

# ARTICLE 56

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## RETIREMENT/PHASED RETIREMENT/RESIGNATION

### SECTION 1- Retirement Counseling

At any time during their employment with HHS, employees may obtain personal retirement information through the Employee Resource Center. The Employer will provide a retirement planning program to employees who are within ten (10) years of retirement. The program will consist of: 1) making available to employees an opportunity to participate in an Agency-provided retirement seminar at the time of the employee's election, subject to staffing and workload; and 2) receiving individualized, interactive, general retirement counseling from a Retirement Specialist within five (5) days of making a request. Employees will be granted administrative leave to participate in this program once during the ten (10) period and once more when they are within five (5) years of retirement eligibility. Employees will be provided supplemental information materials upon request. ~~Employees who are eligible to retire within five (5) years will be given an opportunity to participate voluntarily in a retirement planning seminar provided by the Agency. This seminar, whether established by the Employer or obtained through another source, will include at a minimum the prescribed requirements of the federal retirement plans.~~

### SECTION 2- Retirement Eligibility

The Employer will provide and maintain up-to-date retirement eligibility rules (FERS and CSRS), as well as eligibility rules for deferred, discontinued service and disability retirement on the HHS intranet.

Employees who separate voluntarily or involuntarily (except by retirement) will be informed by the Agency as to their rights to file for disability retirement.

~~Counseling is available to each employee who separates, voluntarily or involuntarily, as to her/his rights and benefits under the applicable retirement system.~~

### SECTION 3- Request for Retirement Application

A. When a bargaining unit employee requests an application for retirement from the Agency, the employee will be supplied with the following, so long as it is provided to the designated Employer location by NTEU:

- Letter from NTEU

- NTEU Retiree Flyer
- OPM Dues Withholding Authorization Form
- NTEU Cash Dues Application
- Other NTEU information

At the end of each quarter, the Agency will provide the Union with a count in each distributing location, of the employees to whom these packages were distributed.

B. After an employee has submitted a resignation or retirement application, the employee may request, in writing, to withdraw the application at any time prior to its effective date. The Employer may deny the withdrawal request only for legitimate reasons including, but not limited to, the hiring of or valid commitment to hire a replacement. This denial and the reasons for it will be communicated to the employee in writing.

#### **SECTION 4- PHASED RETIREMENT**

The Parties acknowledge that Phased Retirement is a human resources tool for Federal agencies to retain employees who would have fully retired, but who are willing to continue in federal service for a period of time on a part-time schedule while engaging in mentoring. Phased Retirement is designed to assist agencies with knowledge management and continuity of operations in the short term, but also to enhance the mentoring and training of the employees who will be filling the positions or taking on the duties of more experienced retiring employee.

Phased retirement allows retirement-eligible Federal employees to request partial retirement while continuing part-time work. Under current regulations, when employees enter Phased Retirement, they apply for and receive half of their retirement annuity earned up to that point and work half-time (that is, work and receive pay for 40 hours per pay period). An employee on phased retirement continues to be treated as a part-time employee for almost all purposes. While working part-time, employees continue to earn additional retirement benefits proportionately based upon the part-time employment.

Phased retirement encourages experienced Federal employees to extend their valuable contributions, allows them to transition more gradually into retirement, and operates as a tool to ensure continuity of operations and to facilitate knowledge management. Employees on phased retirement must focus a substantial portion of their time – at least 20% - on mentoring, training, and/or other knowledge management functions.

#### **Implementation of Phased Retirement**

In accordance with Public Law 112-141, the Agency will implement Phased Retirement within ninety (90) days of the effective date of this Agreement. Once the program is in place, employees may begin submitting completed election forms to the Employer.

The Agency will use the template Phased Retirement Time Limited Agreement (Appendix X) to be executed by the employee and the Agency once participation in Phased Retirement is approved.

