

**BAL Making Eligibility Determinations Under The
Federal Erroneous Retirement Coverage Correction
Act (FERCCA)**

Attachment 1

**FERCCA Eligibility Determination
Worksheet**

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FERCCA ELIGIBILITY DETERMINATION WORKSHEET

Instructions: Use this worksheet to assist you in determining if there is a retirement coverage error for an employee and in determining what actions you should take under FERCCA.

Part 1 - FERCCA Service History Worksheet

Review the Notification of Personnel Action forms (SF 50 or equivalent) or other documentation of creditable civilian employment in the employee's Official Personnel Folder (OPF). You may need to look for service in places other than the employee's OPF. Some service may not be documented in the OPF but may be documented on a SF 171 or resume or some other source. To help you complete part of the service history worksheet, you may need to review retirement coverage rules in Chapters 10, 11, 12, 100, and 101 of the CSRS and FERS Handbook for Personnel and Payroll Offices. You may also find the FICA Coverage Determination Table (Part 2a) and the 5-Year Test Table (Part 2b) helpful in completing this worksheet. If you need additional help in determining whether an employee is in the correct retirement system, contact your headquarters level benefits officer. A listing of all benefits officers is available at www.opm.gov/asd/htm/rc.htm. If you are a headquarters level benefits officer and need assistance with a coverage determination, contact your liaison in the Benefits Officers Training and Development Group.

1. Enter the employee's identifying information (name, date of birth, Social Security Number)
2. List each period of service the employee performed. For each period of service performed, enter:
 - the name of the Agency where the service was performed
 - the type of appointment
 - the beginning and ending dates of each period of service
 - the length of service for that period of service in years, months, and days (convert time worked for WAE/intermittent tours)
 - the retirement code and coverage (see Attachment 1a - Common Retirement Plans and Corresponding Codes)

In addition, indicate if the coverage was correct and indicate if the employee elected FERS. If the employee elected FERS, you need to identify if the FERS election was a proper election made when the employee actually was permitted to make a FERS election.

List a period of service as a separate entry if the retirement coverage changed even if there is no break in service. There needs to be a separate entry every time the appointment changes (even if there is no break in service). For appointments that span 1/1/87, split that period of service into two separate entries with the first entry ending on 12/31/86 and the second entry beginning on 1/1/87.

3. Detail any notable information in the Comments section, such as if a deemed FERS election was made, if an improper FERS election was made, or if a coverage error was corrected, among other things.

FERCCA Service History Worksheet (Use additional sheets if necessary)

Employee Identifying Information

Employee's Name	Date of Birth	Social Security Number:
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Employing Agency	Type of Appointment	Beginning and Ending Dates	Length of Service (yrs-mos-dys)	Retirement Coverage and Code	Elect FERS (yes/no)	Coverage Correct (yes/no)

Comments:

PART 2A - FICA COVERAGE DETERMINATION TABLE

Use this table to assist you in making coverage determinations when you need to determine if an executive or judicial branch employee is subject to mandatory FICA coverage on and after January 1, 1984. Proceed as directed in the action blocks, until you determine if the employee is subject to mandatory FICA coverage.

This table does not capture the special rules that apply to legislative branch employees. Legislative employees can be subject to FICA coverage after 1983 even though they may not have had a break in Federal service or CSRS coverage of more than 365 days. If you have questions concerning a coverage determination made for a former legislative employee, you can contact the appropriate legislative component.

Step	Decision Factor	If yes, then:	If No, then:
1	Does employee qualify as a senior official? (See CSRS FERS Handbook section 10A1.3-6C and Chapter 101)	Subject to mandatory FICA.	Go to Step 2.
2	Was employee first hired as a Federal employee on or after January 1, 1984? *	Subject to mandatory FICA.	Go to Step 3.
3	Was employee first hired in a position covered by Federal retirement coverage on or after January 1, 1984?	Subject to mandatory FICA.	Go to Step 4.
4	Is employee receiving an annuity from a retirement system for Federal employees where they were excluded from FICA? **	Not subject to mandatory FICA.	Go to Step 5.
5	Did employee have a break in Federal service of at least 366 days that ended after 12-31-83? ***	Subject to mandatory FICA.	Go to Step 6.
6	Did employee have a break in Federal CSRS coverage (or other retirement coverage excluded from FICA for Federal employees) of at least 366 days that ended after December 31, 1983? ***	Subject to mandatory FICA.	Not subject to mandatory FICA

* DC Government employment subject to CSRS is not considered **Federal** employment for FICA purposes (see Handbook Section 12A4.1-1).

