
Table of Contents
Subchapter 5A CSRS and FERS**Part 5A1 General Information**

Section 5A1.1-1 Overview	1
A. Introduction	1
B. Requests for Advice/Information	1
C. Handbook for Attorneys	2
D. Topics Covered	2
E. Organization of Chapter	3
F. Statement of Authority	3

Part 5A2 Garnishment Orders

Section 5A2.1-1 Definitions	4
A. Child Support	4
B. Alimony	4
C. Disposable Annuity	4
Section 5A2.1-2 Garnishment Orders	6
A. General Rule	6
B. Restrictions on Amount to be Garnished	6
C. Payments Under a Garnishment Order	6
D. Where to File Garnishment Orders	7

Part 5A3 Child Abuse Judgment Enforcement Orders

Section 5A3.1-1 Definitions	8
A. Child Abuse Judgment Enforcement Order	8
B. Child Abuse Creditor	8
C. Disposable Annuity	8
Section 5A3.1-2 Child Abuse Judgment Enforcement Orders	9
A. General	9
B. Payments Under Child Abuse Judgment Enforcement Orders	9
C. Where to File Child Abuse Judgment Enforcement Orders	9

Part 5A4 Apportionment Orders

Section 5A4.1-1 Definitions 10

A. Self-Only Annuity 10

B. Gross Annuity 10

C. Net Annuity 10

D. Former Spouse 10

Section 5A4.1-2 Apportionment Orders 11

A. General Rule 11

Section 5A4.1-3 Preparing an Apportionment Order 12

A. Applicability of State Law 12

B. Which Courts Can Issue Order 12

C. Content of Order 12

D. Maximum Benefits Payable 12

Section 5A4.1-4 Filing an Apportionment Order 13

A. General 13

B. Application Must be in Writing 13

C. Information to Include in Application 13

D. Certification of Marital Status 14

E. OPM Address 14

Section 5A4.1-5 Miscellaneous 15

A. Health Benefits Coverage 15

B. Alternative Annuity Election 15

Part 5A5 Survivor Benefit Orders

Section 5A5.1-1 Definitions 16

A. Former Spouse 16

B. Former Spouse Survivor Annuity 16

Section 5A5.1-2 Survivor Benefit Orders 17

A. General 17

B. Which Courts Can Issue Order 17

C. Content of Order 17

D. Which Court Orders Can Award CSRS Survivor Benefits 17

E. Modification Restrictions 18

F. Maximum Benefits Payable 19

G. Filing the Order 19

Section 5A5.1-3 Miscellaneous 20
 A. Health Benefits Coverage 20
 B. Alternative Annuity Election 20

Part 5A6 Release of Information

Section 5A6.1-1 Orders for Release of Retirement and Insurance Records 21
 A. General 21
 B. Where to Serve When Individual Is No Longer an Employee 21
 C. Where to Serve When Individual Employed by Only One Agency
 With No Break in Service 21
 D. Where to Serve When Individual Employed by More Than One Agency
 or Has a Break in Service 21
 E. Information to Include in a Court Order 21
 F. OPM Address 22

Subchapter 5B Job Aid

Section 5B1.1-1 Order Form for Attorney's Handbook 23
 Order Form for Attorney's Handbook 24

Appendix -- Model Language for Use in Court Orders 25

Introduction 25

000 Series--Special Technical Provisions 27
 001 Language required in Qualified Domestic Relations Orders 27

100 Series--Identification of the benefits and instructions that OPM pay the former spouse 28
 101 Identifying retirement benefits and directing OPM to pay the former spouse 28
 111 Protecting a former spouse entitled to military retired pay 28

200 Series--Computing the amount of the former spouse's benefit 29
 201 Award of a fixed monthly amount 29
 202 Award of a percentage 29
 203 Award of a fraction 29
 204 Award of a prorata share 30
 211 Award based on a stated formula 30
 231 Awarding COLA's on fixed monthly amounts 31
 232 Excluding COLA's on awards other than fixed monthly amounts 31

300 Series--Type of annuity	32
301 Awards based on benefits actually paid	32
311 Awards of earned annuity in cases where the actual annuity is based on disability . . .	32
 400 Series--Refunds of employee contributions	 34
401 Barring payment of a refund of employee contributions	34
402 Dividing a refund of employee contributions	34
 500 Series--Death of the former spouse	 35
501 Full annuity restored to the retiree	35
502 Former spouse share paid to children	35
503 Former spouse share paid to the court	35
 700 Series--Computing the amount of the former spouse's benefit	 36
701 Award of the maximum survivor annuity	36
702 Award that continues the pre-divorce survivor annuity benefits	37
703 Award of a prorata share	37
704 Award of a fixed monthly amount	37
711 Award of a percentage or fraction of the employee annuity	38
712 Award based on a stated formula as a share of employee annuity	38
721 Award of a percentage or fraction of the maximum survivor annuity	38
722 Award based on a stated formula as a share of maximum survivor annuity	39
751 Changing amount of former spouse survivor annuity based on remarriage before retirement	39
752 Changing amount of former spouse survivor annuity based on remarriage after retirement	39
 800 Series--Paying the cost of a former spouse survivor annuity	 41
801 Costs to be paid from the employee annuity	41
802 Costs to be paid from former spouse's share of the employee annuity	41
 900 Series--Refunds of employee contributions	 42
901 Barring payment of a refund of employee contributions	42
902 Dividing a refund of employee contributions	42

Subchapter 5A CSRS and FERS
Part 5A1 General Information**Section 5A1.1-1 Overview****A. Introduction**

Courts can issue orders that award benefits to legally separated spouses, former spouses, and children of current employees, former employees, and retirees under CSRS and FERS. Courts can also issue orders to collect amounts awarded in child abuse cases. The purpose of this Chapter is to provide agency personnel with general information about the different kinds of court orders and benefits that can be awarded, as well as guidance on how to respond to requests for information and assistance.

B. Requests for Advice/ Information

Agency personnel should **not** attempt to advise an employee, an employee's spouse, or an attorney on how to draft a court order to award CSRS or FERS benefits. This is the task of the attorneys involved. The requirements that must be satisfied for OPM to honor a court order are set out in the law and regulations cited in this Chapter.

NOTE: The appendix to this Chapter contains model language to use in court orders, and attorneys can purchase a Handbook for Attorneys (see paragraph C below).

An agency's efforts to advise individuals in legal matters involving domestic disputes can, despite good intentions, harm more than help. Instead, agency personnel should provide a copy of this Chapter to any individual seeking help in this area.