### **Eligibility**

Preliminary eligibility is determined based on regulations in 5 CFR Parts 581, 582, 831, 841, 842, 843, 870, and 890. Current regulations provide that an employee must have been employed on a full-time basis for not less than the 3-year period preceding the effective date of his or her entry into phased retirement status; and, be eligible for immediate retirement under either of the following provisions:

- a. Under CSRS, the employee must be at least age 55 and must have at least 30 years of creditable service, or must be at least age 60 and must have at least 20 years of creditable service; or,
- b. Under FERS, the employee must be at least the minimum retirement age (MRA, Age 55-57, depending on your year of birth) and must have at least 30 years of creditable service, or must be at least age 60 and must have at least 20 years of creditable service.

**Excluded Positions-** The law providing for phased retirement excludes law enforcement officer positions.

### **Mentoring**

Mentoring for the purpose of phased retirement as encompasses the full range of knowledge management functions, including but not limited to training colleagues and junior staff; mentoring and coaching; allowing shadowing; developing operation procedures, guidance documents, information reflecting technical considerations, or other knowledge transfer documents; and interviews as a subject matter expert. An individual's ability to contribute needed mentoring/knowledge management for a minimum of 20% of the work time is a key factor in determinations about whether to approve or disapprove requests for phased retirement and extensions of phased retirement.

### **Participation**

Participation in Phased Retirement is voluntary and an employee must elect to participate. An interested employee must apply for phased retirement. Participation requires a written Phased Retirement Time Limited Agreement ("TLA") executed by the employee and the Employer. (Appendix X)

- A. Approval Process.** Office Directors and Regional Administrators are delegated authority to approve or deny employee requests for:

- I. Entry into phased retirement including the time limit for the phased retirement agreement
- II. Extensions of phased retirement
- III. Return from phased retirement to full-time employment

Requests for phased retirement, extensions of phased retirement and return to full-time employment are considered and approved or denied on a case-by-case basis.

An employee interested in participating in phased retirement completes the appropriate application forms, i.e., SF-3116, CSRS or FERS “Application for Immediate Retirement,” and TLA. The Office Director/Regional Administrator, or designee, will forward the approved request package (i.e., SF-3116, SF-2801/3107, TLA, and SF-52 Request for Personnel Action) to the appropriate OCHCO or regional benefits representative for processing and submission of required documents to OPM.

After obtaining concurrence from the Office of the Chief Human Capital Officer (OCHCO), Office Directors and Regional Administrators may also approve additional hours (that is, more than 40 hours per pay period) for a phased retiree. Additional hours may be approved only if justified by an emergency situation presenting an immediate threat to life or property, and if there is no other qualified employee to perform the work.

Office Directors and Regional Administrators may delegate authority to approve or deny employee requests for entry into phased retirement, extensions, or return to full-time employment to the Deputy Office Director or Deputy Regional Administrator level. Authority to approve additional hours may not be delegated below the Office Director and Regional Administrator level.

If an employee request for entry into phased retirement, extensions, or return to full-time employment is denied, the employee will be provided a complete written explanation by the HHS stating why the employee did not meet the criteria for approval.

**Criteria for Approval.** Within their discretion, Office Directors’ and Regional Administrators’ considerations in making case-by-case decisions include but are not limited to the following:

- Does the employee occupy an eligible position?

- Is a part-time work schedule appropriate for the employee's position?
- Will operational needs require the employee to work in excess of a 50% work schedule? (The work *must* be consistent with a strict half time schedule since the agency has almost no discretion to authorize a phased retiree to work additional regular hours or overtime/compensatory time.)
- Will the employee's change in work schedule have an adverse effect on the work unit's ability to meet goals and objectives? This includes consideration of the value of retaining the employee if he or she would otherwise retire, current and projected workload, any anticipated burden on other employees, and options for coverage (including whether position allocations and approved staffing plans would permit hiring a replacement – not necessarily at the same grade on in the same position – if needed). Offices and Regions may consider the possibility of double encumbering, job sharing, or hiring replacements based on normal HHS considerations, such as FTE, staffing plan, work needs, position evaluation, need for transition, budget, etc.
- Is the employee willing and able to meet the mentoring/knowledge management requirement? This includes consideration of the level of expertise and performance of the phased retirement applicant and the applicant's ability to contribute to knowledge management.
- Has management identified appropriate mentoring/knowledge management activities for the employee to perform - that is, mentoring, training, and other knowledge management activities important to HHS that will occupy at least 20% of the phased retiree's time?
- Would approval or denial of the request be consistent with the treatment of any similarly situated employees?
- Is the employee currently serving under a service agreement that obligates the employee to remain in service?

