
ENROLLMENT OF EMPLOYEES IN THE FRS

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This Division of Retirement Employer Handbook is intended for the employers of members of the state-administered retirement plans: FRS Pension Plan, FRS Investment Plan, State University System Optional Retirement Program (SUSORP), State Community College System Optional Retirement Program (SCCSORP) and Senior Management Service Optional Annuity Program (SMSOAP). However, references to an FRS member in this Handbook will refer to a member of the FRS Pension Plan, unless stated otherwise. The division is responsible for processing contributions and maintaining service credit records for Investment Plan members, and for administering Investment Plan participants' disability benefits and Health Insurance Subsidy benefits.

I. PARTICIPATION

Membership in the Florida Retirement System (FRS) is mandatory for all employees who begin employment with an FRS agency on or after December 1, 1970, in a position that is not a temporary position¹. Renewed membership was established in 1990 for elected officers and in 1991 for all members and is closed to retirees initially reemployed on or after July 1, 2010, through June 30, 2017. Effective July 1, 2017, FRS Pension Plan retirees are still ineligible for renewed membership. Retirees of the FRS Investment Plan, the State University System Optional Retirement Program (SUSORP), the Senior Management Service Optional Annuity Program (SMSOAP) or the State Community College System Optional Retirement Program (SCCSORP) who are employed on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed. All members of the FRS are also covered by Social Security under an agreement by the State of Florida with the U.S. Social Security Administration (see Page 1-84). All members of the FRS have the choice to participate in either the FRS Pension Plan or the FRS Investment Plan (which was established July 2002). Employer contributions, employee contributions and salaries, etc., of your employees participating in the Investment Plan will be reported to the division in the same manner as reported for your employees in the Pension Plan, using different codes. The conditions of membership are discussed in greater detail in this chapter. We encourage you to refer to the FRS Rules and Florida Statutes cited at the end of each section to locate additional information on a subject. Participation in one of the closed retirement systems is explained on Page 1-14.

Membership Classes

The five classes of membership in the FRS Pension Plan and the Investment Plan are:

- Regular Class (see Page 1-16)
- Special Risk Class (see Page 1-17)
- Special Risk Administrative Support Class (see Page 1-29)
- Elected Officers' Class (EOC) (see Page 1-31)
- Senior Management Service Class (SMSC) (see Page 1-38)

Anyone employed in a regularly established position (see Page 1-7) will belong to one of these classes unless covered by one of the closed systems outlined on Page 1-14 or a reemployed retiree who is not eligible for FRS membership. An employee can be a member of only one class at a time. If employed in two or more covered positions that belong to different classes (i.e., Regular, SMSC, Special Risk, Special Risk Administrative Support or EOC), the employee will be enrolled in only one class (see Page 1-65). The retirement contribution rates for each class are listed in Chapter 2, Part II. Renewed membership for reemployed retirees is covered on Page 1-72.

¹ Underlined terms are defined in the glossary in Chapter 15.

Plan Enrollment and Second Chance Transfer Option

Effective January 1, 2018, new eligible employees with a choice between the Pension Plan and the Investment Plan are reported as Pension Plan² members during the first election period until an active election is received or default plan membership occurs. If no active election is made within the eight calendar months after employee's month of hire, the default plan membership depends on the membership class covering the position held at the end of the eighth calendar month.³

Special Risk Class members default to Pension Plan membership while members in all other classes default to Investment Plan membership. All FRS members also have a single additional opportunity to transfer on their own initiative into the opposite plan prior to termination⁴.

Educational and Choice Information

Newly hired employees who have never been employed with an FRS employer will receive the education and choice information from the third-party administrator. Any employee who was previously employed by an FRS employer and completed an active or default election to enroll in the FRS Pension Plan or Investment Plan will not receive the educational and choice information.

Renewed Membership Closed from 7/1/2010 through 6/30/2017

All reemployed retirees who initially returned to work on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership and will not earn credit toward a second retirement. The closing of renewed membership includes the FRS Pension Plan, the FRS Investment Plan, the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program and the State Community College System Optional Retirement Program, and local senior managers covered by a separate arrangement with their employers.

Retirement Coverage for Dependent Special Districts and Other Dependent Governmental Entities

Dependent special districts and other dependent governmental entities must provide the same retirement coverage as the parent agency on which they are dependent. Effective July 1, 1996, dependent entities (within the jurisdiction of an independent agency) that, in error, were not providing FRS retirement coverage for their employees must provide such coverage, and all employees of such entities filling regularly established positions must be enrolled in the FRS. For service before July 1, 1996, retroactive enrollment and payment of contributions is not required of the employer; however, the affected employees are eligible to purchase such past service. If your agency is a parent agency, please make certain all affected employees of entities dependent on you are enrolled in the FRS. Periodically, audits are conducted to ensure compliance with this provision and adjustments will be required back to July 1, 1996, for any governmental entities found to be in noncompliance.

(The Department of Economic Opportunity determines the dependent or independent status of special districts, in accordance with Chapter 189, Florida Statutes.)

² Some university employees are first enrolled in the State University System Optional Retirement Program (see Page 1-44)

³ Between March 2002 and February 2003, existing members of the FRS Pension Plan could elect to transfer to the FRS Investment Plan if they wished, in difference choice periods that varied based on the member's employer group (for more on choice periods, see Chapter 9, Part XV).

⁴ For more on the second chance transfer opportunity, see Chapter 9, Part XV. Renewed members reemployed on or after July 1, 2017, are required to be enrolled in the retirement plan covering the position held; they do not have any election opportunities.

Optional Retirement Programs for Members in Certain Positions

Optional retirement programs are available for eligible employees in certain positions in lieu of membership in the FRS. These non-integrated state-administered defined contribution programs offer individual or group retirement contracts that provide retirement and/or death benefits for members. These programs are closed to retirees initially reemployed on or after July 1, 2010, through June 30, 2017, and are:

- **State University System Optional Retirement Program (SUSORP)** – Membership in the SUSORP is compulsory for faculty and Administrative and Professional positions not covered by career service in the State University System. The employee is required to submit a completed State University System Optional Retirement Program (SUSORP) Retirement Plan Enrollment Form ([ORP-ENROLL-1](#)), and execute a contract with an approved SUSORP investment provider company during the 90-day SUSORP enrollment period.
- If the employee does not submit a completed [ORP-ENROLL-1](#), and execute a contract with an approved SUSORP investment provider company during the 90-day SUSORP enrollment period, the employee will default to membership in the FRS. The employee can elect membership in the FRS Pension Plan or the FRS Investment Plan prior to the last day of the eighth month following the employee’s month of hire (see Page 1-43).
- Retirees of the Investment Plan, the SUSORP, the SMSOAP, or the SCCSORP employed in a SUSORP-covered position on or after July 1, 2017, must be enrolled in the SUSORP unless already enrolled in the FRS Investment Plan as a renewed member. Retirees of the Investment Plan, the SUSORP, the SMSOAP, or the SCCSORP employed by a state university in a mandatory SUSORP membership position must be enrolled in the SUSORP.
- **Senior Management Service Optional Annuity Program (SMSOAP)** – The SMSOAP is closed to new members effective July 1, 2017. This retirement program is available to employees employed in certain positions before July 1, 2017, in state agencies, the legislative branch, the judicial branch, and the State Board of Administration (see Pages 1-38 and 1-52). if employed in certain positions by state agencies, the legislative branch, the judicial branch, and the State Board of Administration (see Pages 1-38 and 1-52).
- **State Community College System Optional Retirement Program (SCCSORP)** – The SCCSORP includes community colleges and state colleges. Available for faculty and certain administrator positions in public community colleges covered by the Regular Class where a SCCSORP is established by a community college board of trustees under section 1001.64(20), Florida Statutes, and is implemented by the employing community college under section 1012.875, Florida Statutes (see Page 1-60).
- Retirees of the Investment Plan, the SUSORP, the SMSOAP, or the SCCSORP employed in a SCCSORP-eligible position on or after July 1, 2017, must be enrolled in the SCCSORP unless already enrolled in the FRS Investment Plan.

The Division of Retirement is responsible for administering the SUSORP and the SMSOAP, but local community college boards of trustees may administer the individual SCCSORPs or in consortia with multiple community colleges.

Local Senior Managers, Option to Withdraw

In addition to the three optional retirement programs described above, local senior managers who are eligible for membership in the Senior Management Service Class may elect to withdraw from the Florida Retirement System under the provisions of section 121.055(1)(b)2., Florida Statutes (see Pages 1-38, and 1-42). Any retiree initially reemployed on or after July 1, 2010, through June 30, 2017, and Pension Plan retirees on or after July 1, 2010, are not eligible for renewed membership in the Senior Management Service Class.

FRS Investment Plan for Employees, Generally

As of July 1, 2002, active members and renewed FRS members prior to July 1, 2010, may elect membership in the FRS Investment Plan (a defined contribution plan) in lieu of the FRS Pension Plan (a defined benefit plan), except for Deferred Retirement Optional Program (DROP) participants.

Effective July 1, 2002, members of the Senior Management Service Optional Annuity Program (SMSOAP), and university employees who are eligible for membership, but not enrolled in the State University System Optional Retirement Program (SUSORP), may elect to join the FRS Investment Plan. The SMSOAP is closed to new members effective July 1, 2017.

Beginning July 1, 2003, members of the State Community College Optional Retirement Program (SCCSORP) may also elect membership in the Investment Plan (see Page 1-60).⁵

See Chapter 9, Part XV, for specifics regarding the FRS Investment Plan, which is administered by the Florida State Board of Administration (SBA).

STATUTORY REFERENCE:

Sections 121.055 and 121.35, Florida Statutes

FRS RULE REFERENCE:

Sections 60V-4.002, Florida Administrative Code

⁵ Local senior managers who withdrew from the FRS had a six-month window from January 1, 2006, to June 30, 2006, to elect participation in either Pension Plan or the Investment Plan. SUSORP participants who were not mandatory SUSORP had a 12-month window from January 1, 2008, to December 31, 2008, to elect to participate in either the FRS Pension Plan or the Investment Plan.

II. REGULARLY ESTABLISHED POSITION

[Applicable to all employees of covered agencies]

An employee who is filling a full-time or part-time regularly established position is a compulsory member of the FRS. An employee filling a regularly established position shall be enrolled on the first day of employment, even if the employee is serving a probationary period.

There are three exceptions to FRS compulsory membership:

- Retirees initially reemployed on or after July 1, 2010, through June 30, 2017;
- Pension Plan retirees initially reemployed on or after July 1, 2010; and,
- Employees filling eligible positions in the SUSORP.

Effective July 1, 2017, FRS Pension Plan retirees are still ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are reemployed with a covered employer in a regularly established position on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

NOTE Official court reporters are mandatory members of the FRS, whereas deputy court reporters (who are employees of the official court reporters are considered independent contractors) are not eligible for FRS membership. [See Williams v. Department of Management Services, App., (1st) 647 So. 2d 317 (1994)].

For State Agencies

A regularly established position in a state agency, including state universities, is a position authorized pursuant to section 216.262(1)(a) and (b), Florida Statutes, and compensated from either a salaries appropriation as provided in section 216.011(1)(dd), Florida Statutes, or a salaries account.

For Local Agencies

A regularly established position in a local agency (county agency, district school board, community college, or a city, special district, metropolitan planning organization or charter school), other than a water management district operating pursuant to Chapter 373, is an employment position that will be in existence beyond six consecutive calendar months. The expected length of the position's existence, not the length of time an employee is anticipated to fill the position, determines membership in the FRS. When creating or establishing an employment position, the agency should determine if the position would exist beyond six consecutive months. If it will, it is a regularly established position. For retirement purposes, a position that exists for any part of a month is considered to be in existence for the entire month.

The following provisions shall apply to all members employed by a local agency:

- A member filling a regularly established position who performs additional duties for the same FRS employer is considered to be filling a regularly established position for the total employment, and the employer and the employee shall make the required retirement contributions.
- A member filling a regularly established position who performs additional duties in a temporary position for a different FRS employer shall have retirement contributions reported only for the regularly established position. The other employer does not report retirement contributions for the temporary position.

- A teacher filling a regularly established position who performs additional duties (beyond those contracted) for the same employer is considered to be filling a regularly established position for the total employment and the employer and the employee shall make the required retirement contributions.
- A teacher who is employed to teach during the summer session, but who did not fill a regularly established position during the preceding school year, is filling a temporary position. The employer and employee do not make retirement contributions for this summer employment.
- A person filling a regularly established position as a temporary replacement for a member on a leave of absence approved for more than six months shall be enrolled in the system upon employment; or, if the leave of absence is approved for six months or less and is subsequently extended beyond six months, such person shall be enrolled effective with the date of the extension; or, if the leave of absence is open-ended (that is, the duration of the leave of absence is not documented), such person shall be enrolled as of the date of employment; otherwise, such person shall be considered a temporary employee and shall not be reported for retirement purposes.
- An employment position financed by grant moneys becomes a regularly established position if the position exists beyond six consecutive calendar months. If the position established by the grant will exceed six months, it is a regularly established position and is covered for FRS purposes from the date of employment.

With respect only to a water management district operating pursuant to Chapter 373, Florida Statutes, a regularly established position means a position authorized in the district's final adopted budget and compensated from salaries and benefits appropriation or account

STATUTORY REFERENCE:

Section 121.021, Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.004(4) and 60S-6.001(52), Florida Administrative Code

III. TEMPORARY POSITION

[Applicable to all employees of covered agencies]

For State Agencies

A temporary position in a state agency is an employment position, which is compensated from an OPS account as provided in section. 216.011(1)(dd), Florida Statutes.

For Local Agencies

A temporary position in a local agency, other than a water management district operating pursuant to Chapter 373, is:

- An employment position which will not exist beyond six consecutive calendar months (see Page 1-10 for information on positions extended beyond six months);or
- An employment position listed below, regardless of whether it will exist beyond six consecutive calendar months:
 1. **Student Positions** — positions filled by persons who are bona fide students in an accredited educational or vocational program and who perform service for a public employer in a temporary position set aside strictly for students. The position cannot be filled by anyone other than a student.
 2. **Work-Study Positions** — positions filled by students participating in the Federal work-study program.
 3. **Temporary Instructional Positions** — positions established with no expectations of continuation beyond one semester or trimester at a time for persons to teach in a community college, public school, or vocational institution; such positions may include paper graders, tutors, note takers, and lab tutors at community colleges.
 4. **Substitute Teacher Positions** — positions filled by persons who are not on contract and who are called to work intermittently to substitute teach.
 5. **On-Call Positions** — positions filled by employees who are called to work for brief periods and whose work ceases when the work is completed. This includes positions filled by employees who provide their available times and/or dates to the employer. (If an employee has a work schedule and works consistently month after month, the employee is considered to be filling a regularly established position and should be enrolled in the FRS from the date of employment.)
 6. **CETA and JTPA Positions, and Enrollees of the Senior Community Service Employment Program** — positions provided for in rule 60S-1.004(4)(c)7.a. and 8.a., Florida Administrative Code.
 7. **Non-salaried Elective Positions** — elective office positions in which the elected officials receive no compensation, but receive expenses, such as per diem, a stipend, or an honorarium.
 8. **Temporary Non-instructional Community College Positions** — effective July 1, 1991, non-instructional positions filled by employees paid from an OPS budget account for not more than 2,080 hours of total service within a single community college. (Any such person who is employed beyond 2,080 total aggregate hours within a community college shall thereafter be an employee filling a regularly established position and a compulsory member of the FRS regardless of the budget from which paid.)

9. **Temporary Emergency Positions** — positions established on a temporary basis as a result of a state of emergency as declared by the Governor due to a disaster caused by destructive storms, winds, floods, fires, earthquakes, freezes, or other similar emergencies.
10. **Foreign Exchange Teachers** — instructional positions in grades K-12 filled by exchange teachers on a J-1 visa when participating in an exchange visitor program designated by the United States Department of State.

Records documenting the intended length of a temporary position and the dates of employment of an employee in such position must be maintained by the agency.

When an employment position is extended beyond six consecutive calendar months, with the exception of positions described under items one through ten above, it becomes a regularly established position. You should enroll the employee and all subsequent employees in the FRS and begin to make necessary employer and employee contributions on the first day of the seventh calendar month or on the first day of the month following the month in which the decision is made to extend the position beyond six months, if earlier. When a temporary position extends beyond the six months and there is no documentation substantiating that the position was originally established as a temporary position to last for six months or less, the employee filling such position will be enrolled from the initial date of employment, and employer and employee, if required, retirement contributions shall be due retroactively to that date.

With respect only to a water management district operating pursuant to Chapter 373, Florida Statutes, a temporary position means a position not authorized in the district's final adopted budget and designated as a temporary position by the district.

If you have questions concerning an employee's eligibility for membership in the FRS, please contact the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

STATUTORY REFERENCE:

Section 121.021(11), (12), (52) and (53), Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.004(4) and (5), Florida Administrative Code

IV. ENROLLMENT OF MEMBERS

[Applicable to all employees of covered agencies]

A. GENERAL

Each member in the FRS must be enrolled in one of the five classes of membership as described in this section: Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected Officers' Class, or Senior Management Service Class unless the employee is a reemployed retiree who is not eligible for renewed membership.

- Except for certain university and college employees (see Page 1-40), each FRS-eligible employee will be initially reported in the FRS Pension Plan during the election period/ Prior to January 1, 2018, members who do not make an active election during the election period participate in the Pension Plan by default, but will also be given an opportunity to transfer to the FRS Investment Plan – (see Page 1-12).
- Except for certain university and college employees (see Page 1-40), each FRS-eligible employee will be initially reported in the FRS Pension Plan during the election period. On or after January 1, 2018, members who do not make an active election during the election period participate in the Investment Plan by default except for positions covered by the Special Risk Class which participate in the Pension Plan by default. Members will be given a second election opportunity during their FRS employment to transfer to the other plan – (see Page 1-12).
- The procedures for reporting reemployed retirees who are not eligible for renewed membership are found on Page 1-72.

Member enrollment will be accomplished using the information provided on the monthly Retirement Report as described in Chapter 3. The FRS maintains a database containing the employee's name, Social Security number, gender, date of birth, home address, retirement plan, beneficiary information, salaries, and employer and employee contributions. The primary purpose of the database is to establish a member's basic retirement record, to assure that correct contributions are submitted and credited to the employee under the correct Social Security number, and to facilitate the accurate calculation of retirement benefits when the member ultimately applies for retirement benefits. We must receive accurate and complete information on your Retirement Report.

An active member can designate a beneficiary online by logging in to FRS Online and selecting beneficiary, or the member can use the Florida Retirement System Pension Plan Active Member Beneficiary Designation Form ([BEN-001](#)).