With regard to requests for an individual's records, agency personnel must consult Privacy Act rules and applicable regulations before disclosing the information. This may require that you consult with your agency's legal counsel. (See part 5A6 concerning court orders for retirement and insurance information.) Commonly requested information includes a statement of retirement system coverage, the amount of money to the employee's credit in the retirement fund, and an annuity estimate using the employee's service history to date. If an agency provides an annuity estimate, as agencies generally do for employees at or near retirement, it should clearly state that the benefit calculation is only an estimate, and is not binding on the Government. Agencies should not speculate about

Section 5A1.1-1 Overview (Cont.)**B. Requests for
Advice/
Information
(Cont)**

future promotions, program changes, or any other non-factual information, and should avoid giving annuity estimates for employees who are not near retirement. Official computations are made by OPM only at the time benefits become payable. It is **not** appropriate for agency personnel to attempt a "present value" computation of an employee's future benefits. Present value computations should be prepared by a qualified private actuary. Such computations of the total actuarial value of retirement benefits require application of various economic and mortality assumptions and are beyond the scope of an employing agency's or OPM's responsibility. Also, agencies should not attempt to determine the proper division of benefits between the employee and spouse.

**C. Handbook for
Attorneys**

Attorneys may want to order "A Handbook for Attorneys on Court-ordered Retirement, Health Benefits, and Life Insurance Under the Civil Service Retirement System, Federal Employees Retirement System, Federal Employees Health Benefits Program, and Federal Employees Group Life Insurance Program". An order form for local reproduction is included in Subchapter 5B. In addition to the printed text of the law and regulations, the Handbook includes extensive model paragraphs that can be used to draft orders that will meet OPM's requirements. Also included is a computer diskette containing the model language in several formats.

The Handbook for Attorneys is also available on OPM Mainstreet, OPM's bulletin board system. > (See Chapter 1, Section 1B3.1-1 for instructions on downloading from the Bulletin Board.) < The telephone number is (202) 606-4800.

D. Topics Covered

This Chapter covers the rules and procedures that govern:

- Garnishment of Federal retirement benefits;
 - Apportionment of Federal retirement benefits;
 - Survivor benefit orders; and
 - Serving court orders on OPM and/or the employing agency.
 - Payments of amounts of Federal retirement benefits subject to child abuse judgment enforcement orders.
-

Section 5A1.1-1 Overview (Cont.)**E. Organization of Chapter**

This Chapter has five parts.

Part	Name of Part	Page
5A1	General Information	1
5A2	Garnishment Orders	4
5A3	Child Abuse Judgment Enforcement Orders	8
5A4	Apportionment Orders	10
5A5	Survivor Benefit Orders	16
5A6	Release of Information	21

F. Statement of Authority

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

- United States Code: 5 U.S.C. 8341(h), 8342(j), 8345(j), and 8424(b); 5 U.S.C. 8445 and 8467; 42 U.S.C. 659 et seq.; 5 U.S.C. 8905(c)
- Code of Federal Regulations: 5 CFR Part 581; 5 CFR 831, Subparts A, Q, and T; 5 CFR 831.106; 5 CFR 841, Subparts A and I, and 5 CFR 841.108; 5 CFR 890, Subpart H

Part 5A2 Garnishment Orders**Section 5A2.1-1 Definitions****A. Child Support**

"Child support" means periodic payments of funds for the support and maintenance of a child or children, and, subject to and in accordance with State or local law, includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of the child or children. The term also includes attorney's fees, interest, and court costs, if they are expressly made recoverable as child support under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

B. Alimony

"Alimony" means periodic payments of funds for the support and maintenance of a spouse or former spouse, and, subject to and in accordance with State or local law, includes, but is not limited to, separate maintenance, alimony **pendente lite**, maintenance, and spousal support. Alimony also includes attorney's fees, interest, and court costs, if they are expressly made recoverable as alimony under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

This term does not include any payments or transfer of property or its value by an individual to his or her spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

NOTE: Attorney's fees, interest, and court costs, may be recovered only if they are considered alimony or child support under State or local law. OPM cannot comply with a garnishment order for payment of these items unless it expressly states that they constitute alimony or child support.

C. Disposable Annuity

"Disposable annuity" means the amount of annuity payable after deducting from the gross annuity any amounts that are--

- Owed by the retiree to the United States;
- Deducted for health benefits premiums;
- Deducted for basic life insurance premiums;

Section 5A2.1-1 Definitions (Cont.)**C. Disposable
Annuity (Cont.)**

- Deducted for Medicare premiums;
 - Already payable to another person based on a court order acceptable for processing or a child abuse judgment enforcement order; and
 - Properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she was entitled. The withholding of additional amounts pursuant to 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of tax obligation that supports the additional withholding.
-

Section 5A2.1-2 Garnishment Orders

A. General Rule

Garnishment is a legal process for enforcing existing legal obligations. CSRS and FERS benefits can be garnished only for alimony or child support. The garnishment order must conform with all State law requirements for garnishment actions involving private employers.

Public Law 93-647 (effective January 1, 1975) and Public Law 95-30 (effective June 1, 1977) amended the Social Security Act (title 42, United States Code) to provide that the United States Government will comply with the terms of a valid court order for garnishment or attachment (or other legal process) of remuneration for employment where the order is based upon an obligation to provide alimony or child support. These are the same provisions that require agencies to comply with similar garnishment orders against employees' salaries.

The information provided in this section outlines the most important aspects of the requirements concerning apportionment orders. The governing regulations are found at 5 CFR Part 581, Garnishment Orders.

B. Restrictions on Amount to be Garnished

Public Law 95-30 sets up limitations on garnishments issued to enforce a support obligation.

1. An individual who has remarried and who is supporting his or her current spouse or a dependent child other than a child awarded support under the garnishment order may be garnished up to 50 percent of the disposable annuity, or 55 percent if the garnishment is for a support payment that is more than 3 months in arrears.
 2. An individual who has not remarried, or is not supporting a dependent child other than a child awarded support under the garnishment order may be garnished up to 60 percent of the disposable annuity, or 65 percent if the garnishment is for a support payment that is more than 3 months in arrears.
-

C. Payments Under a Garnishment Order

OPM cannot vary its normal payment cycles to comply with a garnishment order. Garnishment payments are made on the first business day of the month for benefits that accrued during the previous month.

Section 5A2.1-2 Garnishment Orders (Cont.)**D. Where to File
Garnishment
Orders**

Send garnishment orders for annuitants to OPM at the following address:

**Office of Personnel Management
Office of Retirement Programs
Court Order Benefit Section
Post Office Box 17
Washington, DC 20044**

For individuals still employed, send garnishment orders to the employing agency.