** This does not apply when reemployment terminates the annuity. This includes retirees from other Federal retirement systems such as the Foreign Service Retirement and Disability System, Secret Service and Park Policemen receiving annuities from the DC Police and Firemen Retirement System, among others (see Handbook Section 12A5.1-6).

*** DC Government employment covered under CSRS is not considered **Federal** employment for FICA purposes (see Handbook Section 12A4.1-1) and is therefore considered a separation in service for this purpose.

When a former employee who was receiving workers' compensation benefits under FECA, the Federal Employees Compensation Act, returns to duty, the time he or she was in receipt of FECA benefits is considered a leave of absence, not a separation from employment.

Service with the Armed Forces of the United States when the employee returns to his or her former position after exercising restoration rights, service under another retirement system for Federal employees, service with an international organization, and service with the American Institute in Taiwan do not count toward a 365-day break in service.

PART 2B - 5-YEAR TEST TABLE

Use this table to assist you in making coverage determinations when you need to determine if an employee meets the 5-Year Test. Proceed as directed in the action blocks, until you determine if the employee meets the 5-Year Test. Only apply the 5-year test for a period of service that begins on/after January 1, 1987.

Step	Decision Factor	If yes, then:	If No, then:
1	Does employee have 5 years of creditable or potentially creditable civilian service as of 12-31-1986?	Meets 5-year test	Go to Step 2.
2	Does employee have a break in service of more than 3 days ending after 12-31-86?	Go to step 3	Does not meet 5-year test
3	Does employee have 5 years of creditable or potentially creditable civilian service on the last day before his/her break in service?	Go to step 4	Does not meet 5-year test
4	Does employee have at least 1 day of coverage under CSRS or the Foreign Service Retirement and Disability System (FSRDS), or, for 5-year test determinations made on or after 12/12/99 , does employee have at least 1 day of coverage under CSRS, FSRDS, or the retirement benefit structure for Federal Reserve Board employees appointed prior to 1/1/84 , as of the last day before his/her break in service?	Meets 5-year test	Does not meet 5-year test

PART 3 – FERCCA ELIGIBILITY DETERMINATION

Once you have completed the **FERCCA Service History Worksheet** and have determined that an error(s) in retirement coverage exists, complete this part to determine if the employee is eligible for relief under FERCCA. Enter the period of service in which the coverage error occurred, the erroneous retirement coverage the employee was under, the correct coverage the employee should have been under, the date of the error, and if applicable, the date the error was corrected. Then, compute the total amount of time the employee worked after December 31, 1986, under the wrong retirement coverage. After you’ve made an entry for all periods of service with a coverage error, compute the total amount of time the employee worked under the wrong retirement system.

Period of Service (Beginning date/ending date)	Retirement Coverage was:	Retirement coverage should have been:	Date of error	Date error corrected, if applicable	Total length of error after 12/31/1986 (yrs-mos-days)
Total:					

After computing the total amount of time the employee worked under the wrong retirement system, complete the FERCCA eligibility determination table below. Proceed as directed in the action blocks until you reach an eligibility decision. Record your decision (employee is either eligible, partially eligible, or ineligible for FERCCA relief) in the block provided.

Step	Decision Factor	If yes, then:	If No, then:
1	Does employee have an error which lasted for more than 6 months?	Go to Step 2	Ineligible
2	Does employee have an error which lasted for more than 3 years after 12/31/86?	Go to step 4	Go to step 3
3	Was employee placed in FERS coverage by mistake during a time when he or she would have had a FERS election opportunity? *	See BAL 02-103	Ineligible
4.	Was the employee put in FERS by mistake when he or she should have been in CSRS, CSRS Offset, or FICA only?	Go to step 5	Eligible
5	Did employee make a valid FERS election or not respond within 60 days in response to a deemed FERS election opportunity? **	Partially Eligible	Eligible

* See BAL 02-103 - Retirement Coverage Error Correction: Erroneous FERS Coverage in Effect for Less than 3 Years for further instructions.

** A valid FERS election is one made during a FERS Open Season or in response to a deemed FERS election opportunity. In a Conner vs. OPM cases (see BAL 97-107 dated 9/25/97, BAL 98-114 dated 11/3/98 and BAL 00-108 dated 6/22/00 for information on Conner vs. OPM), an election is only valid if made after June, 2000.