Position Number Required — Members enrolled in the Senior Management Service Class (also DROP participants filling SMSC positions), eligible reemployed retirees in the Senior Management Service Class, and participants of the Senior Management Service Optional Annuity Program, and the State University System Optional Retirement Program must have ten-digit position number information included with your report.

Class Code Required — Members enrolled in the Special Risk Class and Elected Officers' Class, and reemployed retirees and DROP participants in the Special Risk Class and Elected Officers' Class, must have class code information included with your report.

Position Number/Class Code Not Required — Members enrolled in the Regular Class and Special Risk Administrative Support Class, reemployed retirees in the Regular Class and Special Risk Administrative Support Class, participants in the DROP (not filling SMSC positions), and participants in the Community College Optional Retirement Program do not need position number and/or class code information included with your report.

Retirement Reports that do not include complete information on a member will be listed on the FRS Online Services Monthly Retirement Errors Report, and your agency will be asked to provide complete data. Please note that the steps required to correct this situation can be very time consuming for both the reporting unit and the division.

Questions regarding the membership class of a member should be directed to the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

FRS Investment Plan

Members' Choice Opportunity — All employees who are new to the FRS (see Page 1-7), except for certain university employees (see Page 1-40) and retirees initially reemployed on or after July 1, 2010, through June 30, 2017, will be initially reported in the FRS Pension Plan and will be given the opportunity to elect membership in the FRS Pension Plan or the FRS Investment Plan by the end of the eighth month following the employee's month of hire or the end of a leave of absence.

Effective January 1, 2018, each new employee will be reported under the Pension Plan during the initial election period until an active election is received or a default election occurs. Special Risk Class members will default into the FRS Pension Plan if they do not make an active election. Members of all other classes who default will be enrolled in the FRS Investment Plan. Members will be given a second election opportunity to transfer from the FRS Investment Plan to the FRS Pension Plan, or from the FRS Pension Plan to the FRS Investment Plan.

- After determining the appropriate class for each new employee, you should report the employee as a member of the FRS Pension Plan during the initial election period.
- When the member makes an active election or defaults, report the member in the Pension Plan or Investment Plan depending upon the member's active election or default membership.
- To determine if an employee has previously participated in the FRS, the employer may perform a search of the Global Member Search module on FRS Online. If the employee has either made an active election or defaulted, the agency should report them in the previous plan unless it is determined that they have retired. Retiree information can be found on the Distribution Info module on FRS Online.
- The third-party administrator will provide plan choice information to the member's address on file and include the member's Personal Identification Number and plan choice deadline date within 30-60 days of employment.
- If a member's reported retirement information is in error for any reason, this may delay the member receiving their plan choice information. If the employee is initially enrolled on or after January 1, 2018, the member will have until the end of the eighth month of the date of hire to enroll in either the Pension Plan or Investment Plan. Members initially enrolled in the FRS prior to January 1, 2018, had five months to make an election.
- If the employee elects to enroll or defaults to the FRS Investment Plan, all employer and employee contributions through the effective transfer date will be transferred to the member's individual Investment Plan account.
- Regardless of whether the member initially chooses the FRS Pension Plan or the FRS Investment Plan, the member may make a second and final election to join the other plan as soon as the initial election becomes effective (see Chapter 9, Part XV, for more on the second-chance transfer opportunity).

Members of Closed Retirement Systems

An employee who has not retired and was a member of a closed retirement system (TRS or SCOERS) in a public agency position held prior to the reemployment in your FRS agency may be eligible to elect membership in the FRS. The following guidelines, which are based upon the circumstances of the member's termination and reemployment, should be followed in determining the correct plan for such members:

- **Compulsory Member of TRS or SCOERS** — A closed retirement system member who terminates employment (with or without receiving a refund of contributions) and is reemployed in a covered position within 12 months of termination must remain in the closed retirement system. A closed retirement system member who is on an approved leave of absence must remain in the closed retirement system. (A leave of absence does not constitute termination of employment.)
- **Compulsory Member of the FRS** — A closed retirement system member who terminates employment, receives a refund of the retirement contributions, and is reemployed in a covered position 12 or more months after termination, is a compulsory member of the FRS.
- **Option to Remain in the TRS or SCOERS or Transfer to the FRS** — A closed retirement system member who terminates employment, does not receive a refund of the retirement contributions, and is reemployed in a covered position 12 or more months after termination, may elect to remain in that system or transfer to the FRS.
- A member of TRS or SCOERS is not eligible to participate in the FRS Investment Plan, unless first electing membership in the FRS Pension Plan, if eligible.

Proof of Termination

The division will require proof that an employee terminated prior to payment of retirement benefits. A termination date should be reported by submitting it on the Retirement Report or through the Termination Date module. Information regarding submitting the termination date can be found in Chapter 3 of the Employer Handbook or in the FRS Online Manual. Additional proof of employment termination may be requested and may consist of, but is not limited to, the following:

- A copy of the member's resignation.
- A copy of the advertised vacancy for the member's position.
- Evidence of payments to the member for unused annual and sick leave, or loss of unused annual and sick leave due to termination.

When a new employee is hired, the employer (reporting unit) must question the individual to determine whether there may have been previous employment that was covered by a closed retirement system. If the individual is uncertain about past membership and/or whether contributions were left on deposit, the employer should contact the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

To Enroll in a Closed System

The Enrollment Section will determine if the member should remain in the closed retirement system, be enrolled as a compulsory FRS member, or be allowed to transfer to the FRS. If an option to transfer is available, the Ballot for Member of an Existing Retirement System Form (BLE-1), will be sent by the Enrollment Section and should be completed, signed, and dated by the member. The member will elect either to remain in the closed retirement system or to transfer to the FRS. A copy of the ballot should be submitted to the division. The employer must also enroll the member on the payroll report and report appropriate contributions for the selected retirement plan for the member. Current contribution rates can be obtained from the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email contributions@dms.fl.gov. Contribution rates for closed retirement systems can also be found in Rate Tables 7 and 8 under Chapter 2, Part II.

Election to remain in the closed retirement system or transfer to the FRS should be made on the first day of reemployment or as soon as possible thereafter. It should be emphasized to the employee that failure to submit an election in writing within six months of reemployment would result in compulsory membership in the FRS, effective with the date of initial reemployment. Once made, an election may not be revoked.

Enrollment of DROP Participants

FRS members who choose to retire and participate in the Deferred Retirement Option Program (DROP) will be enrolled in the DROP and the retirement plan will be updated upon receipt and approval of the Application for Service Retirement and the DROP.

Employees participating in the DROP should be reported on your Retirement Report under the appropriate DROP plan. You are also required to report the position number for your SMSC positions and class codes for members filling EOC and Special Risk Class positions.

Beneficiary information will be submitted on the Florida Retirement System Pension Plan Retirement Member and DROP Participant Beneficiary Form ([FST-12](#)). Please see Chapter 9, Part XIV, for additional information on the DROP.

Members who change employers while participating in the DROP are required to complete a Florida Retirement System Pension Plan Notice of Election to Participate in the Deferred Retirement Option Program (DROP) and Resignation of Employment Form ([DP-ELE](#)) with the new employer to continue their DROP participation.

STATUTORY REFERENCE:

Section 121.051(1), Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.004(2), Florida Administrative Code

B. REGULAR CLASS

The Regular Class is for employees who are required to participate in the FRS but are not eligible to participate in one of the other retirement classes. These employees should be enrolled in the FRS through your Retirement Report. Position number and/or class code information is not required to be reported for members of the Regular Class.

Enroll in Regular Class

- FRS Pension Plan member – Plan Code HA, except as noted.
- FRS Investment Plan member – Plan Code PA.

See Page 1-65 for information on employees who are employed in more than one position where each position qualifies for a different class of membership.

FRS RULE REFERENCE:

Section 60S-1.004, Florida Administrative Code

C. SPECIAL RISK CLASS

The Special Risk Class is limited to certain law enforcement officers, firefighters (including firefighters in fire prevention and/or training positions), correctional officers, emergency medical technicians and paramedics, community-based correctional probation officers, specified state-level professional health care employees, youth custody officers, and certain forensic workers who are employed by a law enforcement agency or medical examiner's office, who meet the statutory criteria for membership.

Legislative Intent

In creating this class, the Legislature recognized that Special Risk Class positions are physically demanding and require extraordinary agility and mental acuity. The Legislature has recognized that, due to the physical and mental limitations of age, Special Risk Class members should be eligible to retire earlier than regular members. To that end, the Legislature enacted an earlier retirement age requirement for these members and credited their service at a higher rate than regular members earn so they could retire with benefits roughly equivalent to benefits of regular members who could be expected to work longer.

Membership Criteria

Members of the FRS who fulfill the statutory requirements listed below are eligible for Special Risk Class membership. Administrative support personnel, including but not limited to those whose primary duties are in accounting, purchasing, legal and personnel, are not eligible for Special Risk Class membership. The criteria used to determine membership in the Special Risk Class for members who are filling law enforcement, correctional officer, firefighter, emergency medical technician, or paramedic positions, community-based correctional probation officer positions, specified state-level professional health care positions, and certain positions working in forensic disciplines for a law enforcement agency or medical examiner's office are as follows:

Law Enforcement Officers

Any law enforcement officer requesting Special Risk Class membership must be certified, or be required to be certified, in accordance with section 943.1395, Florida Statutes.

In addition, the officer must hold one of the following law enforcement positions:

- Sheriff* or elected police chief (excluded from certification requirements);
- Law enforcement officer whose duties require the pursuit, apprehension, and arrest of law violators or suspected law violators;
- Active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or
- Command officer or supervisor of a Special Risk Class member or members whose duties require the pursuit, apprehension and arrest of law violators or suspected law violators, or command officer or supervisor of members of a bomb disposal unit.

***NOTE:** A person elected or appointed as sheriff on or after July 1, 1990, shall be a compulsory member of the Elected Officers' Class unless the person elects membership in the Special Risk Class or withdraws from the FRS. The division must be notified in writing of the member's decision within six months of assuming office. Failure to do so will result in compulsory membership in the EOC. See Page 1-31 for additional information.

Firefighters

Any firefighter requesting Special Risk Class membership must be certified, or required to be certified, in accordance with section 633.35, Florida Statutes.

In addition, the member must hold one of the following firefighting positions:

- Firefighter whose duties and responsibilities include on-the-scene fighting of fires or, effective October 1, 2001, fire prevention or firefighter training responsibilities*; or
- Fire personnel whose duties and responsibilities include direct supervision of firefighting units or, effective October 1, 2001, fire prevention or firefighter training; or
- Firefighter employed by the Division of Forestry of the Department of Agriculture and Consumer Services as a fixed-wing pilot whose duties and responsibilities include aerial firefighting surveillance; or
- Command officer or supervisor of Special Risk Class members who are fire personnel as described above.

***NOTE:** Under Florida retirement law, firefighters approved for Special Risk Class membership must be employed solely within the fire department of the employer or agency of state or local government and must be employed on a full-time or part-time basis.

Correctional Officers

Any correctional officer requesting Special Risk Class membership must be certified, or be required to be certified, in compliance with section 943.1395, Florida Statutes.

In addition, the officer must hold one of the following correctional officer positions:

- Correctional officer whose primary duty and responsibility is the custody and physical restraint, when necessary, of prisoners or inmates within a prison, jail, or other criminal correctional or detention facility, while on work detail, or while being transported outside the facility; or
- Supervisor or command officer of Special Risk Class members whose primary duties and responsibilities are the custody and physical restraint of prisoners and inmates, whether in a prison, jail, or other criminal detention facility; or
- Superintendent or assistant superintendent of a correctional or detention facility that maintains custody of prisoners or inmates and employs correctional officers. The superintendent is the person directly in charge of the day-to-day operations of a specific correction or detention facility. The assistant superintendent is the one person whose responsibility includes direct line authority from the superintendent over all subordinate employees for the day-to-day operations at the facility. If no single employee in a correctional facility has such responsibility, then, for retirement purposes, there is no assistant superintendent at that facility.

EMTs and Paramedics

Effective October 1, 1999, any emergency medical technician or paramedic requesting Special Risk Class membership must be certified in accordance with section 401.27, Florida Statutes and be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer. In addition, the member's primary duties and responsibilities must include:

- On-the-scene emergency medical care; or
- Effective October 1, 2001, direct supervision of emergency medical technicians or paramedics.

Community-Based Correctional Probation Officers

Effective January 1, 2001, any community-based correctional probation officer requesting Special Risk Class membership must be certified, or be required to be certified, in compliance with section 943.1395, Florida Statutes. In addition, the officer must hold one of the following community-based correctional probation officer positions:

- Community-based correctional probation officer whose primary duty and responsibility is the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controlees within the community; or
- Supervisor or command officer of Special Risk Class members whose primary duties and responsibilities are the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controlees within the community; or
- Probation and parole circuit or deputy circuit administrator.

Correctional or Forensic Health Care Employees

Effective January 1, 2001, any professional health care bargaining unit or non-unit member requesting Special Risk Class membership must be an employee of the Department of Corrections or the Department of Children and Family Services who spends at least 75 percent of the time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution. In addition, the member must be employed in one of the following job classes:

- Dietitian (class codes 5203 and 5204).
- Public health nutrition consultant (class code 5224).
- Psychological specialist (class codes 5230 and 5231).
- Psychologist (class code 5234).
- Senior psychologist (class codes 5237 and 5238).
- Regional mental health consultant (class code 5240).
- Psychological services director – DCF (class code 5242).
- Pharmacist (class codes 5245 and 5246).
- Senior pharmacist (class codes 5248 and 5249).
- Dentist (class code 5266).
- Senior dentist (class code 5269).
- Registered nurse (class codes 5290 and 5291).
- Senior registered nurse (class codes 5292 and 5293).
- Registered nurse specialist (class codes 5294 and 5295).
- Clinical associate (class codes 5298 and 5299).
- Advanced registered nurse practitioner (class codes 5297 and 5300).
- Advanced registered nurse practitioner specialist (class codes 5304 and 5305).
- Registered nurse supervisor (class codes 5306 and 5307).
- Senior registered nurse supervisor (class codes 5308 and 5309).
- Registered nursing consultant (class codes 5312 and 5313).

- Quality management program supervisor (class code 5314).
- Executive nursing director (class codes 5320 and 5321).
- Speech and hearing therapist (class code 5406); or
- Pharmacy manager (class code 5251).

Youth Custody Officers

Effective July 1, 2001, through June 30, 2014, any member requesting Special Risk Class membership as a youth custody officer must be employed as a youth custody officer by the Department of Juvenile Justice in addition to meeting the following criteria:

- Be certified, or be required to be certified, in accordance with section 943.1395, Florida Statutes.
- Have primary duties and responsibilities consisting of supervised custody, surveillance, control, investigation, apprehension, arrest, and counseling of assigned juveniles within the community.

Forensic Workers (Law Enforcement Agencies or Medical Examiner Offices)

Effective October 1, 2005, through June 30, 2008, to qualify for Special Risk Class membership as a forensic worker employed by a law enforcement agency or medical examiner's office, the member must also meet the following criteria:

- The member must work in a forensic discipline recognized by the International Association for Identification and must qualify for active membership in this association; and
- The member's primary duties and responsibilities must include the collection, examination, preservation, documentation, preparation, or analysis of physical evidence or testimony, or both, or the member must be the direct supervisor, quality management supervisor, or command officer of one or more individuals with such responsibilities.

Effective July 1, 2008, to qualify for Special Risk Class membership as a forensic worker must be employed by a law enforcement agency or medical examiner's office, the member must also meet the following criteria:

- The member must be employed by the Department of Law Enforcement in the crime laboratory or by the Department of Financial Services in the forensic laboratory in one of the following classes:
 - Forensic technologist (class code 8459).
 - Crime laboratory technician (class code 8461).
 - Crime laboratory analyst (class code 8463).
 - Senior crime laboratory analyst (class code 8464).
 - Crime laboratory analyst supervisor (class code 8466).
 - Forensic chief (class code 9602); or
 - Forensic services quality manager (class code 9603).
- The member must be employed by a local government law enforcement agency or medical examiner's office and must spend at least 65 percent of the time performing duties that involve the collection, examination, preservation, documentation, preparation, or analysis of human tissues or fluids or physical evidence having potential biological, chemical, or radiological hazard or contamination, or use chemicals, processes, or materials that may have carcinogenic or

health-damaging properties in the analysis of such evidence, or the member must be the direct supervisor of one or more individuals having such responsibility.

Special Risk Class Membership for Non-Special Risk Class Positions After Recovery from a Qualifying Injury

Effective June 1, 2010, Special Risk membership is expanded to include a Special Risk Class member employed in law enforcement, firefighting, or criminal detention who:

- Suffers a qualifying in-line-of-duty injury,
- Reaches maximum medical improvement on or after August 1, 2008, and
- Returns to work in a non-special risk position with the same employer at the time of the accident.

Special Risk Class membership is retained only for as long as the member remains employed by the employer at the time of the accident.

The qualifying in-line-of-duty injury includes total and permanent loss of use of at least two limbs or 75 percent loss of motor function in at least two limbs due to a physical injury to the brain.

An employer is not required to create a position to accommodate a member under these circumstances and this bill does not create new rights not already provided under current state or federal law.

Change of Position

If an employee changes positions, you should select the class code number of the new position in People First. The new class code should be provided when:

- A Special Risk Class member is promoted or reassigned to another preapproved Special Risk Class position designated under the same criteria (i.e., Correctional Officer I to Correctional Officer II); or
- A Special Risk Class member changes from one type of position to another (designated under different criteria, such as changing from a law enforcement officer to a correctional officer).

State Agencies

Enrollment in Special Risk Class

The Department of Management Services specifies the classes of positions established in state government that satisfy the criteria for Special Risk Class membership. If the employee is filling an approved Special Risk Class position, you must select the appropriate Special Risk Class plan code and class code in People First. The Monthly Retirement Report for state agencies is based on the member information stored in People First.

To Enroll:

- The employee will be enrolled using the information entered in People First.
- Include the employee's class code in People First.
- Active Members:
 - Select Plan Code HB for Pension Plan Special Risk Class members.
 - Select Plan Code PB for Investment Plan Special Risk Class members.
- DROP Participant
 - Select Plan Code DP for months 1-96.
- Retired Members:
 - Select Plan Code UB for Pension Plan members who retired on or after July 1, 2010.
 - Select Plan Code QA for Investment Plan members who established renewed membership prior to July 1, 2010.
 - Select Plan Code CB for Investment Plan member who established renewed membership on July 1, 2017, or after.