Part 5A3 Child Abuse Judgment Enforcement Orders**Section 5A3.1-1 Definitions**

-
- A. Child Abuse Judgment Enforcement Order** "Child abuse judgment enforcement order" means a court or administrative order requiring OPM to pay a portion of an employee's annuity or a refund of employee contributions to a child abuse creditor as a means of collecting a judgment rendered for physically, sexually, or emotionally abusing a child as defined in sections 8345(j)(3)(B) and 8467(c)(2) of title 5, United States Code.
-
- B. Child Abuse Creditor** "Child abuse creditor" means an individual who applies for benefits under CSRS or FERS based on a child abuse judgment enforcement order.
-
- C. Disposable Annuity** "Disposable annuity" means the amount of annuity payable after deducting from the gross annuity any amounts that are--
- Owed by the retiree to the United States;
 - Deducted for health benefits premiums;
 - Deducted for basic life insurance premiums;
 - Deducted for Medicare premiums;
 - Already payable to another person based on a court order acceptable for processing or a child abuse judgment enforcement order; and
 - Properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she was entitled. The withholding of additional amounts pursuant to 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of a tax obligation that supports the additional withholding.

Unless the court order expressly provides otherwise, net annuity also includes a lump-sum payment made to a retiree under section 8343a of title 5, U.S.C.

Section 5A3.1-2 Child Abuse Judgment Enforcement Orders

A. General

The Child Abuse Accountability Act (P.L. 103-358), signed October 14, 1994, requires OPM to comply with certain court orders for the enforcement of judgments rendered against employees or retirees for physical, sexual, or emotional abuse of a child. The Act applies to court orders OPM receives on or after October 14, 1994. OPM's regulations affect only benefits payable under CSRS and FERS, not the Thrift Savings Plan, which OPM does not administer.

OPM will apply the procedure established in the regulations for garnishment orders found in 5 CFR Part 581, when processing child abuse judgment enforcement orders. The specific governing regulations are found at 5 CFR Part 838, Subpart K, Child Abuse Judgment Enforcement Orders.

**B. Payments Under
Child Abuse
Judgment
Enforcement
Orders**

OPM cannot vary its normal payment cycles to comply with a child abuse judgment enforcement order. Payments are made on the first business day of the month for benefits that accrued during the previous month.

**C. Where to File
Child Abuse
Judgment
Enforcement
Orders**

Send child abuse judgment enforcement orders against annuitants to OPM at the following address:

Office of Personnel Management
Office of Retirement Programs
Court Order Benefit Section
Post Office Box 17
Washington, DC > 20044-0017 <

For judgments against individuals still employed, send orders to the employing agency.

Part 5A4 Apportionment Orders**Section 5A4.1-1 Definitions**

A. Self-Only Annuity "Self-only annuity" means the recurring unreduced payments to a retiree whose annuity is not being reduced to provide a survivor annuity to anyone.

B. Gross Annuity "Gross annuity" means the amount of self-only annuity less any applicable survivor reduction, but before any deductions.

C. Net Annuity "Net annuity" under CSRS means the amount of annuity payable after deducting from the gross annuity deductions for any amounts that are--

1. Owed by the retiree to the United States;
2. Deducted for health benefits premiums;
3. Deducted for life insurance premiums;
4. Deducted for Medicare premiums;
5. Already payable to another person based on a court order acceptable for processing or a child abuse judgment enforcement order; or
6. Properly withheld for Federal, State, or local income tax purposes, if amounts withheld are not greater than they would be if the individual claimed all dependents to which he or she was entitled. The withholding of additional amounts pursuant to 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of a tax obligation that supports the additional withholding.

NOTE: "Net annuity" under FERS refers to the amount of annuity payable after deducting from the gross annuity any amounts listed in 1 through 4 above, but before the Federal income tax deduction listed in 6.

D. Former Spouse "Former spouse" means, in connection with a court order affecting employee retirement benefits, a living person whose marriage to an employee or retiree has been subject to a divorce, annulment, or legal separation resulting in a court order.

Section 5A4.1-2 Apportionment Orders

A. General Rule

Apportionment orders are orders that divide an employee's annuity or refund in accordance with a court order related to a divorce or legal separation.

Sections 8345(j) and 8467 of title 5, United States Code, authorizes OPM to comply with apportionment orders that meet certain specifications. In particular, the law requires OPM to apportion an annuity or refund in accordance with the express provisions of a qualifying order, decree, or property settlement. OPM is authorized to make payments directly to the former or separated spouse if the terms of the court order expressly provide for payment in such a manner.

The information provided in this section outlines the most important aspects of the requirements concerning apportionment orders. The governing regulations are found at 5 CFR Part 831, Subparts Q and T and 5 CFR Part 841, Subpart I.

Section 5A4.1-3 Preparing an Apportionment Order

- A. Applicability of State Law** The division of an employee's, former employee's or retiree's annuity or contributions is governed by State law.
-
- B. Which Courts Can Issue Order** For purposes of this section, "court" means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court.
-
- C. Content of Order** The court order should specify exactly what it wants OPM to do.
1. The court order must expressly provide for payment of a portion of the employee's or retiree's monthly annuity (or contributions); and
 2. The spouse's share must be stated as fixed amount, a percentage or a fraction of the annuity, or be expressed as a formula whose value is readily apparent from the face of the order or normal OPM files.
 3. If the apportionment amount is derived using a formula, percentage, or fraction, the order must specify the type of annuity to which the formula, percentage, or fraction is to be applied--self-only, gross, or net.
- NOTE: Apportionment orders concerning CSRS and FERS are not subject to the Employee Retirement Income Security Act (ERISA). ERISA forms should not be used.
-
- D. Maximum Benefits Payable** There is no percentage limitation on how much of a retirement annuity payment can be awarded to a former spouse. However, payment under a court order may not exceed:
- The net annuity, in cases involving annuities; or
 - The amount of the lump-sum credit, in cases involving refunds of contributions.
-

Section 5A4.1-4 Filing an Apportionment Order

A. General

Before any benefits can be paid to the former spouse, the former spouse must:

- Submit a written request to OPM; and
 - Provide proper documentation so that OPM can establish the validity of the court order.
 - OPM's regulations on this subject are found at Appendix A through Q of Part 831--Guidelines for Interpreting State Court Orders Dividing Civil Service Retirement Benefits.
-

B. Application Must Be In Writing

A former spouse, personally or through a representative, must apply in writing to be eligible for a portion of the retiree's annuity. A special form is not required.

C. Information to Include in Application

The former spouse must include the following information in his or her letter of application:

- Full name;
- Mailing address;
- A certified copy of the court order granting benefits;

IMPORTANT: A certified copy is a copy of the order signed and certified by an official of the court that issued the order, verifying that it is a true copy of the original--usually by means of a seal or raised stamp and the official's signature or initials. A photocopy of a certified copy is not acceptable.

