The employee elected a current spouse survivor annuity benefit at retirement; and
- The former spouse loses entitlement to the court-ordered benefit as discussed below in section 52A6.1-3, paragraph A.

If these conditions are met, the current spouse will receive a survivor annuity according to the election made at retirement.

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**C. Rule: Less Than Maximum Benefits to Former Spouse**

If the court order awards less than the maximum survivor benefit to the former spouse, the current spouse will receive the difference available (up to the amount elected).

EXAMPLE: John, who is married at time of retirement, has a former spouse who has a court-ordered survivor annuity that equals 40 percent of his basic annuity. At retirement, John elects the maximum survivor annuity (55 percent) for his wife.

If John dies before the former spouse's entitlement to a survivor annuity ends, the former spouse will receive a survivor annuity equal to 40 percent

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**Section 52A6.1-2 Electing a Current Spouse Survivor Annuity When a Court-Ordered Former Spouse Survivor Annuity is Payable (Cont.)**

- C. Rule: Less than Maximum Benefits to Former Spouse (Cont.)** of his annuity. John's wife will receive a survivor annuity equal to the difference between the benefit awarded to the former spouse and the maximum benefit, or 15 percent.
- However, if the former spouse later loses entitlement to the survivor annuity due to remarriage before age 55, the terms of the court order, or death, John's widow would receive a survivor annuity equal to 55 percent of his annuity.
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**Section 52A6.1-3 When the Former Spouse Loses Entitlement**

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**A. Termination of Court-Ordered Benefits**

The right to a court-ordered former spouse survivor annuity terminates when:

- The former spouse dies; or
- The former spouse remarries before age 55; or
- The court order provides that the survivor annuity stop. (For example, some court orders terminate the survivor annuity based on remarriage after age 55.)

**NOTE:** A former spouse who loses entitlement to a survivor annuity due to remarriage before age 55 cannot have the survivor annuity reinstated if the marriage later ends.

**B. Current Spouse Rights After Termination of Former Spouse Entitlement**

If the former spouse survivor annuity terminates, the current spouse will be entitled to a current spouse survivor annuity or to an increased current spouse survivor annuity if:

- The employee died while employed in a position covered under CSRS;
- The current spouse was married to the retiree continuously from the time of retirement and did not consent to an election not to provide a current spouse survivor annuity; or
- The current spouse married a retiree after retirement and the retiree elected to provide a current spouse survivor annuity for that spouse in the event that the former spouse survivor annuity terminates.

**C. Other Former Spouses**

If a former spouse of a retiree loses entitlement to a survivor annuity, the reduction will continue if the retiree elects, within 2 years after termination of the former spouse survivor annuity, to continue the reduction to provide or increase a former spouse survivor annuity for another former spouse.

**D. Insurable Interest Elections**

If the retiree is living when the last former spouse's rights to a survivor annuity terminate, the retiree may elect to convert an insurable interest annuity benefit for a current spouse to a reduced annuity to provide a current spouse annuity.

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**Section 52A6.1-3 When the Former Spouse Loses Entitlement (Cont.)****D. Insurable Interest Elections (Cont.)**

If the retiree has died when a former spouse's rights to a survivor annuity terminate, the beneficiary of an insurable interest annuity who was a current spouse at both the time of the retiree's retirement and death may, within 2 years after the termination of the former spouse's entitlement, elect to receive a current spouse survivor annuity instead of the insurable interest annuity.

**EXAMPLE 1:** Joe, from the example in section 52A3.1-2, was required by court order to provide half of his survivor annuity to his ex-wife Susan. However, 3 years after Joe retired, Susan died. Joe then elected to substitute the regular survivor annuity for the insurable interest annuity for Jeanne, his current wife. The change gives Jeanne a slightly higher future benefit at less cost per month to Joe (since insurable interest annuities cost more than regular survivor annuities).

**EXAMPLE 2:** Joe, from the example in section 52A3.1-2, dies 5 years after retiring. Under the terms of the court order, Susan, his former wife, begins receiving one half of the regular survivor annuity payable. Jeanne, his current spouse, begins receiving the insurable interest annuity. One year later, Susan dies. Jeanne is now entitled to elect to receive the current spouse annuity. She does so since the full current spouse annuity is always more than an insurable interest annuity.