NOTE: Plan Code DL – Law Enforcement Extension for months 61-96, was effective from July 1, 2022, through June 5, 2023. Effective June 5, 2023, Senate Bill 7024 repealed the language allowing law enforcement officers to extend their DROP for up to 36 months when the DROP participation period was changed from 60 months to 96 months for all participants.

Local Agencies

Special Risk Class Membership

For local government agencies:

- the position held by an employee must be listed as a preapproved position title; or
- an application must be submitted to Division of Retirement for approval.

Application Process

Members filling positions with position titles not included on Pages 1-27 through 1-29 must submit the appropriate application for Special Risk Class membership (with documentation) and must be approved by the division in order to be eligible for membership in the class.

Applications

- [FRS-400](#), Application for Special Risk Membership Law Enforcement/ Correctional Officers;
- [FRS-405](#), Application for Special Risk Membership Firefighters/Fire Prevention/Fire Training/Paramedics/EMTs; or
- FRS-410, Application for Special Risk Class Membership Forensic Discipline from October 2005 through June 2008; or
- [FRS-415](#), Application for Special Risk Class Membership Forensic Discipline, effective July 1, 2008.

Documentation

- A current job description of the member's duties (if submitting Form FRS-415, job description must also include the percentage of time spent performing each duty).
- A personnel document that includes the member's name, position title and the effective date that they begin filling the position.
- Additional documentation may be requested.

Class Codes to use for Approved Applications for Law Enforcement Officers

Beginning Jan. 1, 2023, local employers must update their Monthly Retirement Report to reflect the class codes of 82501 or 82502 for members with approved applications. Employers that have chosen a class code or had a class code assigned by the Division of Retirement must also convert to 82501 or 82502. See Information Release [2022-226](#) and [2022-227](#).

- 82501 - Application Approved/Agency Certified (Pursuit, apprehension and arrest)
- 82502 - Application Approved/Agency Certified (Supervisor or Command Officer)

Employers should use 82501 and 82502 when:

- A member is filling a law enforcement officer position approved by the Division of Retirement for Special Risk Class membership; or
- The agency certifies that a member is filling a law enforcement officer position eligible for Special Risk Class membership while participating in the DROP.

Enrollment in Special Risk Class

- The employee will be enrolled on the Monthly Retirement Report.
- Include the employee's class code in People First.
- Active Members:
 - Select Plan Code HB for Pension Plan Special Risk Class members.
 - Select Plan Code PB for Investment Plan Special Risk Class members.
- DROP Participant
 - Select Plan Code DP for months 1-96.
- Retired Members:
 - Select Plan Code UB for Pension Plan members who retired on or after July 1, 2010.
 - Select Plan Code QA for Investment Plan members who established renewed membership prior to July 1, 2010.
 - Select Plan Code CB for Investment Plan member who established renewed membership on July 1, 2017, or after.

To report the correct contribution rate, the agency should begin to report the member under the Special Risk Class when hired into the Special Risk Class position. In the event the application for Special Risk Class membership is denied, the contributions will be adjusted by the division. The member of the local agency employer may appeal to the State Retirement Commission.

Class Codes for Local Employees in Approved Special Risk Class Positions

The following class codes should be used when enrolling a local government employee who meets the statutory criteria for Special Risk Class membership and holds a position with the same title exactly as listed below.

Enroll the member in the Special Risk Class by including the appropriate class code on your Monthly Retirement Report.

There are certain Special Risk Class positions that will not qualify for preapproval. Members filling positions not included in the listing below must submit an application for Special Risk Class membership and must be approved by the division in order to be eligible for membership in the class.

In order to enroll a member with class codes below, the law enforcement officer must meet the statutory criteria for Special Risk Class membership. See Page 1-17.

LAW ENFORCEMENT	CLASS CODE
POSITION	
Airport Police Officer	02501
Bailiff	
Captain	
Career Deputy	
Deputy Detective	
Deputy/Law Enforcement	
Deputy/Road Patrol	
Deputy Sheriff	
Deputy Sheriff I, II, III	
Deputy Sheriff Patrol	
Detective	
In-House Deputy	
Investigator	
Investigator I, II, and III	
Judicial Support Officer	
Law Enforcement/Airplane Pilot	
Law Enforcement Corporal/Corporal Law Enforcement	
Law Enforcement Captain	
Law Enforcement Deputy	
Law Enforcement Detective	
Law Enforcement Lieutenant/Lieutenant Law Enforcement	
Law Enforcement Major	
Law Enforcement Sergeant/Sergeant Law Enforcement	
Patrol Deputy	
Patrol Officer	
Patrolman	
Police Officer I, II, and III	
Policeman	
Reserve Deputy	
Road Deputy	
School Police Officer	
School Safety Officer	
Security Specialist	
Security Officer	
Warrant Deputy I	
Warrant Officer I and II	
School Resource Officer	02599
Elected Police Chief	
County Sheriff (Special Risk Class)	02503

In order to enroll a member with class codes below, the corrections officer must meet the statutory criteria for Special Risk Class membership. See Page 1-17.

CORRECTIONS	
POSITION	CLASS CODE
Bailiff	03501
Corrections Counselor	
Corrections Deputy	
Correctional Officer I, II, and III	
Court Deputy	
Deputy Corrections	
Detention Officer	
Detention Captain	
Detention Corporal/Corporal Detention/Correctional Corporal	
Detention Deputy	
Detention Lieutenant/Lieutenant Detention/Correctional Lieutenant	
Detention Sergeant/Sergeant Detention/Correctional Sergeant	
Jailer	
Jailer/Correctional Officer	
Jail Deputy	

In order to enroll a member with the class code below, the firefighter must meet the statutory criteria for Special Risk Class membership. See Page 1-17

FIREFIGHTING	
POSITION	CLASS CODE
Airport Firefighter	04501
Aviation Firefighter	
Battalion Chief	
Company Fire Captain	
Driver/Engineer	
Driver/Operator	
Emergency Specialist	
Engineer	
Firefighter	
Firefighter I, II, and III	
Firefighter/Driver	
Fire Medic	
Fire Medic I, II and III	
Firefighter/Paramedic	
Firefighter/EMT	
Fire Rescue Lieutenant	
Fire Safety Specialist II	
Fire Service Technician	
Fire Service Technician/Paramedic	
Lieutenant	
Rescue Firefighter	

In order to enroll a member with the class code below, the emergency medical technician or paramedic must meet the statutory criteria for Special Risk Class membership. See Page 1-17

PARAMEDICS/EMTS	
POSITION	CLASS CODE
Charge Paramedic	05501
Emergency Medical Technician	
EMT I and II	
Firefighter/EMT	
Fire Medic I, II and III	
Fire Rescue Lieutenant	
Paramedic	
Paramedic I and II	

Change of Position

If the local agency Special Risk Class member changes to a position that is not preapproved for the Special Risk Class, you must submit an application as described above.

Dual Employment

See Page 1-65 for information on employees who are employed in more than one position at the same time where each position qualifies for a different class of membership.

Retroactive Coverage for Special Risk Class Service Performed from 10/1/78 through 6/30/82

Membership in the Special Risk Class may be claimed retroactively for service performed from October 1, 1978, through June 30, 1982, without the required certification or temporary waiver if:

- The member was removed from the Special Risk Class in October 1978 because the member did not have the required certification due to changes in the Special Risk Class criteria;
- The member obtained the appropriate certification and approval for Special Risk Class membership prior to June 30, 1982;
- The agency verifies the member met all other Special Risk eligibility criteria; and
- The member or employer pays the difference between contributions actually paid and the Special Risk Class contributions due during the period, plus interest.

NOTE: Unless otherwise permitted to upgrade previous service within the purview of the class (see Chapter 7, Part III, relating to Special Risk Class upgraded service), members who became eligible for the Special Risk Class on or after October 1, 1999, cannot claim service as Special Risk service before the position’s effective date of inclusion in the Special Risk Class.

Questions regarding Special Risk Class membership should be directed to the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

STATUTORY REFERENCE:

Sections 121.051 and 121.0515, Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.005, 1.0051, 1.0052, and 1.0053, Florida Administrative Code

D. SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS

The 1982 Legislature established the Special Risk Administrative Support Class for Special Risk Class members who are employed in or reassigned to a position that provides administrative support for a special risk employer, but whose positions do not continue to meet the criteria for Special Risk Class membership. This class provides retirement credit at the same percentage values that are provided for members of the Regular Class (ranging from 1.60 percent to 1.68 percent per year of service, depending on the member's normal retirement date), rather than the values granted to members of the Special Risk Class. However, a member can count this service toward the earlier special risk retirement date (see Chapter 9, Part I).

NOTE: To count such administrative support service toward the special risk normal retirement date, a member must have at least the number of years required to vest in Special Risk Class service or special risk-related service before retirement. Special risk-related service may include: Service earned as a member of the Highway Patrol Pension System; service earned in the High Hazard Class of the State and County Officers and Employees' Retirement System; service earned in the State and County Officers and Employees' Retirement System that satisfies the criteria of a Special Risk Class position; service as a correctional counselor between December 1, 1970, and September 30, 1979; or past service with a city or special district that has been purchased as, or been upgraded to, Special Risk Class service.

Eligibility Criteria

To be eligible for this class, the member must meet each of the following statutory criteria as provided in subsection 121.0515(8), Florida Statutes:

- The member must be employed by an agency whose primary purpose is law enforcement, firefighting, corrections, or emergency medical care or, if the employer has multiple responsibilities, the member must be employed by a unit of the agency whose primary purpose is law enforcement, firefighting, corrections or emergency medical care;
- The member must be employed or reassigned to a special risk administrative support position for training and/or career development, or to fulfill a critical agency need;
- The member must have previously participated in the Special Risk Class of the FRS;
- The member must remain certified by the appropriate authority; and
- The member must be subject to reassignment to a special risk position at any time.

Apply

To apply, complete and submit the following:

- Application for Special Risk Administrative Support Class Form ([FRS-404](#)).
- Current job description.
- Copy of appropriate certificate.
- A personnel document that includes the member's name, position title and the effective date that they begin filling the position.
- Additional documentation may be requested.

Enroll in Special Risk Admin. Support Class

To enroll a member for Special Risk Administrative Support Class membership, submit the appropriate contributions using the following plan codes:

- Pension Plan member – Plan Code HJ
- Investment Plan member – Plan Code PJ
- Investment Plan renewed member – Plan Code CJ (must have participated in Special Risk Class membership on or after July 1, 2017)

In the event the application for Special Risk Class Administrative Support Class membership is denied, the contributions will be adjusted by the division.

If a member does not accept the decision of the Division of Retirement, the member may petition the Division of Retirement for an administrative hearing on the denial of his or her application for Special Risk Administrative Support Class membership, pursuant to Sections 120.569 and 120.57, Florida Statutes.

Retroactive Coverage for Special Risk Administrative Support Class Service Performed from 10/1/78 through 6/30/82

Membership in the Special Risk Administrative Support Class may be claimed retroactively at no cost for certain service performed from October 1, 1978, through June 30, 1982, if:

- The member was removed from the Special Risk Class in October 1978 as a result of the change in the Special Risk Class criteria; or
- The member was reassigned or reemployed for training and/or career development, or to fill a critical agency need; and
- The member filled a position that met the requirements of the Special Risk Administrative Support Class during the retroactive period; and
- The member submits an Application for Special Risk Administrative Support Class Form ([FRS-404](#)) to the division.

NOTE: Unless otherwise permitted to upgrade previous service within the purview of the class (see Chapter 7, Part III, relating to Special Risk Class upgraded service), members who became eligible for the Special Risk Administrative Support Class on or after October 1, 1999, cannot claim service as Special Risk Administrative Support service prior to the position's effective date of entrance into the Special Risk Administrative Support Class.

See Page 1-65 for information on employees who are employed in more than one position where each position qualifies for a different class of membership.

Questions regarding the Special Risk Administrative Support Class should be directed to the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

STATUTORY REFERENCE:

Sections 121.051 and 121.0515, Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.0054 and 2.0041, Florida Administrative Code

E. ELECTED OFFICERS' CLASS

The following holders of state and local elective office, whether assuming office by election, reelection, or appointment, are compulsory members of the Elected Officers' Class (EOC), unless they are retired Pension Plan members ineligible for renewed membership; or they elect to retain membership in a different class or plan; or elect to withdraw from the FRS completely as provided on Page 1-32.

State Officers

Under section 121.052(2)(a), (b), and (c), Florida Statutes, the class includes any Governor, Lieutenant Governor, Cabinet Officer, Legislator, Supreme Court Justice, District Court of Appeal Judge, Circuit Judge, or State Attorney assuming office on or after July 1, 1972, any County Court Judge assuming office on or after October 1, 1974, and any Public Defender assuming office on or after July 1, 1977.

County Officers

Under section 121.052(2)(d), Florida Statutes, the class includes any constitutional county elected officer assuming office on or after July 1, 1981, including any sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court, county commissioner, school board member, elected school board superintendent, or on or after July 1, 1986, any elected officer of any entity with countywide jurisdiction who, pursuant to general or special law, exercises the power and duties of a constitutionally elected county officer.

Officers of Consolidated Local Government Chartered as Municipality

In 2002, section 121.052(2)(d), Florida Statutes, was amended to expressly include the sheriff and circuit court clerk of the City of Jacksonville unless the sheriff or clerk chose to remain in the local retirement system⁶.

Since February 2004, the mayor, property appraiser, tax collector, supervisor of elections, and council members of Jacksonville may also choose to participate in the FRS Elected Officers' Class or the local retirement system⁷. Existing elected officials were given until August 31, 2004,⁸ to elect to participate in the EOC.

Elected officials have six months from the date of their election to choose to participate in the FRS or the local retirement system. To enroll in the FRS Elected Officers' Class, future members must submit the Elected Officers' Class Retirement Plan Enrollment Form ([EOC-1](#)). Former elected officers of the consolidated local government may also choose to participate in the FRS.

⁶ Effective June 1, 2002, the Florida Legislature enacted Chapter 2002-273, Laws of Florida, to specifically authorize FRS participation by the sheriff and circuit court clerk in a consolidated government with countywide jurisdiction — the Consolidated City of Jacksonville — unless the sheriff or clerk elected to participate in the local retirement system.

⁷ Because conflicting language in the Jacksonville charter appeared to require all employees and officers of the City of Jacksonville to participate in the local plan, in November 2003, a question was posed to the Attorney General regarding eligibility of the Mayor, Sheriff, Clerk of Courts, Tax Collector, Property Appraiser, and Supervisor of Elections for membership in the FRS Elected Officers' Class. In Attorney General's Opinion 2003-46, a finding was made that, like the sheriff and circuit court clerk, Florida law authorizes these officers to participate in the FRS Elected Officers' Class or to choose to participate in the city's plan.

⁸ This deadline applied to any affected elected official who was serving in such office in February 2004 (the month that the City of Jacksonville was notified of this option by the division).

Public Service Commissioners

Under section 121.052(2)(e), Florida Statutes, the class includes any public service commissioner assuming office on or after July 1, 1972, but before July 1, 1979.

Municipal and Special District Elected Officers

Employers that join the FRS for their elected officers effective on or after January 1, 2010, can cover them under the Elected Officers' Class (instead of Regular Class) when they add the employee group.⁹ The elected officers of those municipalities and special districts that elected this option are now compulsory members of the Elected Officers' Class.

If you have questions, contact the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

Participation and Withdrawal

Participation in the Elected Officer's Class (EOC) is compulsory for any officer described on Page 1-31 unless the officer is a retired Pension Plan member ineligible for renewed membership; or elects membership in another class or plan; or withdraws from the FRS as follows:

- Any elected sheriff may elect to be a member of the Special Risk Class in lieu of the EOC by notifying the division in writing within six months of assuming office.
- Any elected officer elected on or after July 1, 1997, may elect to be a member of the Senior Management Service Class in lieu of the EOC by notifying the division in writing or on the Elected Officers' Class Retirement Plan Enrollment Form ([EOC-1](#)), within six months of assuming office.⁹ As a member of the SMSC, a county, city, or special district elected officer may elect to withdraw from the FRS altogether within 90 days of becoming a member of the SMSC.
- Any elected officer may elect to withdraw from the FRS by notifying the division in writing or on Elected Officers' Class Retirement Plan Enrollment Form ([EOC-1](#)) within six months of assuming office.
- Any elected officer who is or becomes dually employed while holding an elected office and is a member of the FRS or one of the closed retirement systems may elect membership in any system, plan, or class for which the elected officer is eligible. Upon becoming dually employed, the elected officer has six months to notify the division in writing of the decision.
- Any elected officer who fails to notify the division of the desire to withdraw from the FRS or participate in another class for which the elected officer is eligible within the six-month period will be a compulsory member of the EOC.

An officer elected or appointed is required to be enrolled in the EOC effective upon the date the officer assumes office.

NOTE: Re-elected members of the EOC are not required to notify the division unless they wish to withdraw from the FRS altogether, or to change to a different plan or class for which they may be eligible.

⁹ Under section 121.052(2)(f) and (3)(e), Florida Statutes, the governing body of a municipality or special district had the option to elect to designate all of its elected positions for inclusion in the EOC for elected officers actively holding office before each respective window period. Window periods were provided from July 1, 1997, through December 31, 1997, from July 1, 2001, through December 31, 2001, and from July 1, 2009, to December 31, 2009.

See Page 1-65 for information on employees who are employed in more than one position where each position qualifies for a different class of membership.

To Enroll in the EOC

- Complete and submit Elected Officers’ Class Retirement Plan Enrollment Form ([EOC-1](#)).

EOC Class Codes

The following class codes should be used when enrolling and reporting officers in the EOC for both the Pension Plan and the Investment Plan

EOC CLASS CODES FOR FRS PENSION PLAN OR INVESTMENT PLAN	
Position	Class Code
Tax Collector	01002
Property Appraiser	01003
Supervisor of Elections	01004
Clerk of Circuit Court	01005
County Commissioner	01006
District School Board Member	01007
Elected District School Superintendent	01008
Elected Officer with countywide jurisdiction*	01009
Sheriff (Elected Class)**	01012
* An elected officer who pursuant to general or special law exercises powers and duties that, except for such law, would be exercised by a constitutional elected officer.	
** Class code for this group changed in September 2001 (the prior code was 01001).	

EOC Retirement Plan Codes

Report the elected officer on the agency’s monthly Retirement Report under the appropriate retirement class codes shown above and plan codes, as shown in the following tables.

