

## Divorce and Federal Employee Retirement Benefits

December 17, 2014

The rules governing retirement benefits for divorced federal employees and their former spouses are detailed and complex. The Office of Personnel Management (OPM) is the federal agency that processes court orders, which properly articulate awards of federal retirement-related benefits to the former spouses of federal employees. Therefore, federal employees and their spouses should consider the following general advice if they are facing a divorce.

**Be Proactive.** Federal employees and their spouses should be aware of the special rules governing federal retirement benefits while negotiating the terms of their divorce. We recommend utilizing a local family law attorney who is familiar with these specialized regulations and consulting with a federal retirement attorney who can advise on these complex regulations. Far too often, OPM will deny court orders due to failure to meet regulatory requirements. In such cases, the parties will most likely need to seek an amendment to their divorce-related court orders in family court and submit these amended court orders to OPM for processing.

**Plan Benefits Issues in Advance.** Federal employees have a variety of different retirement benefits, many of which can be shared and/or assigned to former spouses after divorce by court order. The family law attorney in federal employee cases should be aware of the types of benefits available, including: a monthly marital share apportionment (i.e., a portion of the federal retiree's annuity); a survivor annuity benefit; a portion of the Thrift Savings Plan (TSP); and coverage under the Federal Employees Health Benefit (FEHB) and the Federal Employees Group Life Insurance (FGLI) benefits plans. The parties to a divorce can decide the fairest division of these potential assets by familiarizing themselves with each of these types of federal benefits. It is important, however, to begin the discussions about resolving the retirement issues as soon as possible.

**Pre-Retirement Benefits Check.** We recommend that federal employees meet with a federal agency benefits specialist well in advance of their desired retirement date to discuss their retirement benefits. The federal agency benefits specialist should be able to provide guidance and instructions on how to properly complete retirement paperwork and provide a retirement benefits estimate for the federal employee.

In addition, if the federal employee and his or her former spouse wish to create a survivor annuity benefit, this should be done before the federal employee's date of retirement. It is incredibly difficult, and often times prohibited, to make modifications post-retirement to a survivor annuity benefit. Therefore, we recommend that all potential issues with survivor annuity benefits be confirmed and corrected in advance of the official retirement date.

### Contact Us

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Given the unique rules that govern federal retirement benefits through OPM, it is highly recommended that federal employees utilize an attorney who is familiar with the proper division of federal retirement benefits in court orders. Our law firm represents and advises federal employees in federal retirement and other employment matters. If you need legal assistance, please contact our office at (703) 668-0070 to schedule a consultation. Please also visit and like us on Facebook at [www.facebook.com/BerryBerryPLlc](http://www.facebook.com/BerryBerryPLlc).

### **Attorneys**

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### **Practice Areas**

Court-Ordered Benefits