In the event that multiple employees in similar positions in the same organizational unit apply for phased retirement and not all may be approved, Office Directors/Regional Administrators will consider the criteria above (relative ability to contribute to knowledge management, work a strict half-time schedule, etc.) to determine which applications to approve. All else being equal, Office

Directors/Regional Administrators will decide based on earliest submission of application.

**Time Limitations.** Office Directors and Regional Administrators may approve phased retirement applications for initial periods of 6 or 12 months, and they may approve extensions of phased retirement in increments of 6 or 12 months. Each period will require a new time limited agreement signed by the employee and the Office Director/Regional Administrator. There is no maximum time limit for employees to participate in phased retirement. At the conclusion of the approved period, the phased retiree will enter full retirement unless he or she requests and obtains approval either to extend the period of phased retirement or return to full time work.

**Additional Limitations.**

- a. The Employer *may not* increase the part-time hours of a phased retiree *unless* there is an emergency posing a significant, immediate, and direct threat to life or property, and the phased retiree is the only qualified employee available to perform the work. OCHCO must concur with an Office Director's or Regional Administrator's approval to increase a phase retiree's hours.
- b. If a change to the work schedule (e.g., from part-time to full-time or intermittent) or to the number of part-time hours (i.e., a change to the working percentage) is processed, other than a temporary increase as approved by the Office Director/Regional Administrator in an emergency, the phased retiree will be deemed to have ended the phased retirement agreement and will enter full retirement, unless he or she requests and receives approval to return to full-time work.

**Effective Dates.**

- c. Phased retirement is effective the first day of the pay period after phased retirement is approved, or the first day of a later pay period specified by the employee with the concurrence of the Office Director/Regional Administrator.
- d. Full Status Retirement Benefit (i.e., Composite Annuity) will be effective the day after separation from Federal service

**Monitoring Hours Worked.**

- e. The employing organization will be responsible for monitoring and enforcing strictly the half time schedule and mentoring/knowledge management requirement.
- f. For time spent mentoring, participants will use the Time Activity Code, or TAC, ZG0110 – Development, Deliver, or Document Training – Not in HR, currently used for Knowledge Management (and previously used for mentoring by rehired annuitants under the NDAA pension offset waiver authority)

### **Terminating Participation in Phased Retirement**

Phased retirement participants may enter full retirement status at any time without penalty. If a phased retiree requests and receives approval to return to full-time work, the employee may not elect phased retirement again in the future. In order to discontinue phased retirement, participants should complete Part 2a of SF-3116, and an “Agreement to End Phased Retirement and Return to Regular Employment,” and submit them to their OCHCO/regional benefits representative. In the event that a request to return to full-time work is denied, HHS will provide the employee a complete written explanation for the denial. Phased retirement participants will be afforded an automatic one-time opportunity to return to full-time status within the first 120 days of participation.

### **Impacts on Work Schedule and Workload**

Apart from a change from full-time to part-time, employees previously scheduled for telework or flexible work schedule will not be removed from their telework or flexible work schedule solely due to approval for phased retirement. Each phased retiree will work with their supervisor to prioritize and adjust workload, including work schedule changes as a result of the reduction to the 50% working percentage time. Management will make reasonable workload accommodations, including the movement of work, as appropriate, to accommodate for the reduction in working percentage time.

### **Information to the Union**

The Agency will provide a copy of each Bargaining Unit employee’s executed TLA to the appropriate Chapter President within fifteen (15) days of execution. The Agency annually will provide NTEU with a current listing of bargaining unit employees participating in Phased Retirement.