NON-RETIRED EOC MEMBERS WHO ELECT TO JOIN THE EOC		
Elective Office	Retirement Plan Code	Investment Plan Code
Judges	HC	PC
Legislators	HE	PE
Governor/Lt. Governor/Cabinet Members	HG	PG
State Attorney, Public Defender	HH	PH
County, City and Spec. District Elected Officers	HI	PI

NON-RETIRED EOC MEMBERS WHO ELECT TO JOIN THE SMSC		
Elective Office	Retirement Plan Code	Investment Plan Code
Judges	HP	PP
Legislators	HP	PP
Governor/Lt. Governor/Cabinet Members	HP	PP
State Attorney, Public Defender	HP	PP
County, City and Spec. District Elected Officers	HQ	PQ

NON-RETIRED EOC MEMBERS WHO OPT OUT OF SMSC FOR THE SMSOAP (for state employees only)	
Elective Office	Retirement Plan Code
Judges	OM
Legislators	OM
Governor/Lt. Governor/Cabinet Members	OM
State Attorney, Public Defender	OM

Retired EOC Members

- Membership in the EOC is compulsory for retirees elected or appointed to EOC positions on or after July 1, 1990, through June 30, 2010 (see Page 1-72).

RETIRED EOC MEMBERS (Pension Plan After July 1, 2010 and Investment Plan After July 1, 2017)		
Elective Office	Pension Plan Code	Investment Plan Code
County, City and Spec. District Elected Officers	UI	CI

If you have questions, contact the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

Withdrawals of EOC Members

- If the member elects to withdraw from the FRS, report the officer’s salary with the appropriate class code and position number with the zero contributions under the following plan codes.
- The division will make the necessary adjustments to a member’s account due to a withdrawal from the FRS or election of another eligible class.

NON-RETIRED EOC MEMBERS WHO WITHDRAW

**(Pension Plan After July 1, 2010, and
Investment Plan After July 1, 2017)**

Elective Office	Pension Plan Code	Investment Plan Code
County, City and Spec. District Elected Officers	HO	PO

STATUTORY REFERENCE:

Section 121.052, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0055, Florida Administrative Code

Class Codes

The following class codes should be used when enrolling and reporting officers in the EOC for both the Pension Plan and the Investment Plan

EOC CLASS CODES FOR FRS PENSION PLAN OR INVESTMENT PLAN	
Position	Class Code
Tax Collector	01002
Property Appraiser	01003
Supervisor of Elections	01004
Clerk of Circuit Court	01005
County Commissioner	01006
District School Board Member	01007
Elected District School Superintendent	01008
Elected Officer with countywide jurisdiction*	01009
Sheriff (Elected Class) **	01012

* An elected officer who pursuant to general or special law exercises powers and duties that, except for such law, would be exercised by a constitutional elected officer.

** Class code for this group changed in September 2001 (the prior code was 01001).

Miscellaneous Provisions

- Membership in the EOC is compulsory for retirees elected or appointed to EOC positions on or after July 1, 1990, through June 30, 2010 (see Page 1-72).
- The division will make any adjustments to a member’s account necessary due to a withdrawal from the FRS or election of another eligible class.

STATUTORY REFERENCE:

Section 121.052, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0055, Florida Administrative Code

F. SENIOR MANAGEMENT SERVICE CLASS

1. State Agencies

State Executive and Legislative Branch Employees

Membership in the SMSC shall be compulsory for the following positions for eligible members. Retirees of the Pension Plan are not eligible for membership in the SMSC:

- Effective February 1, 1987, positions assigned to the Senior Management Service with a state agency;
- Effective January 1, 1990, certain legislative managers (selected by the Speaker of the House of Representatives and President of the Senate), the Auditor General and the managerial staff selected by the Auditor General, and the Executive Director of the Ethics Commission;
- Effective January 1, 1991, certain managerial positions with the State Board of Administration – senior managers who have policy-making authority as determined by the Governor, Chief Financial Officer, and Attorney General, acting as the State Board of Administration;
- Effective July 1, 1996, the following positions with the Department of Military Affairs: Adjutant General, Assistant Adjutant General-Army, Assistant Adjutant General-Air, State Quartermaster, Director of Human Resources, Director of Legislative Affairs, Inspector General, Executive Officer and additional directors as designated by the agency head, not to exceed a total of ten positions;
- Effective July 1, 1999, the Deputy Chief Judge of Compensation Claims or as a judge of compensation claims with the Office of the Judges of Compensation Claims within the Division of Administrative Hearings; and
- Effective June 1, 2002, county health department directors and county health department administrators of the Department of Health.

Retirement Plan Options for State Senior Managers

Prior to July 1, 2017, a state employee who is appointed or employed in one of the eligible SMSC positions could elect membership in the SMSC or elect to withdraw from the SMSC within 90 days of employment to enroll in the SMSOAP (see Page 1-52 for additional information on the SMSOAP). The SMSOAP allowed eligible employees to choose among retirement annuity contracts purchased by the State from designated insurance companies, in lieu of FRS membership. Effective July 1, 2017, the SMSOAP is closed to new membership.

Effective July 1, 2017, upon initial employment, a senior manager may elect membership in the FRS Pension Plan or Investment Plan prior to the end of the eighth month following the date of hire. Employees who elect membership in either the FRS Pension Plan or the FRS Investment Plan are allowed one opportunity, after the initial choice and prior to retirement, to transfer to the other plan. Membership in the SMSC is irrevocable as long as the member remains in an eligible position.

Any member eligible for membership in the SMSC who is a member of a closed retirement system may elect to remain in the current retirement plan or, transfer to the SMSC. This election must be made in writing and filed with the personnel office of the employer and the division within 90 days after employment begins in an SMSC position.

Any state employee participating in the Special Risk Class or Special Risk Administrative Support Class who is also eligible for membership in the SMSC may elect to transfer to the SMSC, if the SMSC position is eligible or remain in the Special Risk Class or Special Risk Administrative Support Class. This election must be made in writing and filed with the personnel office of the employer and the division within 90 days after employment begins in an SMSC position.

FRS Investment Plan Option

Within the first 60 to 90 days of enrollment as a SMSC-eligible senior manager, the third-party administration will provide plan choice information on electing membership in the FRS Investment Plan or Pension Plan. For more information, call the MyFRS help line for employers at 866-377-2121.

Prior to making an election, the SMSC-eligible member should be reported in the Pension Plan by selecting Plan Code HM in People First.

State Agency Employees in SMSC

A SMSC employee is required to be reported in the FRS Pension Plan prior to making an active election or defaulting. Once the member makes a first election or defaults the appropriate plan code should be entered in People First.

- Pension Plan member select Plan Code HM in People First.
- Investment Plan member select Plan Code PM in People First.

STATUTORY REFERENCE:

Section 121.055, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0057, Florida Administrative Code

Judicial Branch Employees

Effective January 1, 1994, the following judicial employees are included in the SMSC: State Courts Administrator and Deputy State Courts Administrators, Clerk of the Supreme Court, Marshal of the Supreme Court, Executive Director of the Justice Administrative Commission, Capital Collateral Regional Councils, Clerks of the District Courts of Appeals, Marshals of the District Courts of Appeals, and the Trial Court Administrator.

Effective June 1, 2002, the Chief Deputy Court Administrator in each judicial circuit is included in the SMSC.

Effective January 1, 2001, the following judicial employees are included in the SMSC: Assistant State Attorneys, Assistant Statewide Prosecutors, Assistant Public Defenders, and Assistant Capital Collateral Regional Councils. These employees were not permitted to join the SMSOAP.

Since January 1, 2002, Assistant Attorneys General have been included in the SMSC. These employees were not permitted to join the SMSOAP.

NOTE: These employees were not permitted to join the SMSOAP prior to the program's closing on July 1, 2017.

Since January 1, 1994, the public defender and state attorney in each of the 20 judicial circuits have been permitted to designate additional positions in their offices to be included in the SMSC (see Page 1-42 for additional information).

Effective July 1, 2020, the following judicial employees are included in the SMSC: appointed Criminal Conflict and Civil Regional Counsel and each district's Assistant Regional Counsel Chiefs, Administrative Directors, and Chief Investigators.

University Presidents and Members Appointed to University Executive Service

Effective January 1, 1991, any member in a position that has been designated eligible for inclusion in the Executive Service of the State University System or who holds a position as president of a state university is a compulsory member of the SMSC, unless the member elect's membership in the SUSORP, as provided in subsection 121.055(1)(d), Florida Statutes.

The member should be enrolled in the SUSORP at the beginning of employment or the date the position is designated to the Executive Service. If the member fails to elect membership in the SUSORP by completing an [ORP-ENROLL-1](#) and executing a contract with an approved SUSORP provider company within 90 days of eligible employment the member will be automatically enrolled in the FRS. Membership in the SUSORP or the SMSC is irrevocable as long as the member remains in an eligible position.

See Chapter 7, Part III, relating to SMSC upgraded service, for information on upgrading SMSC service and Page 1-60 for information on employees who are employed in more than one position in different classes of membership.

STATUTORY REFERENCE:

Section 121.055, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0057, Florida Administrative Code

2. Local Agencies

State Community College System Presidents, Superintendents, and County/City Managers

Compulsory Membership

Effective January 1, 1990, Community College Presidents, Appointed District School Superintendents, County Managers (County Administrators) and City Managers (City Administrators) of local governments became compulsory members of the SMSC of the FRS. In lieu of participation in the SMSC, as of July 1, 1999, such members may withdraw at any time from the FRS altogether. Such senior managers are no longer required to participate in a lifetime monthly annuity as a condition of withdrawing from the FRS. In addition, employers who established such annuities before July 1, 1999, are no longer required to fund these annuities with contributions equal to the SMSC retirement contribution rate and are permitted to change the terms of the annuity. The decision to withdraw from the FRS is irrevocable¹⁰ for as long as the affected employee holds such a position.

Closed System Members

Any member eligible for membership in the SMSC who is a member of a closed retirement system may elect to remain in the current retirement plan, transfer to the SMSC, or withdraw at any time from the FRS altogether in lieu of SMSC membership.

Compulsory Local Agency Employees

To Enroll in SMSC

1. For compulsory SMSC employees who wish to remain in the FRS, the member should complete and submit the Local Senior Management Service Employees Retirement Plan Enrollment Form ([SMS-3](#)), and the agency should include the member's approved position number on the form and report using the following plan codes:
 - Pension Plan member - Plan Code HM
 - Investment Plan member - Plan Code PM

Withdraw from the FRS

3. For compulsory SMSC employees who elect to withdraw from the FRS altogether (whether from their date of employment or at a later date), the member should complete the Local Senior Management Service Employees Retirement Enrollment Plan Form ([SMS-3](#)), and the agency should report these employees on the monthly retirement report with the members' approved position number, salary and zero contributions using the following plan codes:
 - Pension Plan member - Plan Code HO
 - Investment Plan member - Plan Code PO

¹⁰ Notwithstanding this provision, the 2005 Florida Legislature established a six-month window of opportunity for any SMSC-eligible local manager who had withdrawn from the FRS to re-enroll in the FRS from January 1, 2006, through June 30, 2006.

Optional Designation of SMSC Eligibility

Effective January 1, 1994, local governments, community college boards of trustees, and certain Judicial Branch employers may designate a limited number of additional positions to be included in the SMSC. Employers must publish a notice of intent once a week for two consecutive weeks in a publication that meets the requirements of chapter 50, Florida Statutes, before designating a position to be included. Each designated position must be:

- A nonelective managerial or policymaking position;
- Filled by an employee who is not subject to a continuing contract and serves at the pleasure of the employer without civil service protection; and
- Filled by an employee who is head of an organizational unit or has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in the areas of responsibility.

To designate a local agency position, the employer must complete and submit the Senior Management Service Class Designated Position Form ([SMSD-1](#)), designating the position to the SMSC. Once a local agency position is designated, it remains in the SMSC as long as it satisfies the above criteria.

Designation Limits

Local Government Positions — Effective July 1, 2000, each local government agency may designate up to ten additional qualified positions (in addition to the city or county manager or appointed school superintendent) to be included in the SMSC. If the agency has 100 or more regularly established positions, it can also designate one additional senior management position for every 100 regularly established positions, as long as the number of additional positions does not exceed 1 percent of the regularly established positions in the local agency.

State Community College System Positions — Each community college may designate ten additional qualified positions (in addition to community college presidents) to be included in the SMSC. In addition, if the community college has 100 or more regularly established positions, it can also designate one additional senior management position for every 100 regularly established positions, as long as the number of additional positions does not exceed 1 percent of the regularly established positions in the community college.

Judicial Branch Positions — The office of each public defender and state attorney may designate at least one additional qualified position in the office for membership in the SMSC. If the office of the public defender or state attorney has 200 or more regularly established positions, it can also designate one additional senior management position for every 200 regularly established positions, as long as the additional number does not exceed 0.5 percent of the regularly established positions in such office.

See Chapter 7, Part III, for information on upgrading SMSC service.

STATUTORY REFERENCE:

Sections 121.055 and 121.35, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0057, Florida Administrative Code

G. STATE UNIVERSITY SYSTEM OPTIONAL RETIREMENT PROGRAM

The State University System Optional Retirement Program (SUSORP) is a defined contribution plan qualified under section 403(b) of the Internal Revenue Code. As of July 1, 2021, there are four approved SUSORP investment provider companies offering annuities and mutual funds: AIG (VALIC), Equitable, TIAA, and Voya. SUSORP benefits are determined by the performance of each the member's investment choices funded by employer and employee contributions.

SUSORP Eligibility

Eligibility for membership in the SUSORP is limited to employees filling the following university positions:

- Instructional and research faculty positions that are exempt from career service under the provisions of section 110.205(2)(d), Florida Statutes.
- Administrative and Professional positions that are exempt from career service under the provisions of section 110.205(2)(d), Florida Statutes.
- The Chancellor of the State University System and the president of each state university.
- Executive Service positions of the State University System section 121.055(1)(d), Florida Statutes.

SUSORP Reporting

As a statutory requirements and measure to ensure the prompt disbursement of a SUSORP member's retirement contributions, employers must initially report eligible employees under the SUSORP beginning with their first day of employment in a SUSORP-eligible position.

Complete SUSORP Member Enrollment Process

To become a member of the SUSORP, an employee must complete the enrollment process within the first 90 days of employment in an eligible position at a university. Completing the enrollment process requires:

1. The employee and the employer to review, complete, and submit the [ORP-ENROLL-1](#) to the Division of Retirement (division) within 90 days of employment in an eligible position; and
2. The employee to execute a SUSORP contract with at least one approved SUSORP investment provider company.

The [ORP-ENROLL-1](#) requires the employees to choose at least one investment provider company and designate the percentage(s) of mandatory and voluntary contributions to be allocated to their chosen provider(s).

Default Election to FRS

If an employee does not complete the enrollment process for the SUSORP within the first 90 days of employment:

1. The employee will be deemed to have elected membership in the FRS. To enroll in the FRS Investment Plan or Pension Plan, an active election must be made by the last day of the eighth month following the employee's initial date of hire.
2. Similarly, an employee who terminates employment before executing an investment provider company contract and notifying the division will also be deemed to have elected membership in the FRS.

Active Election for FRS

Initially hired employees may enroll in either the FRS Pension Plan or the FRS Investment Plan. FRS membership will be retroactive to the date of SUSORP eligibility, and all appropriate contributions will be transferred from the SUSORP Trust Fund to the FRS and HIS Trust Funds.

A SUSORP-eligible employee may actively elect membership in the FRS by completing the General Retirement Plan Enrollment Form ([ELE-1](#)), or EZ Retirement Plan Enrollment Form ([ELE-1 EZ](#)). To enroll in the FRS Pension Plan an election must be made by the last day of the eighth month or the employee will be deemed to have elected membership in the FRS Investment Plan.

Mandatory SUSORP Membership

An employee in a faculty position at a college with a faculty practice plan is a mandatory SUSORP member and cannot elect to enroll in the FRS.

1. The employee and the employer must review, complete, and submit the State University System Optional Retirement Program (SUSORP) Mandatory Participation Form ([ORP-MAND-1](#)) to the division; and
2. The employee must execute a SUSORP contract with at least one approved SUSORP investment provider company.

Legislation for mandatory SUSORP membership initially included University of Florida (J. Hillis Miller Health Center) and the University of South Florida (Medical Center at USF), however, four universities have been added: Florida International University, Florida Atlantic University, The University of Central Florida, and Florida State University. Section 121.051, F.S., Florida Statutes states: Effective July 1, 2008, any person appointed to a faculty position, including clinical faculty, in a college at a state university that has a faculty practice plan authorized by the Board of Governors may not participate in the Florida Retirement System. A faculty member so appointed shall participate in the optional retirement program for the State University System notwithstanding s. 121.35(2)(a), Florida Statutes.

Previous FRS Investment Plan and Pension Plan Membership

If an active FRS Investment Plan or FRS Pension Plan member is employed in an SUSORP-eligible position, the member must complete the required SUSORP enrollment form and execute a contract with an investment provider company within 90 days of employment to become a member of the SUSORP.

Required Employer and Employee Retirement Contributions

The employer and the employee are required by law to contribute a percentage of the employee's retirement eligible salary. The total contribution is divided as follows:

- Both the employee and the employer contribute a percentage of pay to the employee's investment account(s); and
- An employer contribution percentage pays for administrative costs; and
- An employer contribution percentage is transferred to the FRS Trust Fund to pay any unfunded actuarial liability (if applicable). This employer funding requirement is not part of the SUSORP benefit.

The division will place SUSORP contributions submitted on behalf of an employee in the SUSORP Trust Fund; however, the contributions will not accrue interest for the member until the member has completed the SUSORP enrollment process by submitting an enrollment form to the division and executing a SUSORP contract with at least one approved SUSORP investment provider company.

If a SUSORP-eligible employee actively elects FRS membership or is defaulted to FRS membership as described on Page 1-45, FRS membership will be retroactive to the date of SUSORP eligibility, and all appropriate contributions will be transferred from the SUSORP Trust Fund to the FRS and HIS Trust Funds.

Voluntary Employee Contributions

In addition to required employer and employee contributions, the SUSORP member may elect to contribute voluntary employee contributions as a percentage of the adjusted gross taxable income (not to exceed the contribution rate paid by the employer to the member's investment account(s), less the administrative cost to the SUSORP account.) Any voluntary employee contributions will be treated as an Internal Revenue Code section 403(b) contribution and will be excluded from federal income tax but will be subject to Social Security (see Page 1-84). Employees are responsible for ensuring that their individual tax-deferred contributions do not exceed federal maximum amounts and/or salary percentages.

Investment Provider Company and Contribution Changes

To change the investment provider company to which contributions are disbursed or adjust the percentage of employee voluntary contributions, the SUSORP member and the employer must review, complete, and submit the State University System Optional Retirement Program (SUSORP) Change Form ([ORP-CHANGE-1](#)) to the division.