- A signed statement that the court order has not been amended, superseded, or set aside;
- Identifying information concerning the employee or retiree, including his or her full name, date of birth, civil service annuity (CSA) claim number if retired, and a Social Security number; and
- If the employee is not yet retired, his or her mailing address.

Section 5A4.1-4 Filing an Apportionment Order (Cont.)

D. Certification of

When payments are subject to termination upon remarriage, no payment

Marital Status may be made until the former spouse submits, on a prescribed form, a statement to OPM that he or she:

- Has not remarried;
- Will notify OPM within 15 calendar days of the date of any remarriage; and
- Acknowledges personal liability for any overpayment to him or her resulting from a remarriage.

OPM may require recertification of these statements.

E. OPM Address

Send applications for court-awarded CSRS or FERS benefits and requests for information to:

**Office of Personnel Management
Office of Retirement Programs
Court Order Benefit Section
Post Office Box 17
Washington, DC > 20044-0017 <**

Section 5A4.1-5 Miscellaneous

**A. Health Benefits
Coverage**

A former spouse who is awarded a portion of an employee's or retiree's CSRS or FERS annuity by a qualifying court order, regardless of whether that benefit is payable now or in the future, is eligible to enroll for health benefits coverage under the Federal Employees Health Benefits (FEHB) program under certain conditions. These conditions and other rules that apply to FEHB coverage of former spouses are covered in 5 CFR 890.801 et seq. and in the Federal Employees Health Benefits Handbook for Personnel and Payroll Offices (formerly FPM Supplement 890-1).

**B. Alternative
Annuity Election**

An employee who, at time of retirement, has a former spouse who is entitled by court order to a portion of the employee's annuity, or to a survivor annuity, may not elect the alternative annuity, regardless of when the marriage ended.

Part 5A5 Survivor Benefit Orders**Section 5A5.1-1 Definitions**

- A. Former Spouse** In connection with a court order awarding a former spouse survivor annuity, "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 civilian service creditable under CSRS or FERS, and whose marriage to the employee or retiree was terminated prior to the death of the employee or retiree.
-
- B. Former Spouse Survivor Annuity** "Former spouse survivor annuity" means a recurring benefit that is payable after the employee's or retiree's death to a former spouse who has not remarried before becoming 55 years of age.
-

Section 5A5.1-2 Survivor Benefit Orders

A. General

1. The former spouse of a CSRS employee or retiree may be awarded a survivor annuity pursuant to a court order.

NOTE: The former spouse of a separated CSRS employee entitled to a deferred annuity may be awarded survivor benefits. However, no former spouse survivor annuity benefits are payable unless the employee dies after becoming age 62 and filing an application for retirement benefits.

2. The former spouse of a FERS employee or retiree, or of a separated FERS employee with title to deferred annuity, may be awarded a survivor annuity and/or basic employee death benefit pursuant to a court order.

NOTE: A court order that awards a FERS survivor annuity also awards a corresponding share of the basic employee death benefit unless the order expressly provides otherwise.

For a detailed discussion of former spouse survivor benefits, see Chapter 74.

OPM's regulations on this subject are found at Appendix B to Subpart Q of 5 CFR Part 831--Guidelines for Interpreting State Court Orders Awarding Survivor Annuity Benefits to Former Spouses.

B. Which Courts Can Issue Order

For purposes of this section, "court" means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court.

C. Content of Order

For purposes of awarding a former spouse survivor annuity, the court order must state the former spouse's entitlement to a survivor annuity or direct an employee or retiree to provide a former spouse survivor annuity.

D. Which Court Orders Can Award CSRS Survivor Benefits

For purposes of affecting or awarding a CSRS former spouse survivor annuity, a court order is not a qualifying court order whenever:

1. The marriage was terminated before May 7, 1985; or
2. The marriage was terminated on or after May 7, 1985, and:

Section 5A5.1-2 Survivor Benefit Orders (Cont.)**D. Which Court Orders Can Award CSRS Survivor Benefits (Cont.)**

- The employee retired under CSRS before May 7, 1985; and
- The retiree did not elect to provide a current spouse annuity for that spouse on or before May 7, 1985.

NOTE: These restrictions do not apply to FERS.

E. Modification Restrictions

For purposes of awarding, increasing, reducing, or eliminating a former spouse survivor annuity, or explaining, interpreting, or clarifying a court order that awards, increases, reduces, or eliminates a former spouse survivor annuity, the court order must be:

1. The first order terminating the marital relationship between the retiree and the former spouse. This is the original written order that first ends the marriage; or
2. Issued on a day prior to the date of retirement or death of the employee.

NOTE 1: "The first order terminating the marital relationship" does **not** include--

- Any order that amends, explains, clarifies, or interprets the original written order regardless of the effective date of the order making the amendment, explanation, clarification, or interpretation; or
- Any order issued under reserve jurisdiction or any other orders issued subsequent to the original written order terminating the marriage that divide marital property (even though no division of marital property was made in the order terminating the marriage) regardless of the effective date of the order.

NOTE 2: "Issued" means actually filed with the clerk of the court, and does **not** mean the effective date of a retroactive court order that is effective prior to the date when actually filed with the clerk of the court (for example, an order issued **nunc pro tunc**).

Section 5A5.1-2 Survivor Benefit Orders (Cont.)**E. Modification
Restrictions
(Cont.)**

NOTE 3: "Date of retirement" means the later of:

- The date that the employee files an application for retirement; or
 - The date that employee's annuity commences (that is, begins to accrue).
-

**F. Maximum
Benefits Payable**

The maximum combined total of all current and former spouse survivor annuities (not including any benefits based on an election of an insurable interest annuity) payable based solely on the service of the employee or former employee equals 55 percent (or 50 percent if based on a separation under FERS or a separation under CSRS that occurred before October 11, 1962) of the rate of the self-only annuity that otherwise would have been paid to the employee or retiree.

G. Filing the Order

The requirements and procedures outlined in section 5A4.1-4 above apply to the submission of survivor benefit orders to OPM.

Section 5A5.1-3 Miscellaneous

**A. Health Benefits
Coverage**

A former spouse who is awarded a survivor annuity under CSRS or FERS by a qualifying court order may be eligible to enroll for health benefits coverage under the FEHB program if he or she meets certain requirements. These conditions and other rules that apply to FEHB coverage of former spouses are covered in 5 CFR 890.801 et seq., and in the Federal Employees Health Benefits Handbook for Personnel and Payroll Offices (formerly FPM Supplement 890-1).