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**Part 52A7 Miscellaneous Provisions****Section 52A7.1-1 When a Survivor is Eligible for More Than One Survivor Annuity**

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- A. General** In certain circumstances, a survivor may be eligible for more than one survivor annuity; in other circumstances, the survivor must elect between the survivor annuities for which he or she is eligible. It is important to know when each circumstance arises because it may affect the survivor elections made by retiring employees or retirees.
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- B. General Rule: Survivor Annuities Based on the Service of One Employee** A survivor may receive only one survivor annuity based on the service of one employee.
- EXCEPTION:** A surviving child may receive both a child's annuity and an insurable interest annuity based on the service of one employee.
- 
- C. General Rule: Survivor Annuities Based on the Service of More Than One Employee** A survivor may receive more than one survivor annuity if each survivor annuity is based on the service of different employees and no specific statutory provision requires the survivor to elect between benefits.
- EXAMPLE:** Karen married Paul, a Federal employee. Paul died in service and Karen received a survivor annuity. At age 57, Karen married another Federal employee, Tom. Karen continues to receive the survivor annuity based on the death of her first husband because she remarried after age 55.
- Two years later, Tom retires and elects full survivor benefits for Karen. If Tom dies, Karen will receive a survivor annuity based on Tom's election at retirement and she will continue to receive the survivor annuity based on Paul's death in service.
- 
- D. Exception: Survivor Annuities Based on the Service of More Than One Employee** Two statutory provisions require certain survivors to elect between survivor benefits based on the service of more than one employee.
- NOTE:** In the discussion that follows, "any other retirement system for Government employees" does **not** include Survivor Benefit Payments from a military retirement system or Social Security benefits.

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**Section 52A7.1-1 When a Survivor is Eligible for More Than One Survivor Annuity (Cont.)****D. Exceptions:  
Survivor Annuities  
Based on the  
Service of More  
Than One  
Employee (Cont.)****1. Reinstatement of an annuity that terminates due to remarriage before age 55**

A current spouse survivor annuity that terminates because of remarriage before age 55 **cannot** be reinstated unless:

- The surviving spouse elects to receive the reinstated current spouse survivor annuity instead of any other payments (except any accrued but unpaid annuity and any unpaid employee contributions) to which he or she may be entitled under any retirement system for Government employees, by reason of the remarriage; and
- Any lump sum paid on termination of the annuity is returned to the retirement fund.

NOTE: A former spouse survivor annuity that terminates due to remarriage before age 55 cannot be reinstated. Accordingly, no election of benefits is possible in former spouse cases.

**2. Survivor annuity based on a post-retirement marriage**

To receive a survivor annuity based on a marriage occurring after retirement, the survivor must elect that annuity rather than any other.

- A current spouse is entitled to a current spouse survivor annuity based on a post-retirement marriage only upon electing this current spouse survivor annuity instead of any other payments (except any accrued but unpaid annuity and any unpaid employee contributions) to which he or she may be entitled under any retirement system for Government employees.
  - A former spouse who marries and then divorces a retiree is entitled to a former spouse survivor annuity based on an election by the retiree or a qualifying court order terminating that marriage to the retiree only upon electing this former spouse survivor annuity instead of any other payments (except any accrued but unpaid annuity and any unpaid employee contributions) to which he or she may be entitled under any retirement system for Government employees.
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**Section 52A7.1-2 Health Benefits Coverage**

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- A. Continuing Coverage: Current Spouse** If eligible, the current spouse can continue Federal health benefits coverage after the retiree's death. See The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices.
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- B. Continuing Coverage: Former Spouse** The rules for allowing certain former spouses to continue Federal health benefits coverage are covered in The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices.
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**Subchapter 52B FERS**

**Part 52B1 General Information**

**Section 52B1.1-1 Overview**

**A. Introduction**

Subchapter 52B contains the rules and regulations applicable to survivor benefit elections under the Federal Employees Retirement System (FERS).

This subchapter explains how FERS differs from CSRS. It refers readers to the applicable CSRS rule or gives the FERS rule if different.

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**B. Organization of Subchapter**

The FERS subchapter has two parts.

<b>Part</b>	<b>Name of Part</b>	<b>Page</b>
52B1	General Information	29
52B2	Survivor Elections Made at Retirement	32

**C. Applicable CSRS Provisions**

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The following sections and parts of subchapter 52A are applicable to FERS employees:

Section 52A2.1-2: Spousal Consent Requirement

Part 52A3: Electing to Provide a Survivor Annuity to Someone With an Insurable Interest

Section 52A4.1-1: Changes of Election Before Final Adjudication

Section 52A4.1-2: Changes of Election After Final Adjudication

NOTE: The deposit terminology for FERS is different. The amount of a deposit is 24.5 percent of annual annuity for a change from no survivor to maximum survivor benefit, and 12.25 percent of annual annuity for change from no survivor to partial or partial to full survivor.

Section 52A5: Survivor Elections Made After Retirement

NOTE: The rules for making the election are the same, but under FERS, the amount must be either 25 percent or 50 percent of the retiree's self-only annuity.