When selecting a new investment provider company, the member must contact the company and execute a new contract and notify their former SUSORP provider company of the changes to the percentage of pay being deposited.

For a SUSORP member to transfer investment funds from one investment provider company to another investment provider company, the member should contact the investment provider company and request a "Contract Exchange". The member cannot use the [ORP-CHANGE-1](#) to transfer investment funds between provider companies.

In-Service Distributions, Hardship Distributions, and Loans

All members must be terminated from employment to receive a distribution of employer or employee contributions or related earnings from a SUSORP investment account. In-service distributions, hardship distributions and loans are not allowed from a SUSORP investment account for any employer or employee contributions or related earnings. SUSORP contributions, including employee contributions, are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence.

Following termination, distributions are only allowed for the following reasons:

1. a requested distribution for retirement,
2. a refund of voluntary contributions,
3. a mandatory de minimis distribution authorized by the administrator, or
4. a Required Minimum Distribution (RMD) pursuant to the Internal Revenue Code.

Non-Retirement Distributions

Refunds of employee voluntary contributions and Required Minimum Distributions (RMD) are not retirement distributions.

Refunds of Employee Voluntary Contributions

To request approval for a refund of voluntary contributions, the member and the employer must review, complete and submit the State University System Optional Retirement Program (SUSORP) Application for Refund of Voluntary Employee Contributions Only ([ORP-REFUND-1](#)) to the division.

Approval for a refund of voluntary contributions will be sent to the member's investment provider company on file once the member has met the eligibility requirement — termination from all FRS employers.

Upon approval of a refund of voluntary contributions, the member's investment provider company will release the withdrawal amount requested by the member via the investment provider company's withdrawal request process. The member should contact the investment provider company to request instructions regarding their withdrawal request process for a refund of voluntary contributions.

Required Minimum Distribution (RMD) Regulations

Terminated members age 73 and older who have not started taking SUSORP retirement distributions are subject to the IRS Required Minimum Distributions (RMD) regulations.

- RMD is not required nor permitted if the SUSORP member is still employed.

To request approval for an RMD, the member and the employer must review, complete, and submit the State University System Optional Retirement Program (SUSORP) Application for a Required Minimum Distribution ([ORP-RMD-1](#)) to the division.

Approval for an RMD will be sent to the member's investment provider company on file once the member has met the eligibility requirement — termination from all FRS employers.

Upon approval of an RMD, the member's investment provider company will release the withdrawal amount requested by the member via the investment provider company's withdrawal request process. The member should contact the investment provider company to request instructions regarding their withdrawal request process for an RMD.

Historical RMD Age Requirements

Age 75 (Future) — Effective January 1, 2033, The RMD age requirement will increase to age 75 in accordance with provisions set forth in the Consolidated Appropriations Act, 2023, P.L. 117-328. If the terminated SUSORP member's 75th birthday will occur on or after January 1, 2033, their first RMD must be taken by April 1, 2034. All subsequent-year RMDs must be taken by December 31st. An RMD will not be approved for such a member prior to January 1, 2033.

Age 73 (Current) — Effective January 1, 2023, changes were made by the Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0 which was part of the Consolidated Appropriations Act, 2023, P.L. 117-328. If the terminated SUSORP member's 73rd birthday occurs in the current year, their first RMD must be taken by April 1st of the following year. All subsequent-year RMDs must be taken by December 31st.

Age 72 — Effective December 31, 2019, changes were made by the Setting Every Community Up for Retirement Enhancement (SECURE) Act which was part of the Further Consolidated Appropriations Act, 2020, P.L. 116-94. If the terminated SUSORP member's 70th birthday was July 1, 2019, or later, the member could delay RMD withdrawals until April 1st of the year after they turned age 72. All subsequent-year RMDs must be taken by December 31st.

Age 70^½ — Prior to December 31, 2019, under federal law (see section 401(a)(9), Internal Revenue Code, as applied by section 1.403(b)-3, Code of Federal Regulations), benefits from SUSORP and similar plans could not be deferred beyond April 1st of the year after the member reached age 70^½. All subsequent-year RMDs must be taken by December 31st. These 1987 regulations are based on the Tax Reform Acts of 1984 and 1986.

SUSORP Retirement Distributions

SUSORP retirement benefits are payable by the designated investment provider company according to terms of the member's investment contract(s) applicable to the member. Retirement benefits are subject to withholding taxes as required by the Internal Revenue Service (IRS). The benefits are only payable to a vested member in the program; the designated beneficiary or beneficiaries; or the estate.

Benefits funded by employer and employee contributions are paid by the method in the member's investment contract and may include the following methods:

1. A lump-sum distribution to the member; or
2. A lump-sum direct rollover distribution where all accrued benefits, plus interest and investment earnings, are paid from the member's account directly to an eligible retirement plan on behalf of the member; or
3. Periodic distributions; or
4. A partial lump-sum payment where a portion of the accrued benefit is paid to the member and the remaining amount is transferred to an eligible retirement plan on behalf of the member; or
5. Other distribution options as provided in the member's SUSORP contract.

Benefits funded by employer and employee contributions are paid to the member's beneficiary or beneficiaries as follows:

1. A lump-sum distribution payable to the beneficiary or beneficiaries or to the deceased member's estate;
2. An eligible rollover distribution on behalf of the surviving spouse of the deceased member, where all accrued benefits, plus interest and investment earnings, are paid from the deceased member's account directly to an eligible retirement plan on behalf of the surviving spouse;
3. Other distribution options as provided for in the member's SUSORP; or
4. A partial lump-sum payment where a portion of the accrued benefit is paid to the deceased member's surviving spouse or other designated beneficiaries, less withholding taxes remitted to the IRS, if any, and the remaining amount is transferred directly to an eligible retirement plan, as described in section 402(c)(8)(B) of the Internal Revenue Code, on behalf of the surviving spouse. The member or the surviving beneficiary must specify the proportions.

SUSORP Retirement Requirements

For a SUSORP member to become eligible to receive a retirement distribution, the member must terminate all employment relationships with all FRS employers for three full calendar months. During these three full calendar months following the termination date, the member cannot provide services in any capacity to any FRS employer. Providing services to any FRS employer in any capacity during this three-calendar month period will make a member ineligible to receive a retirement distribution.

SUSORP members who have reached normal retirement age as provided in section 121.021(29), Florida Statutes, may request an early, up to 10 percent, retirement distribution after one full calendar month of termination with all FRS employers. The 10 percent applies to the total balance of the member's SUSORP account(s). During this calendar month following the termination date, the member cannot be in an employment relationship and must cease providing services to all FRS employers.

How to Retire

Any distribution funded by mandatory employer and/or mandatory employee contributions and related earnings, other than (a) a Required Minimum Distribution (RMD), (b) a refund of employee contributions, or (c) a De Minimis distribution is a retirement distribution, including direct rollovers to a non-SUSORP qualified plan.

To request approval for a retirement distribution, the member and the employer must review, complete, and submit the State University System Optional Retirement Program (SUSORP) Application for Retirement Distribution ([ORP-RETIRE-1](#)) to the division. If eligible, members requesting an early, up to 10 percent, distribution must complete the required section on the [ORP-RETIRE-1](#).

Approval for a retirement distribution will be sent to the member's investment provider company on file once the member has met the eligibility requirement — termination from all FRS employers for three full calendar months or one full calendar month for early retirement distributions.

Upon approval of a retirement distribution, the member's investment provider company will release the withdrawal amount requested by the member via the investment provider company's withdrawal request process. The member should contact the investment provider company to request instructions regarding their withdrawal request process.

Termination Requirement

During the 6 calendar months following a member's retirement, the member is subject to termination limitations.

Beginning July 1, 2023, Volunteer Services in accordance with section 121.091(15), Florida Statutes do not constitute employment by or provision of services to an FRS employer.

Termination Requirement – Calendar Months 1-6

During the first six calendar months following the month a retiree received the initial retirement distribution date, the retiree cannot be in an employment relationship with and must cease providing services to all FRS employers. An employment relationship with an FRS employer in any capacity during this six-calendar month period may void the retiree's retirement and the retiree and the FRS employer may be held jointly and severally liable for repayment of all retirement benefits received. This means that each party can be held fully responsible for the repayment of the total amount of retirement benefits. There are no exceptions to the six-calendar month termination requirement.

Section 121.021(39)(a)2. F.S., states: For retirements effective on or after July 1, 2010, if a member is employed by any [FRS] employer within the next six calendar months, termination shall be deemed not to have occurred.

Beginning July 1, 2024, there is no longer a reemployment limitation; beginning with the 7th calendar month from the member's distribution date, there are no restrictions on working for an FRS employer.

From July 1, 2010, to June 30, 2024, during the 7th through 12th calendar months following the member's retirement distribution date, the retiree could have engaged in an employment relationship with or provided services to an FRS employer if, and only if, the retiree suspended all distributions from his or her SUSORP account.

Example: Termination Requirements Periods

July	Month of termination
August – October	Three full calendar months
November	Month of distribution
December – May	Calendar Months 1-6 - Termination Requirement

Normal Retirement Distributions

Up to 10 percent of the member’s SUSORP account may be distributed to a member who has been terminated for one calendar month if the member has reached the requirements for FRS normal retirement date as provided in section 121.021(29), Florida Statutes.

- Eligible for up to 10 percent of assets beginning the second calendar month after termination.
- Eligible for the balance of assets beginning the fourth full calendar month after termination.
- SUSORP members must still cease all employment relationships with FRS employers for three full calendar months to maintain eligibility for the 10 percent distribution and become eligible for the balance of their SUSORP assets.

Normal Retirement Age for SUSORP Members

If hired before July 1, 2011, normal retirement age is:

- Age 62; or

If hired after July 1, 2011, normal retirement date is:

- Age 62; or

If hired after July 1, 2011, normal retirement date is:

- Age 65

Employment After Retirement in a SUSORP Position

If a former SUSORP member returns to employment following a distribution and satisfying the termination requirements, the employee is covered under the provisions of section 121.091(9)(c), Florida Statutes and the employer must make the contributions equal to the unfunded actuarial liability (UAL) portion of the employer contribution required of active members in addition to the contributions required in section 121.76, Florida Statutes.

Retirees initially reemployed on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership in the SUSORP or the FRS; however, HIS contributions and UAL contributions are required on the salaries of these reemployed retirees.

Effective July 1, 2017, FRS Pension Plan retirees are still ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after July 1, 2017, are eligible for renewed membership. Effective July 1, 2017, these renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

For more information about the SUSORP, please contact:

- **Division of Retirement, Contributions Section** - Receives and balances biweekly Retirement Reports from SUSORP employers and answers employer questions about reporting requirements. You may call this section toll-free at 877-377-1266 or 850-907-6540, or email contributions@dms.fl.gov.
- **Division of Retirement, Optional Retirement Program Section** - Determines member eligibility, enrolls members, establishes investment provider company selections, accumulates, balances, transmits contributions for biweekly and monthly Retirement Reports, makes contribution adjustments, and liaises with SUSORP provider companies and the Florida State Board of Administration. You may call this section toll-free at 877-378-7677 or 850-778-4696, or email orpdata@dms.fl.gov.

STATUTORY REFERENCE:

Section 121.35, Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.0057, Florida Administrative Code

H. SENIOR MANAGEMENT SERVICE OPTIONAL ANNUITY PROGRAM

The Senior Management Service Optional Annuity Program (SMSOAP) is a defined contribution plan qualified under section 401(a), IRC, available only to senior-level managers employed with the State of Florida, the Florida State Board of Administration, the Legislature, the Auditor General and the managerial staff, the Executive Director of the Ethics Commission, and Judicial Branch employees who are eligible for membership in the Senior Management Service Class (SMSC)¹¹. The SMSOAP is closed to new members effective July 1, 2017; members who have not distributed and become retired may continue membership in the SMSOAP. Active members enrolled prior to July 1, 2017, may also continue membership in the SMSOAP. As of July 1, 2021, there are four approved SMSOAP investment provider companies offering annuities: AIG (VALIC), Equitable, TIAA, and Voya. SMSOAP benefits are determined by the performance of each the member's investment choices funded by employer and employee contributions.

SMSOAP Eligibility and Plan Options

SMSOAP-eligible employees are those who were initially enrolled in the SMSOAP prior to July 1, 2017, in lieu of membership in the SMSC and have not retired. Eligible employees must elect membership in the SMSOAP within 90 days after their date of hire in an eligible SMSC position. The employee cannot be an active member of any FRS class of the Pension Plan or Investment Plan or a closed retirement system and the SMSOAP simultaneously. Once the period for exercising an option expires, the retirement plan choice is irrevocable for as long as the employee remains in an eligible SMSC position.¹²

Senior managers with local employers are not eligible to enroll in the SMSOAP. If an eligible employee elects membership in the FRS Investment Plan or the FRS Pension Plan, the employee may at any time use their remaining election to transfer to the FRS Pension Plan or the FRS Investment Plan, respectively. The transfer provisions are subject to the conditions provided by law.

Membership Exclusions

The following Judicial Branch positions are covered by the SMSC but were not permitted to elect membership in the SMSOAP: Assistant State Attorneys, Assistant Statewide Prosecutors, Assistant Public Defenders, Assistant Capital Collateral Regional Counsels, and Assistant Attorneys General.

Options for Reemployed SMSOAP Retirees

Effective July 1, 1997, through June 30, 2010, reemployed SMSOAP retirees could become members of the Pension Plan, the Investment Plan, or, if they were reemployed in an eligible position, the SMSOAP. See Page 1-72 for additional information on renewed membership. Retirees initially reemployed on July 1, 2010, through June 30, 2017, were not eligible for renewed membership and could not enroll in the SMSOAP.

Effective July 1, 2017, FRS Pension Plan retirees remain ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after

¹¹ See Page 1-31 for additional information on the SMSC.

¹² SMSOAP participants actively employed were given a one-time irrevocable opportunity to transfer back into the FRS Pension Plan between July 1, 2002, and September 30, 2002.

July 1, 2017, are eligible for renewed membership. Effective July 1, 2017, these renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

SMSOAP Contributions

The employer and the member are required to contribute a percentage of the member's salary on behalf of the member. This percentage is set by statute and includes the portion that would otherwise go to the health insurance subsidy. The rate is different from the SMSC blended rates applicable to the FRS Pension Plan and the FRS Investment Plan.

The SMSOAP contributions submitted on behalf of an employee will be placed in a holding account and will not accrue interest until the completed the SMSOAP enrollment process by submitting an enrollment form to the division and executing a SMSOAP contract with at least one approved SMSOAP investment provider company. Therefore, it is in the employee's best interest to make this decision as soon as possible. Once an investment provider company has been selected, the funds will be transferred from the SMSOAP Trust Fund to the investment provider company or companies the member selects.

Voluntary Employee Contributions

In addition to required employer and employee contributions, the SMSOAP member may elect to contribute a voluntary amount of the adjusted gross taxable income, not to exceed the contribution to the member's account paid by the employer.

Investment Provider Company and Contribution Changes

To change the investment provider company to which contributions are disbursed or adjust the percentage of employee voluntary contributions, the SMSOAP member and the employer must review, complete, and submit the Senior Management Service Optional Annuity Program (SMSOAP) Change Form ([OAP-CHANGE](#)) to the division.

When selecting a new investment provider company, the member must contact the company and execute a new contract and notify their former SUSORP provider company of the changes to the percentage of pay being deposited.

For a SMSOAP member to transfer investment funds from one investment provider company to another investment provider company, the member should contact the investment provider company and request a "Contract Exchange". The member cannot use the [OAP-CHANGE](#) to transfer investment funds between provider companies.

In-Service Distributions, Hardship Distributions, and Loans

All members must be terminated from employment to receive a distribution of employer or employee contributions or related earnings from a SMSOAP investment account. In-service distributions, hardship distributions and loans are not allowed from a SMSOAP investment account for any employer or employee contributions or related earnings. SMSOAP contributions, including employee contributions, are not payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence, payments necessary to prevent eviction or foreclosure on an employee's principal residence.

Following termination, distributions are only allowed for the following reasons:

1. a requested distribution for retirement,
2. a refund of voluntary contributions,
3. a mandatory de minimis distribution authorized by the administrator, or
4. a Required Minimum Distribution (RMD) pursuant to the Internal Revenue Code.

Non-Retirement Distributions

Refunds of employee voluntary contributions and Required Minimum Distributions (RMD) are not retirement distributions.

Refunds of Employee Voluntary Contributions

To request approval for a refund of voluntary contributions, the member and the employer must review, complete and submit the State Senior Management Service Optional Annuity Program (SMSOAP) Application for Refund of Voluntary Employee Contributions Only ([OAP-REFUND](#)) to the division.

Approval for a refund of voluntary contributions will be sent to the member's investment provider company on file once the member has met the eligibility requirement — termination from all FRS employers.

Upon approval of a refund of voluntary contributions, the member's investment provider company will release the withdrawal amount requested by the member via the investment provider company's withdrawal request process. The member should contact the investment provider company to request instructions regarding their withdrawal request process for a refund of voluntary contributions.

Required Minimum Distribution (RMD) Regulations

Terminated members age 73 and older who have not started taking SMSOAP retirement distributions are subject to the IRS Required Minimum Distributions (RMD) regulations.

- RMD is not required nor permitted if the SMSOAP member is still employed.

To request approval for an RMD, the member and the employer must review, complete, and submit the State Senior Management Service Optional Annuity Program (SMSOAP) Application for Required Minimum Distribution Authorization ([OAP-RMD](#)) to the division.

Approval for an RMD will be sent to the member's investment provider company on file once the member has met the eligibility requirement — termination from all FRS employers.

Upon approval of an RMD, the member's investment provider company will release the withdrawal amount requested by the member via the investment provider company's withdrawal request process. The member should contact the investment provider company to request instructions regarding their withdrawal request process for an RMD.

Historical RMD Age Requirements

Age 75 (Future) — Effective January 1, 2033, The RMD age requirement will increase to age 75 in accordance with provisions set forth in the Consolidated Appropriations Act, 2023, P.L. 117-328. If the terminated SMSOAP member's 75th birthday will occur on or after January 1, 2033, their first RMD must be taken by April 1, 2034. All subsequent-year RMDs must be taken by December 31st. An RMD will not be approved for such a member prior to January 1, 2033.

Age 73 (Current) — Effective January 1, 2023, changes were made by the Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0 which was part of the Consolidated Appropriations Act, 2023, P.L. 117-328. If the terminated SMSOAP member's 73rd birthday occurs in the current year, their first RMD must be taken by April 1st of the following year. All subsequent-year RMDs must be taken by December 31st.