**B. Alternative
Annuity Election**

An employee who, at the time of retirement, has a former spouse who is entitled by court order to a survivor annuity, or to a portion of the employee's annuity, may not elect the alternative annuity, regardless of when the marriage ended.

Part 5A6 Release of Information**Section 5A6.1-1 Orders for Release of Retirement and Insurance Records**

- A. General** Any agency or OPM may release information from retirement and insurance records in response to a court order or subpoena issued with the specific approval of a judge. > We will also release information on the basis of the individual's written consent. <
- The proper place to submit the order is determined by whether the person has been separated from Federal service.
- The information provided in this section outlines the most important aspects of the requirements concerning release of information in response to court order. OPM's regulations on this subject are found at 8312.106 (CSRS) and 8431.108 (FERS).
-
- B. Where to Serve When Individual Is No Longer an Employee** If the individual about whom the information is sought is not a current Federal employee, the court order should be addressed to OPM at the address in Paragraph F.
-
- C. Where to Serve When Individual Employed by Only One Agency With No Break in Service** If the individual is still an active Federal employee, and all of his or her Federal service has been continuous and with the same agency, the records are with that agency. Service must be made upon the individual's employing agency.
- NOTE: Agencies may release information in response to court orders only in accordance with OPM regulations in Parts 294 and 297 of Title 5, Code of Federal Regulations, and agency procedures.
-
- D. Where to Serve When Individual Employed by More Than One Agency or Has a Break in Service** If the individual is currently a Federal employee but has had a break in service or has worked for more than one agency, some of the records will be in OPM files, while others will be in the employing agency's files. In this situation both OPM and the agency must be served with an order. See paragraphs C and F.
-
- E. Information to Include in a Court Order** It takes OPM approximately 30 days to respond to an order. Submissions must include the employee's or former employee's full name, date of birth and Social Security number, if available, or OPM will not be able to locate the records.
-

Section 5A6.1-1 Orders for Release of Retirement and Insurance Records (Cont.)**F. OPM Address**

A court order > or subpoena signed by a judge < for release of retirement and insurance records in OPM's possession should be submitted to the following address:

**Office of Personnel Management
Reconsideration and Appeal Division
> 1900 E Street NW., Room 3457
Washington, DC 20015**

A signed release from the individual that specifically details the records needed, should be submitted to the following address:

**Office of Personnel Management
P. O. Box 45
Boyers, PA 16017 <**

Subchapter 5B Job Aid**Section 5B1.1-1**

**A. Order Form for
Attorney's
Handbook**

This subchapter contains a copy of the order form for the Handbook for Attorneys on Court-ordered Retirement, Health Benefits, and Life Insurance Under CSRS, FERS, FEHB Program, and FEGLI Program, RI 38-116, for local reproduction.

Appendix -- Model Language for Use in Court Orders**Introduction**

This appendix contains the model language that is contained in the appendix to OPM's regulations on court orders. OPM encourages attorneys to use this model language. By using the model language, courts will know that the court order will have the effect described in this appendix.

Paragraphs 001 through 599 concern court orders that attempt to divide employee annuity. The model language in these paragraphs does not award a benefit that is payable after the death of the employee. A separate, distinct award of a former spouse survivor annuity is necessary to award a former spouse a benefit that is payable after the death of the employee. A court order directed at an employee annuity should include five elements:

- Identification of the benefits;
- Instructions that OPM pay the former spouse;
- A method for computing the amount of the former spouse's benefit;
- Identification of the type of annuity to which to apply a fraction, percentage or formula; and
- Instructions on what OPM should do if the employee leaves Federal service before retirement and applies for a refund of employee contributions.

The court order may also include instructions for disposition of the former spouse's share if the former spouse dies before the employee.

Paragraphs 701 through 999 contain model language for awarding survivor annuities and contain some examples that award a survivor annuity, but do not award benefits payable to the former spouse during the lifetime of the employee. A former spouse survivor annuity is not a continuation of a former spouse's share of an employee annuity after the death of the employee. A former spouse's entitlement to a portion of an employee annuity cannot continue after the death of the employee. A court order that attempts to extend the former spouse's entitlement to a portion of an employee annuity past the death of the employee is not effective. A separate, distinct award of a portion of the employee annuity is necessary to award a former spouse a benefit during the lifetime of the employee.

Attorneys should exercise great care in preparing provisions concerning former spouse survivor annuities because sections 8341(h)(4) and 8445(d) of title 5, United States Code, prohibit OPM from accepting modifications after the retirement or death of the employee. (See section 838.806 concerning unacceptable modifications.) A court order awarding a former spouse survivor annuity should include four elements:

- Identification of the retirement system;
- Explicit award of the former spouse survivor annuity;
- Method for computing the amount of the former spouse's benefit; and
- Instructions on what OPM should do if the employee leaves Federal service before retirement and applies for a refund of employee contributions.

The model language uses the terms "former spouse" to identify the spouse who is receiving a former spouse's portion of an employee annuity and "employee" to identify the Federal employee whose employment was covered by the Civil Service Retirement System or the Federal Employees Retirement System. Obviously, in drafting an actual court order the appropriate terms, such as "Petitioner" and "Respondent," or the names of the parties should replace "former spouse" and "employee."

Similarly, except when the provision applies only to the basic employee death benefit (defined in section 843.103 of this chapter) that is available only under the Federal Employees Retirement System, the models are drafted for employees covered by the Civil Service Retirement System (5 U.S.C. 8331 et seq.). The name of the retirement system should be changed for employees covered by the Federal Employees Retirement System (5 U.S.C. chapter 84). Statutory references used in the models are to CSRS provisions (such as 8341(h) of title 5, United States Code). When appropriate, the corresponding FERS provision (such as section 8445 of title 5, United States Code) should be used.

000 Series--Special Technical Provisions

**001 Language
required in
Qualified
Domestic
Relations Orders**

Using the following paragraph will expressly state that the provisions of the court order concerning CSRS or FERS benefits are governed by this part. A court order directed at employee annuity (or awarding a survivor annuity) that is labelled a "Qualified Domestic Relations Order" or is issued on an ERISA form will not be automatically rendered unacceptable under § 838.302(a) or § 838.803(a) if the court order contains the following paragraph.

"The court has considered the requirements and standard terminology provided in part 838 of Title 5, Code of Federal Regulations. The terminology used in the provisions of this order that concern benefits under the Civil Service Retirement System are governed by the standard conventions established in that part."