Employee is: _____ for FERCCA relief. (*Eligible/partially eligible/ineligible*)

Ineligible:

Employee is ineligible for any relief under FERCCA. If the employee initiated the FERCCA review, send a decision letter within 60 days explaining that the employee is ineligible under FERCCA and the basis for your decision (see Attachment 2 - Sample Letter 1). Be sure to include an MSPB appeal package (<http://www.mspb.gov/foia/forms-pubs/applform.html>).

Eligible:

Review **Parts 4a** and **4b** in the main part of this BAL to determine if the error provides an election opportunity under FERCCA, and follow step 1 or 2 below, as appropriate.

- 1. Errors that provide an election.** Employee is eligible under FERCCA to make a coverage election and may be eligible for reimbursement of OOP expenses. Send a decision letter within 60 days explaining that the employee is eligible to make a coverage election, may be eligible for reimbursement of OOP expenses, and explain the basis for your decision (see Attachment 2- Sample Letter 2) Also send an OOP eligibility letter (see Attachment 2 – Sample Letter 5) and include the FERCCA OOP Guidelines (see Attachment 3).
- 2. Errors that do not provide an election.** Employee is eligible under FERCCA but that the error does not provide an election opportunity. Employee may be eligible for reimbursement of OOP expenses. Send a decision letter within 60 days explaining that the employee’s coverage is being corrected, they may be eligible for reimbursement of OOP expenses, and explain the basis for your decision (see Attachment 2 - Sample Letter 3). Also send an OOP eligibility letter (see Attachment 2 – Sample Letter 5) and include the FERCCA OOP Guidelines (see Attachment 3).

Partially Eligible:

Employee is ineligible to make a coverage election but may be eligible for reimbursement of OOP expenses. Send decision letter explaining that the employee is ineligible to make a coverage election but may be eligible to claim OOP expenses and explain the basis for your decision (see Attachment 2 - Sample Letter 4). Also send an OOP eligibility letter (see Attachment 2 – Sample Letter 5 and include the FERCCA OOP Guidelines (see Attachment 3).

PART 4 - BASIS FOR DECISION:

Write a brief narrative of the basis for your decision.

PART 5 – DECISION CERTIFICATION

Prepared By

Date

Title

Agency

ATTACHMENT 1a

COMMON RETIREMENT PLANS AND CORRESPONDING CODES

CODE	NAME/EXPLANATION	COMMENTS
1	Civil Service Retirement System (CSRS)	
2	Social Security System (FICA)	
4	None	
6	Civil Service Retirement System—Special (CSRS—Special)	For law enforcement officers and firefighters.
C	FICA and CSRS (Partial)	CSRS Offset. Full deductions are withheld for FICA, and partial deductions are withheld for CSRS.
E	FICA and CSRS—Special (Partial)	CSRS Offset for law enforcement officers and firefighters. Full deductions are withheld for FICA, and partial deductions are withheld for CSRS—Special.
K	Federal Employees’ Retirement System (FERS) and FICA	
L	FERS and FICA—Air Traffic Controllers	
M	FERS and FICA—Special	For law enforcement officers and firefighters.
N	FERS and FICA—Reserve Technicians	
R	FICA and CSRS (Full)	Full deductions are withheld for FICA, and full deductions are withheld for CSRS.

Reference: The Guide to Personnel Data Standards, Update 11, 3/00

ATTACHMENT 1b

FERCCA ELIGIBILITY DETERMINATION WORKSHEET SAMPLE CASE

Employee name: Bob White
Date of Birth: 07/01/55
SSN: 123-45-6789

Service History:

<u>Effective Date</u>	<u>Action</u>	<u>Agency</u>	<u>Coverage</u>
10/1/78	Temp. Appt.	OPM	FICA
07/1/80	Conv. Car.Cond.	OPM	CSRS
11/30/80	Resignation	OPM	CSRS
09/01/83	Temp. Appt.	Army	FICA
07/01/84	Conv. Car. Cond.	Army	CSRS&FICA
06/30/89	RIF	Army	CSRS&FICA
10/1/92	Term Appt. NTE 9/30/94	GSA	FERS
10/1/94	Conv. Car. Cond.	GSA	FERS

FERCCA Service History Worksheet (Use additional sheets if necessary)