Age 72 — Effective December 31, 2019, changes were made by the Setting Every Community Up for Retirement Enhancement (SECURE) Act which was part of the Further Consolidated Appropriations Act, 2020, P.L. 116-94. If the terminated SMSOAP member's 70th birthday was July 1, 2019, or later, the member could delay RMD withdrawals until April 1st of the year after they turned age 72. All subsequent-year RMDs must be taken by December 31st.

Age 70^{1/2} — Prior to December 31, 2019, under federal law (see section 401(a)(9), Internal Revenue Code, as applied by section 1.403(b)-3, Code of Federal Regulations), benefits from SMSOAP and similar plans could not be deferred beyond April 1st of the year after the member reached age 70^{1/2}. All subsequent-year RMDs must be taken by December 31st. These 1987 regulations are based on the Tax Reform Acts of 1984 and 1986.

SMSOAP Retirement Distributions

SMSOAP retirement benefits are payable by the designated investment provider company according to terms of the member's annuity contract(s) applicable to the member. Retirement benefits are subject to withholding taxes as required by the Internal Revenue Service (IRS). The benefits are only payable to a vested member in the program; the designated beneficiary or beneficiaries; or the estate

Benefits funded by employer and employee contributions are paid by the method in the member's investment contract to members and beneficiaries as follows:

1. A lifetime annuity to the member, beneficiary, or estate;
2. Effective July 1, 2000, and after, a lump-sum direct rollover distribution whereby all accrued benefits, plus interest and investment earnings, are paid from the member's account directly to the custodian of an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, on behalf of the member;
3. A lump-sum payment to the beneficiary upon the death of the member; or
4. A cash-out of a de minimis account* upon the request of a former member who has been terminated for a minimum of six months from the employment that entitled him/her to SMSOAP membership.

SMSOAP Retirement Requirements

For a SMSOAP member to become eligible to receive a retirement distribution, the member must terminate all employment relationships with and cease providing services to all FRS employers for three full calendar months. During these three full calendar months following the termination date, the member cannot provide services in any capacity to any FRS employer. Providing services to any FRS employer in

any capacity during this three-calendar month period will make a member ineligible to receive a retirement distribution.

SMSOAP members who have reached normal retirement age as provided in section 121.021(29), Florida Statutes, may request an early, up to 10 percent, retirement distribution after one full calendar month of termination with all FRS employers. The 10 percent applies to the total balance of the member's SMSOAP account(s). During this calendar month following the termination date, the member cannot provide services in any capacity to any FRS employer.

How to Retire

Any distribution funded by mandatory employer and/or mandatory employee contributions and related earnings, other than (a) a Required Minimum Distribution (RMD), (b) a refund of employee contributions, or (c) a De Minimis distribution is a retirement distribution, including direct rollovers to a non-SMSOAP qualified plan.

To request approval for a retirement distribution, the member and the employer must review, complete, and submit the State Senior Management Service Optional Annuity Program (SMSOAP) Application for Retirement and Initial Distribution Statement ([OAP-RETIRE](#)) to the division. If eligible, members requesting an early, up to 10 percent, distribution must complete the required section on the [OAP-RETIRE](#).

Approval for a retirement distribution will be sent to the member's investment provider company on file once the member has met the eligibility requirement — termination from all FRS employers for three full calendar months or one full calendar month for early retirement distributions.

Upon approval of a retirement distribution, the member's investment provider company will release the withdrawal amount requested by the member via the investment provider company's withdrawal request process. The member should contact the investment provider company to request instructions regarding their withdrawal request process.

Termination Requirement

During the 6 calendar months following a member's retirement, the member is subject to termination requirements.

Beginning July 1, 2023, Volunteer Services in accordance with section 121.091(15), Florida Statutes do not constitute employment by or provision of services to an FRS employer.

Termination Requirement – Calendar Months 1-6

During the first six calendar months following the month a retiree received the initial retirement distribution, the retiree cannot be in an employment relationship with and must cease providing services to all FRS employers. An employment relationship with an FRS employer in any capacity during this six-calendar month period may void the members retirement and the member and the FRS employer may be held jointly and severally liable for repayment of all retirement benefits received. This means that each party can be held fully responsible for the repayment of the total amount of retirement benefits. There are no exceptions to the six-calendar month termination requirement.

Section 121.021(39)(a)2. F.S., states: For retirements effective on or after July 1, 2010, if a member is employed by any [FRS] employer within the next six calendar months, termination shall be deemed not to have occurred.

Beginning July 1, 2024, there is no longer a reemployment limitation; beginning with the 7th calendar month from the member's distribution date, there are no restrictions on working for an FRS employer.

From July 1, 2010, to June 30, 2024, during the 7th through 12th calendar months following the member's retirement distribution date, the retiree could have engaged in an employment relationship with or provided services to an FRS employer if, and only if, the retiree suspended all distributions from their monthly retirement benefits.

July	Month of termination
August – October	Three full calendar months
November	Month of distribution
December – May	Calendar Months 1-6 – Termination Requirement

Normal Retirement Distributions

Up to 10 percent of the member's SMSOAP account may be distributed to a member who has been terminated for one calendar month if the member has reached the requirements for FRS normal retirement date as provided in section 121.021(29), Florida Statutes.

- Eligible for up to 10 percent of assets beginning the second calendar month after termination.
- Eligible for the balance of assets beginning the fourth full calendar month after termination.
- SMSOAP members must still cease all employment relationships with FRS employers for three full calendar months to maintain eligibility for the 10 percent distribution and become eligible for the balance of their SMSOAP assets.

Normal Retirement Age for SMSOAP Members

If hired before July 1, 2011, normal retirement age is:

- Age 62; or

If hired after July 1, 2011, normal retirement date is:

- Age 62; or

If hired after July 1, 2011, normal retirement date is:

- Age 65

Employment After Retirement in a SUSORP Position

If a former SMSOAP member returns to employment after receiving a distribution (retired), the employee is covered under the provisions of section 121.091(9)I, Florida Statutes. A retiree initially reemployed on

or after July 1, 2010, through June 30, 2017, is not eligible for renewed membership but the employer must pay the UAL contribution owed for active SMSC members on the salaries of these reemployed retirees. Effective July 1, 2017, FRS Pension Plan retirees are still ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after July 1, 2017, are eligible for renewed membership. Effective July 1, 2017, these renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

Continued Membership in SMSOAP

The SMSOAP is closed to all newly hired employees after July 1, 2017. To enroll a continuing SMSOAP member within 90 days of employment with your agency, [OAP-CHANGE](#) should be completed and submitted to the division if the employee wishes to continue membership in the SMSOAP in lieu of the SMSC. Each eligible employee must, in conjunction with the employer, indicate the following information on the ([OAP-CHANGE](#)):

- The company or companies and the percentage of the total employer and required employee contribution to be contributed to each for the member's annuity.
- The percentage of salary, if any, to be deducted from the employee's salary as a voluntary employee contribution and the company or companies and percentage of the total employee contribution to be contributed to each.
- The signature of the employee electing to continue membership in the SMSOAP and the date the election was made.
- The employee must also submit to the employer a copy of the annuity contract form verifying that a new contract has been executed.

For more information about the SMSOAP, please contact:

- **Division of Retirement, Enrollment Section** - Determines employee eligibility, coordinates positions included in the SMSOAP; receives and balances monthly Retirement Reports from FRS employers and answers employer questions about monthly reporting requirements. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.
- **Division of Retirement, Optional Retirement Program** - Enrolls members, establishes provider company selections, accumulates, balances, transmits contributions for biweekly and monthly Retirement Reports, makes contribution adjustments, and liaises with provider companies and the Florida State Board of Administration. You may call this section toll-free at 877-378-7677 or 850-778-4696, or email orpdata@dms.fl.gov.

STATUTORY REFERENCE:

Section 121.055, Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.0057, 60V-1.004, 1.005, 2.003, and 2.004, Florida Administrative Code

I. STATE COMMUNITY COLLEGE SYSTEM OPTIONAL RETIREMENT PROGRAM

Effective January 1, 1996, community colleges were authorized to provide an optional retirement program, known as the State Community College System Optional Retirement Program (SCCSORP) — a defined contribution plan qualified under section 403(b) of the Internal Revenue Code. The SCCSORP is available for certain community and state college employees and certain charter technical career center employees whose charter school is sponsored by a community college.

Upon establishing such an optional retirement program, the community college is responsible for administering the program in accordance with state and federal statutes. SCCSORP is available in 22 of the 28 community colleges. Since all community college employees filling regularly established positions are compulsory members of the FRS, the division is responsible for processing FRS plan withdrawals for those who choose SCCSORP membership in lieu of the FRS membership. (Community college senior managers have other options, as described below.)

SCCSORP Eligibility

Membership in the SCCSORP is limited to:

- New employees prior to making an FRS active election or default election.
- Employees who are members of the Regular Class of the FRS Pension Plan. (Community college presidents and employees in positions designated for inclusion in the SMSC are not eligible for the SCCSORP. See Page 1-41 for additional information.)
- Effective July 1, 2007, employees who are eligible for or are renewed members of the Regular Class of the FRS Pension Plan. (All retirees initially reemployed on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership in the SCCSORP or the FRS. Effective July 1, 2017, retirees of the FRS Investment Plan, SUSORP, SMSOAP or the SCCSORP who are employed and initially enrolled on or after July 1, 2017, are eligible for renewed membership. (FRS Pension Plan retirees remain ineligible for renewed membership.)
- Employees who are employed in full-time community college positions classified in the Accounting Manual for Florida’s Public Community Colleges as:
 - (i) Instructional employees, or
 - (ii)(ii) Executive Management, Instructional Management, or Institutional Management, if a community college determines that recruiting to fill a vacancy in the position is to be conducted in the national or regional market, and the duties and responsibilities of the position include either the formulation, interpretation, or implementation of policies or the performance of functions that are unique or specialized within higher education and that frequently involve the support of the mission of the community college.

Except for a one-time opportunity to transfer to the FRS as described on Page 1-63, membership in the SCCSORP is irrevocable for as long as the employee remains in an eligible position with the community college. However, if a member becomes ineligible to continue membership in the SCCSORP, the employee becomes a member of the FRS Pension Plan (see note on Page 1-61) unless initially enrolled on or after July 1, 2017, as a renewed member in which case the employee becomes a member of the Investment Plan.

Election Window

On July 1, 2003, the election window for the SCCSORP was expanded from 60 to 90 days. An employee who is hired in a SCCSORP-eligible position must file an election to enroll in the SCCSORP in lieu of the FRS, provided that the election is made within 90 days of:

- The date the community college activates the program; or
- The employee's date of hire or qualifying employment status change.

An employee who fails to elect membership in the SCCSORP within the prescribed enrollment period will remain in the FRS. This election window does not apply to renewed SCCSORP members initially enrolled on or after July 1, 2017.

NOTE: Effective July 1, 2003, enrollment in the SCCSORP is retroactive to the date of hire. (For more on this provision, see Page 1-63.)

Special Provisions for Members of the FRS Investment Plan

When an FRS Investment Plan member becomes employed in a SCCSORP-eligible position, if the member wishes to enroll in the SCCSORP rather than remain in the FRS Investment Plan, the member must first use the one-time second election transfer opportunity, if available, to move to the FRS Pension Plan by submitting the 2nd Election Retirement Form ([ELE-2](#)) to the Plan Administrator (see Chapter 9, Part XV). Upon receipt of this form, the division will compute the cost to the member to return to the FRS Pension Plan. Once the transfer procedure is finalized, the employee may submit the State Community College System Optional Retirement Form ([OCC-1](#)) to enroll in the SCCSORP. As long as the employee begins the transfer procedure within 90 days of entering the SCCSORP-eligible position, the membership will be allowed to enroll in the SCCSORP.

NOTE: When a covered employee is no longer employed in a SCCSORP-eligible position, by default the employee becomes a member of the FRS Pension Plan except for renewed SCCSORP members effective July 1, 2017, or after. Therefore, any such employee who exercised the one-time second election transfer opportunity as described above must remain in the FRS Pension Plan unless the employee is later employed in another SCCSORP-eligible position.

SCCSORP Contributions

Employer

The employer and the employee contribute a percentage of the employee's salary on behalf of the SCCSORP member as required by law under sections 121.051(2)(c)1. and 1012.875(4)(a), Florida Statutes (see Chapter 2, Part II, for current SCCSORP rates). This contribution rate includes a health insurance subsidy contribution, that would otherwise be paid to the Health Insurance Subsidy Program Trust Fund if the employee enrolled in the FRS. Any contributions paid by the employer and the employee to the FRS Trust Fund during the 90-day enrollment period through the month of the employee plan change will be transferred to the community college for deposit in the employee's SCCSORP account.

Employee

In addition to required employer and employee contributions, the employee may choose to contribute a voluntary amount to the account by salary reduction a portion of the gross taxable income not to exceed the total contribution paid by the employer, less the administrative fee, to the member's account.

Effective July 1, 2003, the sponsoring community college may accept for deposit in member account(s) contributions in the form of rollovers or direct trustee-to-trustee transfers by or on behalf of members. Any optional employee contribution will be treated as a qualified contribution under section 403(b) of the Internal Revenue Code.

Hardship Distributions or Loans

Neither hardship distributions nor loans are allowed from a SCCSORP account for any portion based on required employer and required employee contributions and related earnings. (Hardship distributions or loans from the SCCSORP proceeds based solely on voluntary employee contributions may be permitted.)

General Provisions

Contributions to the SCCSORP by a college or a program member are in addition to, and have no effect upon, contributions required for Social Security (see Page 1-84). The employee and employer are both responsible for ensuring that the employee's individual tax-deferred contributions do not exceed federal maximum amounts. Both the employee and employer are subject to the federal law that limits the amount of salary that may be applied towards retirement (see Chapter 9, Part II, Average Final Compensation).

SCCSORP Benefits

Under section 403(b) of the Internal Revenue Code, benefits for SCCSORP members and their beneficiaries are provided through contracts with designated providers and accrue in individual accounts that are member-directed, portable, and funded by employer and employee contributions and earnings thereon.

Effective July 1, 2003, SCCSORP benefits are payable in accordance with the terms of applicable contracts and are payable in the form of a lump-sum distribution to the member; a lump-sum direct rollover distribution to an eligible retirement plan on behalf of the member; periodic distributions; a partial lump-sum payment and partial rollover distribution; or such other distribution options as are provided for in the member's SCCSORP contract. (Before July 1, 2003, benefits were paid only through lifetime annuity contracts.)

Like other FRS retirees, SCCSORP members must meet the definition of termination, as provided in section 121.021(39), Florida Statutes, beginning the month after receiving the initial distribution and terminated from all employment relationships with FRS-covered employers for three calendar months to be eligible to receive a distribution. However, up to 10 percent of the SCCSORP account may be distributed to a member who has been terminated for just one calendar month if the member has met the requirements for normal retirement as provided in section 121.021(29), Florida Statutes.

Enroll in the SCCSORP or the FRS

To enroll, an eligible employee must first select the SCCSORP or the FRS (either the FRS Pension Plan or the FRS Investment Plan), and:

- To become a member of the SCCSORP, the employee must, within 90 days after becoming eligible for membership, complete and file the State Community College System Optional Retirement Program Enrollment Form ([OCC-1](#)) with the division and the community college and complete and file an application for an individual contract or certificate with a provider company.
- To enroll in the FRS, the employee must be enrolled through your Monthly Retirement Report.

Form OCC-1

If the employee completes the process to become a member of the SCCSORP, the State Community College System Optional Retirement Program Enrollment Form ([OCC-1](#)), must be completed and filed with the division and the community college, and an application for an individual annuity contract or certificate must be completed and filed with a provider company within the 90-day deadline.

Effective Date

Effective July 1, 2003, if program eligibility results from initial employment, the employee will be enrolled in the SCCSORP retroactive to the first day of eligible employment. If program eligibility results from a change in status to a SCCSORP-eligible position, the employee will be enrolled in the program on the first day of the first full calendar month that the change in status is effective. Each program member will be fully and immediately vested in the SCCSORP upon the issuance of a program contract.

Reemployed retirees whose eligibility results from initial employment on or after July 1, 2010, through June 30, 2017, cannot be enrolled in the SCCSORP (or the FRS); however, the employer must make the contributions equal to the unfunded actuarial liability portion of the employer contribution required of active FRS Regular Class members in addition to the contributions required in section 121.76, Florida Statutes.

Effective July 1, 2017, FRS Pension Plan retirees remain ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

NOTE: Between January 1, 1996 through June 30, 2003, while in certain cases a newly hired employee might be enrolled as of the date of hire, in general, membership in SCCSORP began the first day of the next calendar month following completion and filing of forms. (Any service before the division received the required forms was credited as FRS service.)

Transfer of FRS Credit Earned During Enrollment Period

Effective July 1, 2003, through December 31, 2008, any SCCSORP member who has service credit in the FRS Pension Plan for the period between the first eligibility to transfer to the SCCSORP and the actual transfer date may transfer to the SCCSORP account(s) a sum representing the present value under the pension plan for this period of service credit. Upon such transfer, service credit earned during this period is nullified for purposes of entitlement to a future benefit under the FRS Pension Plan.

Plan Transfer Opportunity

Effective July 1, 2003, any community college employee enrolled in the SCCSORP, except for renewed SCCSORP members initially enrolled July 1, 2017, or after will have one opportunity to choose to transfer from the SCCSORP to the FRS Pension Plan or the FRS Investment Plan, as follows:

- If the employee elects to move to the FRS Pension Plan, the employee will receive service credit under the pension plan equal to the years of service under the SCCSORP, upon paying the required cost. The division will calculate the cost for the transfer as provided by section 121.051(2)(c)3., Florida Statutes, using a formula and methodology certified by the FRS consulting actuary. The cost formula will credit the employee with any service already maintained under the FRS Pension Plan.
- If the employee chooses to move to the FRS Investment Plan, any contributions, interest, and earnings creditable to the employee under the SCCSORP will be kept by the employee in the SCCSORP account(s), and the applicable provisions of section 121.4501(4), Florida Statutes, will govern the election. All future contributions will go to the employee's FRS Investment Plan account(s).

To transfer from the SCCSORP to the FRS Pension Plan or FRS Investment Plan, the employee should complete the State Community College System Optional Retirement Program Enrollment Form ([OCC-2](#)).

STATUTORY REFERENCE:

Sections 121.051(2) and 1012.875, Florida Statutes

J. DUAL EMPLOYMENT

A member may not participate in more than one Florida state-administered retirement system, plan or class of membership simultaneously. Both employers must report a member on the Monthly Retirement Report until they receive notification from the division. If an employer receives notification to cease reporting a member, the employer must resume reporting the member if they elect participation in the Deferred Retirement Option Program (DROP).