100 Series--Identification of the benefits and instructions that OPM pay the former spouse**101 Identifying retirement benefits and directing OPM to pay the former spouse**

Using the following paragraph will expressly divide employee annuity to satisfy the requirements of § 838.303 and direct OPM to pay the former spouse a share of an employee annuity to satisfy the requirements of § 838.304.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Insert language for computing the former spouse's share from 200 series of this appendix.] The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

111 Protecting a former spouse entitled to military retired pay

Using the following paragraph will protect the former spouse interest in military retired pay in the event that the employee waives the military retired pay to allow crediting the military service under CSRS or FERS. The paragraph should be used only if the former spouse is awarded a portion of the military retired pay. "If [Employee] waives military retired pay to credit military service under the Civil Service Retirement System, [insert language for computing the former spouse's share from 200 series of this appendix.]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

200 Series--Computing the amount of the former spouse's benefit

Paragraphs 201 through 204 contain model language for the most common types of awards that court orders make to former spouses. Subsequent paragraphs in the 200 series contain model language for less common, more complex awards.

Awards other than fixed amounts require that the court order specify the type of annuity ("gross," "net," or self-only) on which the award is computed. The types of annuity are defined in § 838.103. Variations on type of annuity are covered by the 300 series of this appendix.

201 Award of a fixed monthly amount

Using the following paragraph will award the former spouse a fixed monthly amount. OPM will not apply COLA's to a fixed monthly amount unless the court order expressly directs that OPM add COLA's using the language in paragraph 231 of this appendix or similar language.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to \$[insert a number] per month from [employee]'s civil service retirement benefits. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

202 Award of a percentage

Using the following paragraph will award the former spouse a stated percentage of the employee annuity. Unless the court order expressly directs that OPM not add COLA's to the former spouse's share of the employee annuity, OPM will add COLA's to keep the former spouse's share at the stated percentage. Paragraph 232 of this appendix provides language for excluding COLA's.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to [insert a number] percent of [employee]'s [insert "gross," "net," or "self-only"] monthly annuity under the Civil Service Retirement System. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

203 Award of a fraction

Using the following paragraph will award the former spouse a stated fraction of the employee annuity. Unless the court order expressly directs that OPM not add COLA's to the former spouse's share of the employee annuity, OPM will add COLA's to keep the former spouse's share at the stated percentage. Paragraph 232 of this appendix provides language for excluding COLA's.

203 Award of a fraction (cont.)

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to [insert fraction]ths of [employee]'s [insert "gross," "net," or "self-only"] monthly annuity under the Civil Service Retirement System. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

204 Award of a prorata share

Using the following paragraph will award the former spouse a prorata share of the employee annuity. Prorata share is defined in § 838.621. To award a prorata share the court order must state the date of the marriage. Unless the court order specifies a different ending date, the marriage ends for computation purposes on the date that the court order is filed with the court clerk. Unless the court order expressly directs that OPM not add COLA's to the former spouse's share of the employee annuity, OPM will add COLA's to keep the former spouse's share at the stated percentage. Paragraph 232 of this appendix provides language for excluding COLA's.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to a prorata share of [employee]'s [insert "gross," "net," or self-only] monthly annuity under the Civil Service Retirement System. The marriage began on [insert date]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

211 Award based on a stated formula

Using the following paragraphs will award the former spouse a share of the employee annuity based on a formula stated in the court order. The formula must be stated in the court order (including a court-approved property settlement agreement). The formula may not be incorporated by reference to a statutory provision or a court decision in another case. If the court order uses a formula, the court order must include any data that is necessary for OPM to apply the formula unless the necessary data is contained in normal OPM files.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to a share of [employee]'s [insert "gross," "net," or self-only] monthly annuity under the Civil Service Retirement System to be computed as follows:
 "[Insert formula for computing the former spouse's share.]
 "The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

**231 Awarding
COLA's on fixed
monthly amounts**

Using the following paragraph will award COLA's in addition to a fixed monthly amount to the former spouse. The model awards COLA's at the same rate applied to the employee annuity.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to \$[insert a number] per month from [employee]'s civil service retirement benefits. When COLA's are applied to [employee]'s retirement benefits, the same COLA applies to [former spouse]'s share. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

**232 Excluding
COLA's on
awards other
than fixed
monthly amounts**

Using the following paragraph will prevent application of COLA's to a former spouse's share of an employee annuity in cases where the former spouse has been awarded a percentage, fraction or prorata share of the employee annuity, rather than a fixed dollar amount.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Insert language for computing the former spouse's share from paragraph 202, 203, 204, or 211 of this appendix.] The United States Office of Personnel Management is directed to determine the amount of [former spouse]'s share on the date [insert "when [employee] retires" if the employee has not retired, or "of this order" if the employee is already retired] and not to apply COLA's to that amount. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

300 Series--Type of annuity

Awards of employee annuity to a former spouse (other than awards of fixed dollar amounts) must specify whether OPM will use the "gross," "net," or self-only annuity as defined in § 838.103 in determining the amount of the former spouse's entitlement. The court order may contain a formula that has the effect of creating other types of annuity, but the court order may only do this by providing a formula that starts from "gross," "net," or self-only annuity as defined in § 838.103.

301 Awards based on benefits actually paid

The court order may include a formula that effectively uses the court's definition of net annuity rather than the one provided by § 838.103. For example, using the following paragraph will award the former spouse a prorata share of the employee annuity reduced only by the amount deducted as premiums for basic life insurance under the Federal Employee Group Life Insurance Program.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to a prorata share of [employee]'s monthly annuity under the Civil Service Retirement System, where monthly annuity means the self-only annuity less the amount deducted as premiums for basic life insurance under the Federal Employee Group Life Insurance Program. The marriage began on [insert date]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

311 Awards of earned annuity in cases where the actual annuity is based on disability

Using the following paragraph will award a former spouse a prorata share of what the employee annuity would have been based on only the employee's actual service in cases where the actual employee annuity is based on disability. The paragraph also allows the court order to provide for the former spouse's share to begin when the employee reaches a stated age, using age 62 as an example. As with all other formulas the court order must specify whether the computation applies to "gross," "net," or self-only annuity. OPM will apply COLA's that occurred after the date of the disability retirement to the former spouse's share. The following paragraph should be used only for disability retirees under CSRS. Under FERS, section 8452 of title 5, United States Code, provides a formula for recomputation of disability annuities at age 62 to approximate an earned annuity. Therefore to award a portion of the "earned" benefit under FERS add the introductory phrase, "Starting when [employee] reaches age 62," to the paragraph describing how to compute the amount.

