



DEPARTMENT OF DEFENSE
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE
4800 Mark Center Drive
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OCT 10 2014

MEMORANDUM FOR DISTRIBUTION LIST

Subject: Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) Annuity for Surviving Same-Sex Spouses

On June 26, 2013, in the case of *United States v. Windsor*, 133 S. Ct. 2675 (2013), the United States Supreme Court ruled that Section 3 of the Defense of Marriage Act (DOMA) was unconstitutional. Section 3 of DOMA provided that, for the purpose of Federal law, the term “marriage” meant a legal union between one man and one woman as husband and wife, and that the term “spouse” referred to a person of the opposite sex who is a husband or wife. As a result of the Supreme Court’s ruling numerous benefits were extended to same-sex spouses effective the date of the ruling. At this time, we ask your assistance in publicizing the opportunity for same-sex spouses of deceased Federal annuitants, employees, or former employees who died prior to the date of the *Windsor* decision to apply for survivor benefits for same-sex spouses under CSRS and FERS by providing this information to your employees.

On September 25, 2014, the Office of Personnel Management (OPM) published a notice in the Federal Register (Volume 79, No. 186) that extended the opportunity to apply for survivor benefits under CSRS and FERS for same-sex spouses of deceased Federal annuitants, employees, or former employees who died prior to June 26, 2013. Prior to the *Windsor* decision, OPM was not permitted to accept survivor annuity elections and denied eligible same-sex surviving spouses monthly survivor annuity and/or lump-sum death benefits, and/or may have discouraged employees, annuitants, and/or surviving spouses from electing survivor annuity benefit and/or applying for benefits during the period September 21, 1996, until June 25, 2013.

To ensure that surviving same-sex spouses are able to exercise their rights and interests as “widows” and “widowers” under CSRS and FERS, OPM is encouraging all same-sex spouses of deceased annuitants who died prior to June 26, 2013, to apply for benefits even if the annuitants did not attempt to elect survivor annuity benefits for their spouses prior to death, and/or even if OPM has previously denied applications for benefits from surviving spouses as a result of DOMA. Further information on how to apply for benefits is available at:

<https://www.federalregister.gov/articles/2014/09/25/2014-22895/civil-service-retirement-system-and-federal-employees-retirement-system-notice-to-surviving-same-sex#h-4>.

Please disseminate this information to the greatest extent possible to ensure that employees are aware of this change.

Deborah Breining

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Acting Director, Human Resources Operational
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