A member employed simultaneously in two or more covered positions belonging to different classes (i.e., Regular, SMSC, Special Risk, Special Risk Administrative Support, or EOC) shall be determined to have membership in only one class, based on the following:

Elected Officers

Upon becoming dually employed, the elected officer will have six months to elect membership in any system or class for which the elected officer is eligible. The officer must select from the following alternatives and must notify the division of the decision in writing with a copy to the employer.

- The officer may elect to be a member of the EOC and have only the employment in the elective position reported for retirement purposes. (Salary earned in a nonelective position will not be reported; however, Social Security contributions will be required.)
- An officer who is dually employed in EOC and Regular Class positions may elect to participate in the Regular Class and have salaries reported for both elective and nonelective positions. (Both employers are responsible for enrolling and reporting the officer as a Regular Class member.)
- If eligible for any class other than the EOC or the Regular Class, the officer may choose to participate in such other class; in that case, contributions, service credit, and AFC will be based on salary earned in the other class position(s) only.
- An elected officer who is no longer dually employed will become a compulsory member of the EOC.
- The employer should notify the division when elected officer is no longer dually employed.

Nonelected Officers/ Employees

If the member is employed simultaneously in two or more positions covered by different classes other than the EOC, the employee shall be a member of the class in which employed more than 50 percent of the time.

If the employment is split equally, the member may choose any class of membership for which the member is eligible, even though both positions may be full-time positions. The member's choice, which must be made in writing, will be final as long as the member is employed equally in two positions.

Based on the member's choice:

- If the member elects to participate in the Regular Class, the member shall have retirement contributions made on the total salary received for all covered employment.
- If the member elects to participate in the Senior Management Service, Special Risk, or Special Risk Administrative Support Class, the member shall have retirement contributions made only on the salary received in the designated class of membership.

Social Security for Dually Employed Members

Social Security contributions¹³ are required for both positions an employee fills as a dually employed member even though retirement contributions may only be required for one of the positions.

Please direct your questions concerning dual employment to the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

STATUTORY REFERENCE:

Section 121.052, Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.0055 and 1.008, Florida Administrative Code

¹³ Although Social Security coverage is a part of an FRS member's overall benefit package, the division has no control over Social Security or Medicare benefit payments and possible limitations on those benefits. (For more on Social Security coverage, see Page 1-84.)

V. INSTITUTE OF FOOD AND AGRICULTURAL SCIENCES

[Applicable Only to Selected University of Florida Employees]

Retired IFAS Employees

Since June 18, 1999, IFAS employees receiving an IFAS supplemental benefit are not considered renewed members of the FRS upon reemployment with an FRS employer and should be enrolled in the FRS as new FRS members. In addition, such IFAS employees are no longer subject to the employment-after-retirement limitations described in section VIII (see Page 1-70). However, an exception to the reemployment law states that an IFAS employee must not be entitled to a benefit from a state-supported retirement system or from Social Security based on service as a cooperative extension employee at the institute. Therefore, if a retired IFAS participant is reemployed in such a position, the participant is no longer eligible to receive the supplement.

IFAS Consolidation into the FRS

Effective July 1, 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program, as established under section 121.40, Florida Statutes, was consolidated under the Florida Retirement System as a closed retirement system. IFAS participants are not eligible for FRS membership. The FRS received the assets from the former IFAS Trust Fund and assumed all liabilities related to the payment of supplemental monthly benefits to retired employees of the institute and their surviving beneficiaries. In addition, the FRS assumed all obligations in regard to funding and administering benefits accrued for the benefit of retired employees of the institute and their surviving beneficiaries.

Please direct your questions concerning the IFAS program to the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

STATUTORY REFERENCE:

Sections 121.35 and 121.40, Florida Statutes

VI. ENROLLMENT/CHANGE PROCEDURES FOR CURRENT EMPLOYEES

In some agencies the same office performs personnel and payroll functions. In other agencies, the personnel office is separate from the payroll office. The following information will be required of the payroll office to correctly report employee salaries and contributions to the FRS. Occasionally, it becomes necessary to correct information already reported to the FRS. This section explains how name changes, plan changes, and beneficiary changes are made. Please see Page 1-14 for procedures to be used in hiring employees who may have participated in a closed retirement system (Teachers' Retirement System, State and County Officers and Employees' Retirement System, etc.).

All information reported for an employee should be made using the name and Social Security number that appears on the employee's Social Security card.

Name Change

When there is a change in the member's name, you should report the change on your monthly Retirement Report. Employees should be reminded to update their beneficiary designation when changing their name. The employee should also contact the local Social Security office and complete Form SS-5 to correct Social Security records. A new number will not be assigned; only the name will be changed.

Plan or Class Change

When a member changes to the Regular Class from another plan, the change in plan should be reflected on your Retirement Report. If the member changes from the Regular Class to another class or from a position in a class other than the Regular Class to a new position or class and there is a preapproved position number and/or class code number, the change should be reflected on your Retirement Report. If there is not a preapproved position and/or class code, the member needs to submit the appropriate application for membership to the division. The exception to this procedure is when a member elects to retire and participate in the DROP, in which case the member needs only to be reported under the appropriate DROP plan on your Retirement Report. When there is a plan change, the contribution rate must also be changed to the correct rate for the new plan. Please see Chapter 9, Part XIV, for additional information on the DROP.

Beneficiary Designation

It is important for members to keep their beneficiary designation up to date. When a member is enrolled in the FRS, the member should name a beneficiary or beneficiaries to receive any benefits that may be payable upon the member's death if the member dies before retirement. After retirement, benefits paid to beneficiaries are determined by the retirement option selected by the member.

Beneficiary Designation Form ([BEN-001](#)) is the form used by active employees to designate beneficiaries. Beneficiary Designation Form ([FST-12](#)) must be used for retirees and DROP participants. Active members can change their beneficiaries online through their FRS Online account.

VII. CHANGE OF UNIT STATUS – Transfer, Merger, or Consolidation

Some units may experience a change in their reporting status due to transfer, merger, or consolidation with another governmental body. Other units, such as hospitals sold to nonprofit or private organizations, may no longer be eligible to participate in the FRS. Any unit considering changes such as these should contact the Division of Retirement no less than 60 days prior to the effective date of the action under consideration, to determine the implications of the anticipated change. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

Any city, independent special district, or hospital which took the necessary action to revoke its membership in the FRS effective January 1, 1996, will continue to pay retirement contributions to the FRS for as long as covered employees hired prior to January 1, 1996, remain employed with them.

It should also be remembered that changes in your retirement coverage status might also have an effect on the Social Security coverage for the unit and its employees. Because the division is the state agency responsible for administering Social Security coverage for Florida governmental units (see Page 1-84), it is important that the division be contacted if any change in reporting status is contemplated.

STATUTORY REFERENCE:

Sections 112.0515 and 121.081, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0075, Florida Administrative Code

VIII. TERMINATION AND REEMPLOYMENT AFTER RETIREMENT

All members retiring from the FRS, TRS, or SCOERS (or concluding DROP participation), SUSORP, SMSOAP and the SCCSORP must end all employment relationships and cease providing services to all FRS employers and satisfy the termination requirement following the effective retirement date, DROP termination date¹⁴ or distribution date.

Beginning July 1, 2023, Volunteer Services in accordance with section 121.091(15), Florida Statutes do not constitute employment by or provision of services to an FRS employer.

Termination Requirement: 1st through 6th calendar months

During the first six calendar months from the retiree's service retirement effective date, retirement distribution date, or following the DROP termination date, the retiree cannot be in an employment relationship and must cease providing services to all FRS employers

An employment relationship with an FRS employer in any capacity during this six-calendar month period may void the retirement and the retiree and FRS employer may be held jointly and severally liable for repayment of all retirement benefits received, which include any DROP accumulation or payout. This means that each party can be held fully responsible for the repayment of the total amount of retirement benefits. Voiding a retirement applies even if the position held is not covered by the FRS but is with an FRS employer. **There are no exceptions to the six-calendar month termination requirement.**

If applicable, the FRS employer receiving the services will also be responsible for paying the retirement contributions owed for the period of the voided retirement. The retiree will be required to reapply for retirement to establish a later retirement effective date and, if the reinstated member desires and remains eligible, a new DROP enrollment date. (For more on the termination requirement, see Chapter 13, Part III, section A.)

Beginning July 1, 2024, there is no longer a reemployment limitation; beginning with the 7th calendar month from the member's distribution date, there are no restrictions on working for an FRS employer.

From July 1, 2010, to June 30, 2024, during the 7th through 12th calendar months following the member's retirement distribution date, the retiree could have engaged in an employment relationship with or provided services to an FRS employer if, and only if, the retiree suspended all distributions from their monthly retirement benefits.

NOTE: There are no limits on receiving your FRS benefits while working for an FRS employer after a member has been retired or has been out of the DROP for 6 calendar months.

¹⁴ An exception to delay termination may apply in the case of elected officers (see Chapter 13, Part III, section C).

Disability Retirees

Disability retirees must discontinue their disability benefits if gainfully employed with any employer, public or private. There are no reemployment exceptions for disability retirees. However, since the statute relating to disability retirement¹⁵ was not amended when the Florida Legislature established joint and several liability for repayment of benefits received in violation of the reemployment provisions of section 121.091(9), Florida Statutes, employing FRS agencies of disability retirees are not held jointly and severally liable for failure to discontinue disability benefits. Even so, employers are expected to help disability retirees who seek employment to understand the impact that taking such employment would have on their retirement benefits.

Reemployed Retirees in Regularly Established Positions

From July 1, 1985, through June 30, 1991¹⁶, retirees reemployed in regularly established positions were required to be reported for both unfunded actuarial liability contributions for retirement (under Plan Code HL) and Social Security (see Page 1-84). This requirement applied regardless of the employee's effective date of retirement or date of reemployment. Therefore, even if the employee retired and was reemployed before July 1, 1985, contributions under Plan Code HL were mandatory during this period.

Effective July 1, 1991¹⁷, through June 30, 2010, reemployed retirees are enrolled in the FRS with renewed membership and are reported under different retiree plan codes, not under Plan Code HL (see Page 1-72 and Chapter 13, Part IV, for more on renewed membership).

Retirees with an initial reemployment in a regularly established position that occurs on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership and will not earn creditable service toward a subsequent retirement benefit; however, the employer must make the contributions equal to the unfunded actuarial liability portion of the employer contribution required of active members in addition to the contributions required in section 121.76, Florida Statutes. This restriction from renewed membership includes retirees of the FRS Pension Plan, the FRS Investment Plan, the SUSORP, the SMSOAP, the SCCSORP, and local government senior managers covered by a separate arrangement with their employers. For information on completing the IRS W-2 Form, for reemployed retirees who are not eligible for renewed membership, see Chapter 9.

Effective July 1, 2017, FRS Pension Plan retirees remain ineligible for renewed membership; however, HIS contributions and UAL contributions are required on the salaries of these reemployed retirees when UAL contributions are requested on active FRS members.

Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

STATUTORY REFERENCE:

Sections 121.021(11), (39), (50) and (60), 121.091(4), (9) and (13), 121.093, and 121.094, Florida Statutes

FRS RULE REFERENCE:

Section 60S-4.012, Florida Administrative Code

¹⁵ See section 121.091(4), Florida Statutes.

¹⁶ Renewed membership became compulsory for retired elected officials covered by the Elected Officers' Class effective July 1, 1990. The full contribution rate paid included the unfunded actuarial liability contribution effective July 1, 1990.

IX. RENEWED MEMBERSHIP

From July 1, 1991,¹⁷ through June 30, 2010, any retiree of a state-administered retirement system who is reemployed in a regularly established position with a covered employer is enrolled as a renewed member and, upon vesting again, is eligible for an additional retirement benefit based on service as a renewed member.

Renewed members who are eligible for membership in the Elected Officers' Class¹⁸ or the Senior Management Service Class¹⁹ receive credit for their renewed service under these classes; all other renewed members, including employees in special-risk-eligible positions, are covered as members of the Regular Class. Renewed members may elect to participate in the FRS Investment Plan as described in Part IV (see Page 1-12) and in Chapter 9, Part XV. Effective July 1, 2007, through June 30, 2010, retirees reemployed in positions covered by the SUSORP, the SMSOAP, and the SCCSORP are eligible for renewed membership. (For more on renewed membership, see Chapter 13, Part IV.)

A retiree that has already established renewed membership retains all rights, even with breaks in service, until the member retires based on service as a renewed member. Retirees with an initial reemployment in a regularly established position that occurs on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership and will not earn creditable service toward a subsequent retirement benefit. This restriction from renewed membership includes retirees of the FRS Pension Plan, the FRS Investment Plan, the SUSORP, the SMSOAP, the SCCSORP, and local government senior managers who withdrew from the FRS and are covered by a separate arrangement with their employers.

Effective July 1, 2017, FRS Pension Plan retirees remain ineligible for renewed membership; however, HIS contributions and UAL contributions are required on the salaries of these reemployed retirees when UAL contributions are required on active FRS members. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

Key Elements

- Upon enrollment as a renewed member, the employer and the employee pay all applicable contributions (see Chapter 2, Part II);
- Renewed members initially reemployed prior to July 1, 2010, may buy additional retirement credit for certain postretirement service (see Chapter 13, Part IV);
- Any renewed member who is not already receiving the maximum Health Insurance Subsidy (HIS) provided by law can earn credit toward the maximum amount when retiring as a renewed member. To receive a benefit for the renewed service, the renewed member must satisfy the same age and service requirements (see Chapter 9);
- Upon retirement, the member must again meet any applicable termination requirements after this additional retirement (see Page 1-70 and Chapter 13, Part III); and
- Plan provisions can differ for renewed members; for example, no renewed member is eligible for disability benefits (see Chapter 10) or DROP participation.

¹⁷ Renewed membership has been compulsory for retired elected officers covered by the Elected Officers' Class since July 1, 1990.

¹⁸ Since July 1, 1977, retired elected officers have been allowed to receive credit for their post-retirement service as an elected officer eligible for membership in the Elected Officers' Class (then known as the Elected State Officers' Class). Renewed membership has been compulsory for such retired elected officers since July 1, 1990.

¹⁹ Effective July 1, 1997, the law was amended to provide that any retiree employed in a position included in the Senior Management Service Class (SMSC) would be enrolled as a compulsory renewed member of the SMSC.

- Renewed members reemployed enrolled prior to July 1, 2010, are not eligible to participate in the Special Risk Class while renewed members initially enrolled on or after July 1, 2017, working in positions covered by the Special Risk Class can participate in that class instead of the Regular class.

Renewed Membership for Elected Officers

Membership in the EOC is required for any retired member of the FRS or any existing system who, on July 1, 1990, through June 30, 2010, is serving in, or is elected or appointed to, an elective office covered by the EOC, except as provided for elected officers who are participating in the DROP and eligible for an exemption (see Chapter 13, Part III, section C).

An elected officer assuming office on July 1, 1997, through June 30, 2010, could elect membership in the SMSC in lieu of the EOC by notifying the division in writing or on the Elected Officers’ Class Retirement Plan Enrollment Form ([EOC-1](#)), within six months of assuming office. As a member of the SMSC, a state elected officer could transfer to the Senior Management Service Optional Annuity Program (SMSOAP) within 90 days of becoming a member of the SMSC, and a county, city, or special district elected officer could elect to withdraw from the system altogether.

Enrollment and Reporting Requirements

For retirees initially reemployed prior to July 1, 2010, the reporting unit must report each reemployed retiree on the Retirement Report in order to enroll and establish a new retirement account for the member. Retirees must be reported on the monthly Retirement Report under the appropriate retirement plan and contribution rate as shown below, and the appropriate class code specified on Page 1-37 (the class codes for non-retired EOC members are identical for reemployed EOC members). (See the SMSC renewed member section that follows for appropriate plans and contributions if the elected officer elects to be a member of the SMSC.)

Retirees initially reemployed on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership but must be reported using the appropriate plan code covering the position held to pay the unfunded actuarial liability and the HIS contribution.

RENEWED MEMBERSHIP PLANS FOR EOC MEMBERS			
<u>Membership Group</u>	<u>Pension Plan</u>	<u>Investment Plan</u>	<u>Contribution Rate</u>
Judges	RC	QC	See Chapter 2*
Legislators	RE	QE	"
Gov./Lt. Gov. and Cabinet	RG	QG	"
State Attorney and Public Defender	RH	QH	"
County, City and Spec. District Elected Officials	RI	QI	"

* See Chapter 2, Part II.

NOTE: A retired Justice or Judge who is assigned to active judicial service pursuant to Article V of the State Constitution will continue to receive retirement benefits and will not be enrolled in the EOC. No retirement contributions are required. Retired judges or justices with an effective retirement date or DROP termination date on or after July 1, 2010, are not eligible to receive their retirement benefit if reemployed during the seventh through twelfth calendar months of retirement or after their DROP termination date.

STATUTORY REFERENCE:

Section 121.053, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0055(4), Florida Administrative Code

Renewed Membership for Senior Managers

Effective July 1, 1997, through June 30, 2010, every reemployed retiree filling a regularly established position included in the SMSC is a compulsory member of the SMSC. The renewed member will be eligible to receive another retirement benefit after earning the additional service credit required to vest in the FRS. As a member of the SMSC, a state employee may transfer to the Senior Management Service Optional Annuity Program (SMSOAP) within 90 days of becoming a member of the SMSC, and a local employee may at any time withdraw from the FRS altogether (see Page 1-41). Both state and local employees who are members of the SMSC may elect to transfer to the FRS Investment Plan as described on Page 1-12 and in Chapter 9, Part XV. (See Chapter 13, Part IV, for information on retirement credit reemployed retirees may claim.) Retirees initially reemployed on or after July 1, 2010, through June 30, 2017, are not eligible to be enrolled as renewed members and will not earn another retirement benefit for post-retirement employment with a covered employer. Effective July 1, 2017, FRS Pension Plan retirees are still ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are employed on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

Enrollment and Reporting Requirements

The reporting unit must report each reemployed retiree on the Retirement Report in order to enroll and establish a new retirement account for the member. If a local employee, the reemployed retiree must complete the Local Senior Management Service Employees Retirement Plan Enrollment Form ([SMS-3](#)), to select membership in the SMSC or withdraw from the FRS altogether (see Page 1-41).