311 Awards of earned annuity in cases where the actual annuity is based on disability (cont.)

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. Starting when [employee] reaches age 62, [former spouse] is entitled to a prorata share of [employee]'s [insert "gross," "net," or self-only] monthly annuity under the Civil Service Retirement System, where monthly annuity means the amount of [employee]'s monthly annuity computed as though [employee] had retired on an immediate, nondisability annuity on the commencing date of [employee]'s annuity based on disability. In computing the amount of the immediate annuity, the United States Office of Personnel Management will deem [employee] to have been age 62 at the time that [employee] retired on disability. The marriage began on [insert date]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

400 Series--Refunds of employee contributions

Court orders that award a former spouse a portion of a future employee annuity of an employee who is not then eligible to retire should include an additional paragraph containing instructions that tell OPM what to do if the employee separates before becoming eligible to retire and requests a refund of employee contributions. The court order may award the former spouse a portion of the refund of employee contributions or bar payment of the refund of employee contributions.

401 Barring payment of a refund of employee contributions

Using the following paragraph will bar payment of the refund of employee contributions if payment of the refund of employee contributions would extinguish the former spouse's entitlement to a portion of the employee annuity.

"The United States Office of Personnel Management is directed not to pay [employee] a refund of employee contributions."

402 Dividing a refund of employee contributions

Using the following paragraph will allow the refund of employee contributions to be paid but will award a prorata share of the refund of employee contributions to the former spouse. The sentence on the beginning date of the marriage is unnecessary if the beginning is stated elsewhere in the order. The award of a prorata share is used only as an example; the court order could provide another fraction, percentage, or formula, or a fixed amount. Note that a refund of employee contributions voids the employee's rights to an employee annuity and the former spouse's right to any portion of that annuity.

"If [employee] becomes eligible and applies for a refund of employee contributions, [former spouse] is entitled to a prorata share of the refund of employee contributions. The marriage began on [insert date]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

500 Series--Death of the former spouse

**501 Full annuity
restored to the
retiree**

No special provision is necessary to restore the entire annuity to the retiree upon the death of the former spouse. Unless the court order expressly provides otherwise, OPM will pay the former spouse's share to the retiree after the death of the former spouse.

**502 Former spouse
share paid to
children**

Using the following paragraph will award the former spouse's share of an employee annuity to the children, including any adopted children, of the employee and former spouse.

"If [former spouse] dies before [employee], the United States Office of Personnel Management is directed to pay [former spouse]'s share of [employee]'s civil service retirement benefits to surviving children of the marriage including any adopted children, in equal shares. Upon the death of any child, that child's share will be distributed among the other surviving children."

The language may be modified to terminate the payments to the children when they reach a stated age. A court order that includes such a provision for termination must include sufficient information (such as the children's dates of birth) to permit OPM to determine when the children's interest terminates. OPM will not consider evidence outside the court order (and normal OPM files) to establish the children's dates of birth.

**503 Former spouse
share paid to the
court**

Using the following paragraph will provide for payment of the former spouse's share of an employee annuity to the court after the death of the former spouse. This would allow a court officer to administer the funds. "If [former spouse] dies before [employee], the United States Office of Personnel Management is directed to pay [former spouse]'s share of [employee]'s civil service retirement benefits to this court at the following address: "[Insert address where checks should be sent. The address may be up to six lines and should include sufficient information for court officials to credit the correct account.]"

700 Series--Computing the amount of the former spouse's benefit

Paragraphs 701 through 704 contain model language for awards of former spouse survivor annuities in amounts that do not require specification of the base on which the former spouse's share will be computed. Situations in which the computational base need not be specified include amounts defined by law or regulation. For example, the maximum former spouse survivor annuity is fixed by statute generally at 55 percent of the employee annuity under CSRS and 50 percent of the employee annuity under FERS.

Paragraphs 711 and 712 contain model language for awards of former spouse survivor annuities that use the employee annuity as the base on which the portion awarded will be computed (that is, on which percentage, fraction or formula will be applied). Paragraphs 721 and 722 contain model language for awards of former spouse survivor annuities that use the maximum possible survivor annuity as the base on which the portion awarded will be computed (that is, on which percentage, fraction or formula will be applied). Using the maximum possible survivor annuity as the base will generally award 55 percent under CSRS and 50 percent under FERS of the amount that using the employee annuity as the base would produce. Paragraphs 750 and higher contain model language to implement the most common other types of awards.

Each model paragraph includes a reference to the statutory provision under CSRS that authorizes OPM to honor court orders awarding former spouse survivor annuities. The FERS statutory provision that corresponds to section 8341(h) (mentioned in the first sentence of each example) is section 8445.

**701 Award of the
maximum
survivor annuity**

For a spouse who was married to a retiree at the time of retirement and consented to an election of less than a full survivor annuity, the maximum is the amount elected at retirement. For a spouse acquired after retirement and for whom the retiree elected less than the maximum survivor benefit, this language should be used only if the intent is to increase the survivor benefit to the maximum.

Using the following paragraph will award the maximum possible former spouse survivor annuity. Under CSRS, the maximum possible survivor annuity is 55 percent of the employee annuity unless the surviving spouse or former spouse was married to the retiree at retirement and agreed to a lesser amount at that time. Under FERS, the maximum possible survivor annuity is 50 percent of the employee annuity unless the surviving spouse or former spouse was married to the retiree at retirement and agreed to a lesser amount at that time.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded the maximum possible former spouse survivor annuity under the Civil Service Retirement System."

702 Award that continues the pre-divorce survivor annuity benefits

If a survivor benefit election of less than the full amount is in effect at the time of divorce, use of this language will emphasize that the lower benefit will remain in effect after the divorce. In all other instances this language will produce the maximum survivor annuity.

Using the following paragraph will award a former spouse survivor annuity equal to the amount that the former spouse would have received if the marriage were never terminated by divorce.

"Under section 8341(h)(1) of title 5, United States Code, [Former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System in the same amount to which [former spouse] would have been entitled if the divorce had not occurred."

703 Award of a prorata share

Using the following paragraph will award the former spouse a prorata share of the maximum possible survivor annuity. Prorata share is defined in § 838.922. To award a prorata share the court order must state the date of the marriage. Unless the court order specifies a different ending date, the marriage ends for computation purposes on the date that the court order is filed with the court clerk.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to a prorata share. The marriage began on [insert date]."

704 Award of a fixed monthly amount

Using the following paragraph will award a former spouse survivor annuity that will start at the amount stated in the order when the employee or retiree dies, unless the stated amount exceeds the maximum possible former spouse survivor annuity. If the amount stated in the order exceeds the maximum possible former spouse survivor annuity, the court order will be treated as awarding the maximum. After payment of the former spouse survivor annuity has begun, COLA's will be applied in accordance with § 838.735. If the final sentence of this model paragraph is omitted, OPM will add COLA's occurring after the date of the employee's retirement or the date of issuance of the court order, whichever is later.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to \$[insert a number] per month. The Office of Personnel Management is ordered not to increase this amount by COLA's occurring before death of [employee or retiree]."