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**Section 52B1.1-1 Overview (Cont.)**

**C. Applicable CSRS Provisions (Cont.)** Part 52A6: Relationship Between Survivor Benefit Elections and Court-Ordered Survivor Benefits

Part 52A7: Miscellaneous Provisions

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**D. Statement of Authority**

This subchapter is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8416-8420; 5 U.S.C. Chapter 84, Subchapter IV
  - Code of Federal Regulations: 5 CFR 838, 5 CFR 842, Subpart F; 5 CFR 843, Subparts A and C.
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**Section 52B1.1-2 Definitions**

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- A. Applicable CSRS Provisions** The definitions listed in CSRS section 52A1.1-2 are applicable under FERS, with two exceptions. The exceptions are noted in paragraphs B and C below.
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- B. Former Spouse** "Former spouse" means a living person:
1. Who was married for at least 9 months to an employee or retiree with at least 18 months of creditable service under FERS; and
  2. Whose marriage to the employee or retiree was terminated prior to the death of the employee or retiree.
- 
- C. Reduced Annuity** "Reduced annuity" means the recurring payments under FERS received by a retiree who has elected a reduction in his or her annuity to provide a current spouse survivor annuity and/or a former spouse survivor annuity or annuities. Reduced annuities may be fully reduced to provide the maximum survivor benefit or one-half reduced to provide one-half the maximum survivor benefit. These are the only choices available under FERS. FERS does not give retirees the choice of electing anything from \$1.00 to the full amount as CSRS does.
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**Part 52B2 Survivor Elections Made at Retirement****Section 52B2.1-1 Types of Survivor Elections**

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**A. General**

Retiring employees may make one of three types of spousal survivor benefit elections at the time of retirement:

- Self-only annuity (no survivor benefits) (see section 52B2.1-2.C);
- One-half reduced annuity (see section 52B2.1-2.A); or
- Fully reduced annuity (see section 52B2.1-2.A.).

The benefits may be used to provide one of the following types of benefits:

- Current spouse survivor annuity (full or one-half survivor benefits) (see section 52B2.1-2);
- Former spouse survivor annuity or annuities (full or one-half survivor benefits) (see section 52B2.1-3); or
- A combination of the two.

In addition to the spousal survivor benefit elections, the employee, if eligible, may elect an insurable interest annuity (see part 52A3 in the CSRS subchapter).

NOTE: All of the above elections are restricted to the extent they conflict with a valid court order awarding survivor benefits to a former spouse. See part 52A6 in the CSRS subchapter for a complete discussion of the relationship between court orders and survivor benefit elections.

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**Section 52B2.1-2 Electing a Current Spouse Survivor Annuity or a Self-Only Annuity**

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**A. Current Spouse  
Survivor Annuity**

**Maximum Survivor Benefits**

Under FERS, a married retiring employee will receive a reduced annuity to provide maximum (50 percent) survivor benefits to a current spouse unless the spouse consents to an election not to provide full benefits.

**One-Half Maximum Survivor Benefits**

Under FERS, a married retiring employee may elect a reduced annuity to provide one-half maximum (25 percent) survivor benefits to a current spouse. This election may be made only if spousal consent is obtained or waived. No other partial survivor benefit is available under FERS.

NOTE: The rules for computing the amount and cost of survivor benefits under FERS are covered in Chapter 50, section 50B3.1-4.

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**B. Termination of  
Reduction for  
Current Spouse  
Survivor Annuity**

Any reduction in an annuity to provide a current spouse survivor annuity will terminate on the first day of the month after the current spouse dies.

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**C. Self-Only Annuity**

The CSRS rule in section 52A2.1-3, paragraph C, regarding the election of a self-only annuity, is applicable under FERS.

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**Section 52B2.1-3 Electing a Former Spouse Survivor Annuity**

**A. General Rules**

1. An unmarried employee retiring under FERS may elect a reduced annuity to provide a former spouse survivor annuity. The employee may elect to provide either maximum (50 percent) or one-half maximum (25 percent) survivor benefits. If the employee elects to provide survivor benefits for more than one former spouse, the elections must total either 25 percent or 50 percent of his or her unreduced annuity.
2. A married employee retiring under FERS may elect to provide maximum or one-half maximum survivor benefits to a former spouse provided the current spouse consents to the election or spousal consent is waived. If the employee wishes to provide survivor benefits to both the current and former spouse(s), the current spouse must receive 25 percent of the employee's unreduced annuity, and the remaining 25 percent may be divided among eligible former spouses.

**B. Maximum Survivor Benefits Payable**

The maximum combined total of all current and former spouse survivor annuities payable based solely on the service of an employee or former employee equals 50 percent of the rate of the self-only annuity that would have been paid to the employee or retiree.

NOTE: The maximum combined total of current and former spouse survivor annuities does not include benefits based on an election of an insurable interest survivor annuity.

**C. When Election to Provide a Former Spouse Survivor Annuity is Void**

An election to provide a former spouse survivor annuity is void to the extent it:

1. Provides a benefit smaller than the amount required by a qualifying court order; or
2. Would cause the total current and former spouse survivor annuities to exceed 50 percent of the self-only annuity to which the employee would be entitled.

**D. Termination of Former Spouse Survivor Annuity**

The conditions under which a former spouse survivor annuity terminates under CSRS (section 52A2.1-4, paragraph D) apply under FERS.