The reemployed retiree must be reported on the monthly Retirement Report under the appropriate retirement plan and contribution rate, and the approved position number which has been provided to your agency by the division, as shown in the charts below:

RENEWED PLANS FOR SMSC MEMBERS			
<i>(Includes Renewed EOC Members who Elected to Join the SMSC prior to July 1, 2010)</i>			
<u>Membership Group</u>	<u>Pension Plan</u>	<u>Investment Plan</u>	<u>Contribution Rate</u>
Senior Managers	RM	QM	See Chapter 2*
Judges	RP	QP	"
Legislators	RP	QP	"
Gov./Lt. Gov. and Cabinet	RP	QP	"
State Attorney and Public Defender	RP	QP	"
County, City and Spec. District Elected Officials	RQ	QQ	"

* See Chapter 2, Part II.

RENEWED PLANS FOR STATE SMSC MEMBERS		
who Elect to Join the SMSOAP or the SUSORP in Lieu of the FRS prior to July 1, 2010		
<u>Membership Group</u>	<u>Optional Plan</u>	<u>Contribution Rate</u>
State Senior Managers	OR	See Chapter 2*
Judges	OR	"
Legislators	OR	"
Gov./Lt. Gov. and Cabinet	OR	"
State Attorney and Public Defender	OR	"
State University Executive Service	OS	"

* See Chapter 2, Part II.

Renewed Plans for local SMSC and EOC Members who Elect to Withdraw from the FRS Altogether

Retirees initially reemployed before July 1, 2010:

- Local Senior Managers - Plan Code OZ.
- County, City, and Spec. District Elected Officials - Plan Code OQ.

Retirees initially reemployed on or after July 1, 2010, through June 30, 2017, in an SMSC-covered position are not eligible for renewed membership. These employees must be reported with the plan code provided that covers SMSC eligible positions to pay any unfunded actuarial liability for the SMSC when it is being paid on active members and the HIS contribution.

Renewed Membership for All Other Employee Groups

All retirees reemployed in regularly established positions (except those in positions eligible for membership in the EOC or SMSC) from July 1, 1991, through June 30, 2010, are enrolled as members of the Regular Class. Renewed members will be allowed to elect membership in the FRS Pension Plan or Investment Plan. The reemployed retiree will be eligible to receive another retirement benefit after earning the additional service credit required to vest under the FRS plan in which the renewed member elects to participate. (See Chapter 13, Part IV, for information on retirement credit reemployed retirees may claim.)

Retirees initially reemployed in a regularly established position on or after July 1, 2010, through June 30, 2017, are not eligible for renewed membership and will not earn another retirement benefit. These employees must be reported with either the plan code for the regular membership class or special risk membership class positions to pay any unfunded actuarial liability for the positions when this is being paid on active members and the HIS contributions.

Effective July 1, 2017, FRS Pension Plan retirees are still ineligible for renewed membership. Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are initially reemployed on or after July 1, 2017, are eligible for renewed membership. These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.

Renewed Membership for All Other Members

The reporting unit must report the reemployed retiree with renewed membership in either the Pension or the Investment Plan on the Retirement Report in order to enroll and establish a new retirement account for the member. The retiree must be reported on your monthly Retirement Report under the appropriate retirement plan and contribution rate as shown below:

RENEWED PLANS FOR NON-EOC, NON-SMSC MEMBERS			
<u>Membership Group</u>	<u>Pension Plan</u>	<u>Investment Plan</u>	<u>Contribution Rate</u>
Regular Class	RA	QA	See Chapter 2*
SCCSORP	OD	N/A	"
State University	OS	N/A	"

* See Chapter 2, Part II.

NOTE: You are required to submit position numbers and class code information for reemployed retirees in the Regular Class employed in a Special Risk Class-covered position, an EOC -covered position or an SMSC-covered position.

Reemployed Retirees Effective July 1, 2010

The reporting unit must report each reemployed retiree filling a regularly established position on the Retirement Report. The law requires the employer to pay contributions equal to the unfunded actuarial liability portion of the employer contribution required of active members in addition to the contributions required in section 121.76, Florida Statutes. The following plan codes are established based on membership class for the position:

PLAN CODES FOR REEMPLOYED RETIREES ON OR AFTER JULY 1, 2010		
<u>Membership Group</u>	<u>Plan Code</u>	<u>Contribution Rate</u>
Regular Class	UA	See Chapter 2*
Special Risk	UB	"
Judges	UC	"
Legislators	UE	"
Gov./Lt. Gov./Cabinet	UG	"
State Attorney/Public Defender	UH	"
County, City and Spec. District Elected Officials	UI	"
Senior Management (SMSC)	UM	"

* See Chapter 2, Part II.

Renewed Membership Effective July 1, 2017

Retirees of the FRS Investment Plan, the SUSORP, the SMSOAP or the SCCSORP who are reemployed on or after July 1, 2017, are eligible for renewed membership.

- These renewed members must enroll in the FRS Investment Plan unless the position is eligible for membership in the SUSORP or the SCCSORP when the member is initially reemployed.
- A renewed member who participates in the FRS Investment Plan and later becomes employed in a position covered by the SUSORP or the SCCSORP must continue Investment Plan membership unless he or she is employed in a position with a university that requires mandatory SUSORP participation.
- This new tier of renewed membership allows renewed members employed in a Special Risk Class covered position to participate in the Special Risk Class.

The following plan codes are established based on membership class for the position:

PLAN CODES FOR RENEWED MEMBERSHIP ON OR AFTER JULY 1, 2017		
<u>Membership Class and Plan</u>	<u>Plan Code</u>	<u>Contribution Rate</u>
Regular Class	CA	See Chapter 2*
Special Risk Class	CB	"
Judges	CC	"
Legislators	CE	"
Gov./Lt. Gov./Cabinet	CG	"
State Attorney/Public Defender	CH	"
Special Risk Admin. Supp. Class	CJ	"
County, City and Spec. District Elected Officials	CI	"
Senior Management (SMSC)	CM	"
<u>Renewed EOC Members who Elect to Join the SMSC</u>		
Judges	CP	See Chapter 2*
Legislators, Governor, Lt. Gov., Cabinet, State Attorney, Public Defender, County, City Spec. District Elected Officials	CQ	"

* See Chapter 2, Part II.

PLAN CODES FOR RENEWED MEMBERSHIP OPTIONAL PROGRAMS ON OR AFTER JULY 1, 2017		
<u>Membership Group</u>	<u>Plan Code</u>	<u>Contribution Rate</u>
State University System Optional Retirement Program	OA	See Chapter 2*
State Community College System Optional Retirement Program	OE	"

* See Chapter 2, Part II.

STATUTORY REFERENCE:

Section 121.122, Florida Statutes

FRS RULE REFERENCE:

Section 60S-1.0045, Florida Administrative Code

X. COMMUNITY DEVELOPMENT BLOCK GRANTS

The essential purposes of the Community Development Block Grant (CDBG) Program are:

- To provide for worthwhile and necessary projects that will result in productive jobs in communities, and
- To benefit low and moderate income persons, aid in the prevention or elimination of slums or blight or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

The CDBG participants who are in the program primarily for training purposes are not eligible for FRS membership. For a person hired to perform services rather than training, membership in the FRS is determined by the length of the position. If the position is in existence for more than six months, the worker must be enrolled in the FRS effective with date of employment.

CDBG supervisors who are filling regularly established positions should be enrolled and reported for FRS membership.

XI. INDEPENDENT CONTRACTORS

Independent contractors are self-employed individuals who are not eligible for membership in the FRS. As a general rule, most attempts to establish an independent contractor relationship are not successful. Independent contractors are self-employed individuals who are not eligible for membership in the FRS. An independent contractor is one who is in the business of providing services to the general public. The IRS is becoming increasingly aggressive in examining workers who are being classified as independent contractors rather than employees. Misclassifying an employee as an independent contractor to avoid enrollment of employees in a retirement plan has financial consequences and IRS penalties for misuse of this classification are severe.

Improper Use of Independent Contractor Status

The improper use of the independent contractor status to avoid the enrollment of employees in the FRS or to circumvent the required termination requirement can result in major problems for the agency and the employee. The division makes case by case determination of whether a worker is an employee or independent contractor. Whenever the division discovers employees improperly reported as independent contractors:

- The employer must enroll such employees as members of the FRS; all required employee and employer retirement contributions must be reported and paid retroactively to the date the employee was incorrectly classified as an independent contractor.
- Delinquency fees on prior period adjustments are due from the employer.
- Social Security contributions are due from both the employee and employer (see Chapter 1, Section XII, Social Security Coverage).
- The employer may be required to collect contributions from employees who have terminated.

The worker's classification does not apply to retirees during the first 12 calendar months after retirement. An improperly employed retired employee may have his or her retirement voided and be required to repay all benefits received during the first 12 calendar months following retirement. The employer may be held liable for this repayment. (See Chapter 13, Reemployment After Retirement, Section III, FRS Employers for information on reemployment after retirement and agency liability.)

Under the FRS and the non-integrated state-administered retirement plans²⁰, an employee must have a bona fide termination from all FRS employers for the first six (6) calendar months of the effective retirement date, after the DROP termination date, or retirement distribution from the Investment Plan, the SUSORP, the SCCSORP, or the SMSOAP. See Chapter 13 Reemployment After Retirement for Termination Requirement during the first 6 calendar months of retirement.

²⁰ The consolidated Florida Retirement System includes the following state-administered retirement systems: The FRS Pension Plan and FRS Investment Plan under Parts I and II of Chapter 121, Florida Statutes; the State University System Optional Retirement Program (SUSORP) under section 121.35, Florida Statutes, the Senior Management Service Optional Annuity Program (SMSOAP) under section 121.055(6), Florida Statutes, and the State Community College System Optional Retirement Program (SCCSORP) under sections 121.051(2)(c) and 1012.875, Florida Statutes; the Teachers' Retirement System (TRS) administered under Chapter 238, Florida Statutes; and the State and County Officers and Employees' Retirement System (SCOERS) administered under Chapter 122, Florida Statutes.

Distinguish between an Independent Contractor and an Employee

The following information is provided to assist you in distinguishing between employees and independent contractors. An independent contractor is defined as an individual who is not subject to the control and direction of the employer for whom work is being performed, with respect not only to what shall be done but also to how it shall be done. If the employer has the right to exert such control, an employee-employer relationship exists, and the person is an employee and not an independent contractor. The division has adopted the following factors from the Social Security Administration, as guidelines to aid you in determining whether an individual is an employee or an independent contractor. The weight given each factor is not always the same and varies depending on the particular situation.

INDEPENDENT CONTRACTOR VS. EMPLOYEE

Instructions:	An employee must comply with instructions from the employer about when, where, and how to work. The instructions may be oral or may be in the form of manuals or written procedures that show how the desired result is to be accomplished. Even if no actual instructions are given, the control factor is present if the employer has the right to give instructions. An independent contractor is not subject to such employer instructions.
Training:	An employee is trained to perform services in a particular manner. This is relevant when the skills and experience that would be used as an independent contractor were gained as a result of previous employment. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services.
Integration:	An employee's services are integrated into the business operations because the services are critical and essential to the success or continuation of an agency's progress/operation. This shows that the employee is subject to direction and control. An independent contractor is independent of the agency.
Services Rendered Personally:	An employee renders services personally for the employer. This shows that the employer is interested in the methods as well as the results. An independent contractor has the right to hire a substitute without the employer's knowledge or approval.
Hiring Assistants:	An employee works for an employer who hires, supervises, and pays assistants. An independent contractor hires, supervises, and pays assistants under a contract that requires him/her to provide materials and labor and to be responsible only for the result.
Continuing Relationship:	An employee has a continuing relationship with an employer. A continuing relationship may exist where work is performed at frequently recurring, although irregular, intervals. An independent contractor does not have a continuing relationship with an employer.
Set Hours of Work:	An employee usually has set hours of work established by an employer. An independent contractor is the master of own time and works on own schedule.
Full-Time or Part-Time Work:	An employee may work either full-time or part-time for an employer. The term full-time does not necessarily mean the individual works an eight-hour day or a five or six-day week. Its meanings may vary with the intent of the parties, the nature of the occupation, and customs in the locality. These conditions should be considered in defining full-time. An independent contractor can work when and for whom the contractor chooses.
Work Done on Premises:	An employee works on the premises of an employer or works on a route or at a location designated by an employer. The performance of work on the employer's premises is not controlling in itself; however, it does imply that the employer has control over the employee. Work performed off the employer's premises does indicate some freedom from control; however, it does not in itself mean the worker is not an employee. An independent contractor is usually free from employer work location restrictions but may arrange to work on location as part of the contract.
Order or Sequence of Services:	An employee generally performs services in the order or sequence set by an employer. This shows that the employee is subject to direction and control of the employer. An independent contractor is not subject to such control.

INDEPENDENT CONTRACTOR VS. EMPLOYEE, cont'd

Reports: An employee submits oral or written reports to an employer. This shows that the employee must account to the employer for actions. The independent contractor produces only those products or reports required in the contract.

Payments: An employee is usually paid by the hour, week, or month. An independent contractor is paid periodically (usually a percent of the total payment), by the job, or on a straight commission.

Expenses: An employee's business and/or travel expenses are paid by an employer. This shows that the employer is in a position to control expenses and therefore the employee is subject to regulations and control. The independent contractor is paid according to the contract.

Tools and Materials: An employee is furnished significant tools, materials, and other equipment by an employer. An independent contractor usually provides own tools, materials, etc.

Investment: An employee is not required to purchase equipment or supplies to perform the required work. An independent contractor has a significant investment in the facilities used in performing services for someone else.

Profit or Loss: An employee performs the services for an agreed upon wage and is not in a position to realize a profit or suffer a loss as a result of the services. An independent contractor can make a profit or suffer a loss. Profit or loss implies the use of capital by the individual in an independent business.

Works for More than One Person or Firm: An employee usually works for one organization. However, a person may work for a number of people or organizations and still be an employee of one or all of them. An independent contractor provides services to two or more unrelated persons or firms at the same time.

Offers Services to General Public: An employee works only for the employer. An independent contractor makes services available to the general public. This can be done in a number of ways: Having office and assistants, hanging out a shingle, holding business licenses, having listings in business directories and telephone directories, and advertising in newspapers, trade journals, etc.

Right to Terminate Employment: An employer can terminate an employee. An independent contractor cannot be terminated so long as the contractor produces a result that meets the specifications of the contract. An independent contractor can be terminated and have the contract canceled, but usually will be entitled to damages for expenses incurred, lost profit, etc.

Right to Quit: An employee can quit the job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

Determination of Status

The determination of an employment classification of a person as an employee or an independent contractor is to determine whether an FRS employer is required to report the person as an FRS employee, including adjustments for prior employment periods. An employment status determination may not circumvent the termination requirement after retirement. The determination of the employment classification is solely within the jurisdiction of the division. To establish whether a person is an independent contractor or an employee, you may request a determination from the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

STATUTORY REFERENCE:

Sections 121.091(9)(b)2., 122.16(2)(b), and 238.181(2)(a), Florida Statutes

FRS RULE REFERENCE:

Sections 60S-1.004(3)(g) and 6.001(33), Florida Administrative Code

XII. SOCIAL SECURITY COVERAGE

Coverage Requirements

Current Members

Members of the FRS are required by state law to be covered for Social Security. The required employee and employer social security contributions (FICA taxes) should be deducted and reported directly to the Internal Revenue Service (IRS). Employers should deposit these taxes through the Federal Tax Deposit System.

Any questions regarding the payment of the Social Security tax paid on wages paid on or after January 1, 1987, should be directed to the IRS through the federal agency's toll-free information number at 800-772-1213 (accessed online at ssa.gov). You should continue to direct all questions regarding an employee's eligibility to participate in the Social Security Program to the Division of Retirement. You may call the division toll-free at 877-377-1266 or 850-907-6540, or email enrollment@dms.fl.gov.

Reemployed Members

Members who retired from a Florida state-administered retirement system and who are reemployed in a full-time or part-time regularly established position with an FRS employer must be covered for Social Security effective with the first day of reemployment. This requirement includes reemployed retirees who are not eligible for renewed membership in the FRS.

Employees Covered by Separate Agreements

Some reporting units participating in the FRS have an additional agreement with the U.S. Social Security Administration that requires absolute Social Security coverage. These agencies must cover all of their employees for Social Security regardless of their employees' eligibility to participate in the FRS. Other reporting units participating in the FRS have separate agreements to exclude certain employees from Social Security coverage.

Mandatory Coverage Exceptions

The Omnibus Reconciliation Act of 1990 (Public Law 101-508) mandated full Social Security coverage on services rendered July 2, 1991, and after for all state and local government employees who are not participating in a public retirement system. All full-time, part-time, and temporary employees, who are not participating in a qualifying retirement system made available through their employer, must participate in Social Security coverage, with the following exceptions established by the U.S. Social Security Administration:

1. An election worker, if remuneration paid in a calendar year is less than \$2000, effective 2021 through the 2023.
2. Individuals who are employed to relieve themselves from unemployment. (It is our understanding that this exemption is intended for individuals employed in a position or program established to provide work for people who are unemployed. For additional information, contact the IRS at the number listed below.)
3. Patients or inmates who perform services in a hospital, home, or other institution.
4. Individuals hired as employees serving on a temporary basis in case of a fire, storm, snow, earthquake, flood or other similar emergency.

5. Non-immigrant students and exchange aliens (F-1, J-1, and M-1 visa holders) as provided under section 101(a)(15)(F), (J), and (M) of the Immigration and Nationality Act.

All questions concerning mandatory Social Security or Medicare coverage should be directed to the IRS through their toll-free information number at 800-772-1213.

Medicare Coverage

Mandatory Medicare coverage is required for all workers hired on or after April 1, 1986, who are not covered by Social Security, except for those positions listed as exempt from mandatory Social Security in items one through five above. This provides Medicare to all employees who are filling temporary positions, as well as members of TRS or SCOERS Plan A. With the implementation of mandatory Social Security coverage effective July 2, 1991, nearly all temporary positions that were previously reported for Medicare have full Social Security coverage. Members of the TRS or SCOERS Plan A continue to have Medicare without Social Security coverage.

Reporting Instructions

Under the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), approved October 21, 1986, state and local government employers no longer report the Social Security tax to the division. Effective January 1, 1987, state and local government employers are required to report both the employee and employer portions of the tax directly to the IRS. Any questions regarding the payment of the Social Security or Medicare tax on wages paid on or after January 1, 1987, should be directed to the IRS through their toll-free information number at 800-772-1213.

You should continue to direct all questions regarding an employee's eligibility to participate in the Social Security Program to the division. All questions concerning mandatory Social Security coverage should be directed to your local IRS office.

STATUTORY REFERENCE:

Section 121.091(9) and Chapter 650, Florida Statutes

FRS RULES REFERENCE:

Section 60S-4.012, Florida Administrative Code