711 Award of a percentage or fraction of the employee annuity

Using the following paragraph will award a former spouse survivor annuity equal to the stated percentage or fraction of the employee annuity. The stated percentage or fraction may not exceed 55 percent under CSRS or 50 percent under FERS.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to [insert a percentage or fraction] percent of the [employee]'s employee annuity."

712 Award based on a stated formula as a share of employee annuity

Using the following paragraphs will award a former spouse survivor annuity in an amount to be determined by applying a stated formula to employee annuity. The amount of the former spouse survivor annuity may not exceed 55 percent of the employee annuity under CSRS or 50 percent under FERS. The formula must be stated in the court order (including a court-approved property settlement agreement). The formula may not be incorporated by reference to a statutory provision or a court decision in another case. If the court order uses a formula, the court order must include any data that is necessary for OPM to evaluate the formula unless the necessary data is contained in normal OPM files.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be the portion of the [employee]'s employee annuity computed as follows:

"[Insert formula.]"

721 Award of a percentage or fraction of the maximum survivor annuity

Using the following paragraph will award a former spouse survivor annuity equal to the stated percentage or fraction of the maximum possible survivor annuity. The stated percentage or fraction may not exceed 100 percent.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to [insert a percentage or fraction] of the maximum possible survivor annuity."

722 Award based on a stated formula as a share of maximum survivor annuity

Using the following paragraphs will award a former spouse survivor annuity based on a stated formula to be applied to the maximum possible survivor annuity. The formula must be stated in the court order (including a court-approved property settlement agreement). The formula may not be incorporated by reference to a statutory provision or a court decision in another case. If the court order uses a formula, the court order must include any data that is necessary for OPM to evaluate the formula unless the necessary data is contained in normal OPM files.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be the portion of the maximum possible survivor annuity computed as follows:

"[Insert formula.]"

751 Changing amount of former spouse survivor annuity based on remarriage before retirement

Using the following paragraph will award the maximum possible former spouse survivor annuity unless the employee remarries before retirement. Upon the employee's remarriage before retirement the amount of the former spouse survivor annuity changes to a prorata share. The maximum possible and prorata share are used as examples only; other amounts may be substituted. Similar language is not acceptable for remarriages after retirement.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded the maximum possible former spouse survivor annuity under the Civil Service Retirement System unless [employee] remarries before retirement. If [employee] remarries before retirement, under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to a prorata share. The marriage to [former spouse] began on [insert date]."

752 Changing amount of former spouse survivor annuity based on remarriage after retirement

Using the following paragraph will award the maximum possible former spouse survivor annuity unless the employee remarries after retirement and elects to provide a survivor annuity for the spouse acquired after retirement. Upon the employee's remarriage after retirement and election to provide a survivor annuity for the spouse acquired after retirement, the amount of the former spouse survivor annuity changes to a prorata share. The maximum possible and prorata share are used as examples only; other amounts may be substituted. The change in the of the former spouse survivor annuity must be triggered by the election, which is a part of normal OPM files, rather than the remarriage, which is not documented in normal OPM files.

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded the maximum possible former spouse survivor annuity under the Civil Service Retirement System unless [employee] elects to provide a survivor annuity for a new spouse acquired after retirement. If [employee] elects to provide a survivor annuity to a new spouse acquired after retirement, under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to a prorata share. The marriage to [former spouse] began on [insert date]."

800 Series--Paying the cost of a former spouse survivor annuity

A court order awarding a former spouse survivor annuity requires that the employee annuity be reduced. The reduction lowers the gross employee annuity. The costs associated with providing the former spouse survivor annuity must be paid by annuity reduction. Under § 838.807, if the former spouse is awarded a portion of the employee annuity sufficient to pay the cost associated with providing the survivor annuity, the former spouse's share may be reduced to pay the cost.

801 Costs to be paid from the employee annuity

No special provision on payment of the costs associated with providing the former spouse survivor annuity is necessary if the court intends the cost to be taken from the employee annuity.

802 Costs to be paid from former spouse's share of the employee annuity

Using the following paragraph will award the former spouse a prorata share of the employee annuity and a prorata share of the maximum possible survivor annuity and provide that the cost associated with the survivor annuity be deducted from the former spouses's share of the employee annuity. Prorata share and self-only annuity are used as examples only; another amount or type of annuity may be substituted.

"[Employee] is (or will be) eligible for retirement benefits under the Civil Service Retirement System based on employment with the United States Government. [Former spouse] is entitled to a prorata share of [employee]'s self-only monthly annuity under the Civil Service Retirement System. [Former spouse]'s share of [employee]'s employee annuity will be reduced by the amount of the costs associated with providing the former spouse survivor annuity awarded in the next paragraph. The marriage began on [insert date]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."

"Under section 8341(h)(1) of title 5, United States Code, [former spouse] is awarded a former spouse survivor annuity under the Civil Service Retirement System. The amount of the former spouse survivor annuity will be equal to a prorata share.

900 Series--Refunds of employee contributions

Court orders that award a former spouse survivor annuity based on the service of an employee who is not then eligible to retire should include an additional paragraph containing instructions that tell OPM what to do if the employee requests a refund of employee contributions before becoming eligible to retire. The court order may award the former spouse a portion of the refund of employee contributions or bar payment of the refund of employee contributions.

901 Barring payment of a refund of employee contributions

Using the following paragraph will bar payment of the refund of employee contributions if payment of the refund of employee contributions would extinguish the former spouse's entitlement to a former spouse survivor annuity.

"The United States Office of Personnel Management is directed not to pay [employee] a refund of employee contributions."

902 Dividing a refund of employee contributions

Using the following paragraph will allow the refund of employee contributions to be paid but will award a prorata share of the refund of employee contributions to the former spouse. The award of a prorata share is used only an example; the court order could provide another fraction, percentage, or formula, or a fixed amount. A refund of employee contributions voids the employee's rights to an employee annuity unless the employee is reemployed under the retirement system. Payment of the refund of employee contributions will also extinguish the former spouse's right to a court-ordered portion of an employee annuity or a former spouse survivor annuity unless the employee is reemployed and reestablishes title to annuity benefits.

"If [employee] becomes eligible and applies for a refund of employee contributions, [former spouse] is entitled to a prorata share of the refund of employee contributions. The marriage began on [insert date]. The United States Office of Personnel Management is directed to pay [former spouse]'s share directly to [former spouse]."