

§ 831.905

(2) If applicable, the employee has been continuously employed in secondary positions since transferring from a primary position without a break in service exceeding 3 days, except that a break in employment in secondary positions which begins with an involuntary separation (not for cause), within the meaning of 8336(d)(1) of title 5, United States Code, is not considered in determining whether the service in secondary positions is continuous for this purpose.

(b) This requirement for continuous employment in a secondary position applies only to voluntary breaks in service beginning after January 19, 1988.

(c) An employee who is not in a primary position, nor covered while in a secondary position, and who is detailed or temporarily promoted to a secondary position is not covered under the provisions of 5 U.S.C. 8336(c).

(d) The service of an employee who is in a position on January 19, 1988, that has been approved as a secondary position under this subpart will continue to be covered under the provisions of 5 U.S.C. 8336(c) as long as the employee remains in that position without a voluntary break in service, and coverage is not revoked by OPM under § 831.911, or by the agency head.

§ 831.905 Evidence.

(a) An agency head's determination that a position is a primary position must be based solely on the official position description of the position in question, and any other official description of duties and qualifications. The official documentation for the position must establish that it satisfies the requirements defined in § 831.902.

(b) A determination under § 831.904 must be based on the official position description and any other evidence deemed appropriate by the agency head for making the determination.

§ 831.906 Requests from individuals.

(a) An employee who requests credit for service under 5 U.S.C. 8336(c) bears the burden of proof with respect to that service, and must provide the employing agency with all pertinent information regarding duties performed, including—

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(1) For law enforcement officers, a list of the provisions of Federal criminal law the incumbent is responsible for enforcing and arrests made; and

(2) For firefighters, number of fires fought, names of fires fought, dates of fires, and position occupied while on firefighting duty.

(b) An employee who is currently serving in a position that has not been approved as a primary or secondary position, but who believes that his or her service is creditable as service in a primary or secondary position may request the agency head to determine whether or not the employee's service should be credited and, if it qualifies, whether it should be a primary or secondary position.

(c) A current or former employee (or the survivor of a former employee) who believes that a period of past service in an unapproved position qualifies as service in a primary or secondary position and meets the conditions for credit must follow the procedure in paragraph (b) of this section. Except as provided in paragraph (d) of this section, the request must be made to the agency where the claimed service was performed.

(d) For a current or former employee seeking credit under 5 U.S.C. 8336(c) for service performed at an agency that is no longer in existence, and for which there is no successor agency, OPM will accept, directly from the current or former employee (or the survivor of a former employee), a request for a determination as to whether a period of past service qualifies as service in a primary or secondary position and meets the conditions for credit.

(e) Coverage in a position or credit for past service will not be granted for a period greater than 1 year prior to the date that the request from an individual is received under paragraphs (b), (c), or (d) of this section by the employing agency, the agency where past service was performed, or OPM.

(f) An agency head, in the case of a request filed under paragraph (b) or (c) of this section, or OPM, in the case of request filed under paragraph (d) of this section, may extend the time limit for filing when, in the judgment of such agency head or OPM, the individual shows that he or she was prevented by