Employee Identifying Information

Employee's Name Bob White	Date of Birth 07/01/55	Social Security Number: 123-45-6789
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Employing Agency	Type of Appointment	Beginning and Ending Dates	Length of Service (yrs-mos-dys)	Retirement Coverage and Code	Elect FERS (yes/no)	Coverage Correct (yes/no)
OPM	Temp. Appt	10/1/78 – 6/30/80	1 y – 9 m – 0 d	FICA	N	Y
OPM	Conv. Car. Cond.	7/01/80 – 11/30/80	0 y – 5m – 0 d	CSRS	N	Y
Army	Temp. Appt.	9/01/83 – 6/30/84	0 y – 10 m – 0 d	FICA	N	Y
Army	Conv. Car. Cond.	7/1/84 – 12/31/86	2 y – 6 m – 0 d	CSRS Interim	N	Y
Army	Conv. Car. Cond.	1/01/87 – 6/30/89	2 y – 6m – 0d	CSRS Offset	N	Y
GSA	Term Appt. NTE 9/30/94	10/1/92 – 9/30/94	2 y – 0 m – 0 d	FERS	N	N
GSA	Conv. Car. Cond.	10/1/94 – 10/2/04	10 y – 0 m – 2 d	FERS	N	N

Comments: Employee was put in FERS by mistake on 10/1/92. There is no indication in his OPF that he was ever given an opportunity to elect to keep his FERS coverage or have his coverage corrected to CSRS Offset.

PART 2A - FICA COVERAGE DETERMINATION TABLE

Use this table to assist you in making coverage determinations when you need to determine if an employee is subject to mandatory FICA coverage on and after January 1, 1984. Proceed as directed in the action blocks, until you determine if the employee is subject to mandatory FICA coverage.

Step	Decision Factor	If yes, then:	If No, then:
1	Does employee qualify as a senior official? (See CSRS FERS Handbook section 10A1.3-6C and Chapter 101)	Subject to mandatory FICA	Go to Step 2.
2	Was employee first hired as a Federal employee on or after January 1, 1984? *	Subject to mandatory FICA.	Go to Step 3.
3	Was employee first hired in a position covered by Federal retirement coverage on or after January 1, 1984?	Subject to mandatory FICA.	Go to Step 4.
4	Is employee receiving an annuity from a retirement system for Federal employees where they were excluded from FICA? **	Not subject to mandatory FICA.	Go to Step 5.
5	Did employee have a break in Federal service of at least 366 days that ended after 12-31-83? ***	Subject to mandatory FICA.	Go to Step 6.
6	Did employee have a break in Federal CSRS coverage (or other retirement coverage excluded from FICA for Federal employees) of at least 366 days that ended after December 31, 1983? ***	Subject to mandatory FICA.	Not subject to mandatory FICA

* DC Government employment subject to CSRS is not considered **Federal** employment for FICA purposes (see Handbook Section 12A4.1-1).

** This does not apply when reemployment terminates the annuity. This includes retirees from other Federal retirement systems such as the Foreign Service Retirement and Disability System, Secret Service and Park Policemen receiving annuities from the DC Police and Firemen Retirement System, among others (see Handbook Section 12A5.1-6).

*** DC Government employment covered under CSRS is not considered **Federal** employment for FICA purposes (see Handbook Section 12A4.1-1) and is therefore considered a separation in service for this purpose.

When a former employee who was receiving workers' compensation benefits under FECA, the Federal Employees Compensation Act, returns to duty, the time he or she was in receipt of FECA benefits is considered a leave of absence, not a separation from employment.

Service with the Armed Forces of the United States when the employee returns to his or her former position after exercising restoration rights, service under another retirement system for Federal employees, service with an international organization, and service with the American Institute in Taiwan do not count toward a 365-day break in service.

Special Note: The rules for Legislative branch employees are different. A break in covered service (even if less than 1 year) occurring after December 31, 1983, while in the Legislative branch, or a refund of CSRS deductions that has been received after December 31, 1983, breaks continuity of service for Social Security determination purposes. The Legislative employee must be covered by FICA.

These exceptions apply to service in the Legislative branch only. The general rules apply when an employee leaves the Legislative branch and is later employed in the executive branch.

For Bob White, the Social Security coverage determination should have been applied on 7/1/84 when he converted to an appointment not excluded from CSRS. Since he was found to be subject to automatic Social Security coverage on 7/1/84, he had to be subject to automatic Social Security coverage during the rest of his career.

PART 2B - 5-YEAR TEST TABLE

Use this table to assist you in making coverage determinations when you need to determine if an employee meets the 5-Year Test. Proceed as directed in the action blocks, until you determine if the employee meets the 5-Year Test. Only apply the 5-year test for a period of service that begins on/after January 1, 1987.

Step	Decision Factor	If yes, then:	If No, then:
1	Does employee have 5 years of creditable or potentially creditable civilian service as of 12-31-1986?	Meets 5-year test	Go to Step 2.
2	Does employee have a break in service ending after 12-31-86?	Go to step 3	Does not meet 5-year test
3	Does employee have 5 years of creditable or potentially creditable civilian service on the last day before his/her break in service?	Go to step 4	Does not meet 5-year test
4	Does employee have at least 1 day of coverage under CSRS or the Foreign Service Retirement and Disability System (FSRDS), or, for 5-year test determinations made on or after 12/12/99 , does employee have at least 1 day of coverage under CSRS, FSRDS, or the retirement benefit structure for Federal Reserve Board employees appointed prior to 1/1/84 , as of the last day before his/her break in service?	Meets 5-year test	Does not meet 5-year test

For Bob White, apply the 5-year test on 1/1/1987 to determine he is excluded from automatic FERS coverage on 1/1/87. Since he did not elect FERS coverage in the 1987 FERS Open Season, he should not have been put in FERS in 1992. The correct coverage should have been FICA-only with an opportunity to elect FERS.

PART 3 – FERCCA ELIGIBILITY DETERMINATION

Once you have completed the **FERCCA Service History Worksheet** and have determined that an error(s) in retirement coverage exists, complete this part to determine if the employee is eligible for relief under FERCCA. Enter the period of service in which the coverage error occurred, the erroneous retirement coverage the employee was under, the correct coverage the employee should have been under, the date of the error, and if applicable, the date the error was corrected. Then, compute the total amount of time the employee worked after December 31, 1986, under the wrong retirement coverage. After you’ve made an entry for all periods of service with a coverage error, compute the total amount of time the employee worked under the wrong retirement system.

Period of Service (Beginning date/ending date)	Retirement Coverage was:	Retirement coverage should have been:	Date of error	Date error corrected, if applicable	Total length of error after 12/31/1986 (yrs-mos-days)
10/1/92 – 9/30/94	FERS	FICA	10/1/92	n/a	2 y – 0 m – 0 d
10/1/94 – 10/2/04	FERS	CSRS Offset	10/1/94	n/a	10 y – 0 m – 2 d
Total:					12 y – 0 m – 2 d

After computing the total amount of time the employee worked under the wrong retirement system, complete the FERCCA eligibility determination table below. Proceed as directed in the action blocks until you reach an eligibility decision. Record your decision (employee is either eligible, partially eligible, or ineligible for FERCCA relief) in the block provided.

Step	Decision Factor	If yes, then:	If No, then:
1	Does employee have an error which lasted for more than 6 months?	Go to Step 2	Ineligible
2	Does employee have an error which lasted for more than 3 years after 12/31/86?	Go to step 4	Go to step 3
3	Was employee placed in FERS coverage by mistake during a time when he or she would have had a FERS election opportunity? *	See BAL 02-103	Ineligible
4.	Was the employee put in FERS by mistake when he or she should have been in CSRS, CSRS Offset, or FICA only?	Go to step 5	Eligible
5	Did employee make a valid FERS election or not respond within 60 days in response to a deemed FERS election opportunity? **	Partially Eligible	Eligible

* See BAL 02-103 - Retirement Coverage Error Correction: Erroneous FERS Coverage in Effect for Less than 3 Years for further instructions.

** A valid FERS election is one made during a FERS Open Season or in response to a deemed FERS election opportunity. In a Conner vs. OPM cases (see BAL 97-107 dated 9/25/97, BAL 98-114 dated 11/3/98 and BAL 00-108 dated 6/22/00 for information on Conner vs. OPM), an election is only valid if made after June, 2000.

Employee is: Eligible **for FERCCA relief.** (*Eligible/partially eligible/ineligible*)

3. Employee is eligible under FERCCA to make a coverage election and may be eligible for reimbursement of OOP expenses. Send a decision letter within 60 days explaining that the employee is eligible to make a coverage election, may be eligible for reimbursement of OOP expenses, and explain the basis for your decision (see Attachment 2- Sample Letter 2) Also send an OOP eligibility letter (see Attachment 2 – Sample Letter 5) and include the FERCCA OOP Guidelines (see Attachment 3).
4. Notify OPM of error within 30 days.
5. OPM will send election package.

For Bob White, his error lasted for more than 3 years of service after 12/31/86 and although he was put in FERS by mistake he was never given a deemed FERS opportunity. Therefore, he is eligible under FERCCA.