

§ 839.301

5 CFR Ch. I (1-1-08 Edition)

need not be in the same wrong retirement plan during the entire 3-year period. If you had more than one type of erroneous retirement coverage, then you will have a retirement plan election under these rules if one of the errors is of a type that qualifies you for an election.

Subpart C—Employer Responsibility to Notify Employees

§ 839.301 What should I do if I am not sure whether I am or was in the wrong retirement plan?

(a) If you are an employee, your employer has your personnel records and will review them to determine whether an error has been made. Therefore, you should notify your employer's human resources office if you believe an error has been made in your case. Notify your current employer even if you believe the error occurred while you were employed at another agency.

(b) If you are not currently employed by the Federal Government, you should notify OPM at: U.S. Office of Personnel Management, Retirement Operations Center, Post Office Box 45, Boyers, Pennsylvania 16017. You can also contact us by electronic mail at *FERCCA@OPM.GOV*. Notify OPM regardless of whether you are a retiree, survivor, or separated employee.

(c) You may also get additional information about the FERCCA and whether or not you qualify at: *www.opm.gov/benefits/correction*.

§ 839.302 Will my employer give me a written explanation?

(a) Your employer must provide you with written notice of the error. The notice must include an explanation of the error, your options regarding the error, and any time limits that apply.

(b) Your employer must inform you if they find that you do not have a retirement coverage error.

§ 839.303 Is my employer required to find employees with a retirement coverage error?

The FERCCA requires your employer to take reasonable and appropriate measures to identify individuals affected by a qualifying retirement cov-

erage error and notify them of their rights under the law.

§ 839.304 What if my employer does not notify me?

(a) If your error has not previously been corrected, the 6-month time limit on making an election of retirement coverage under the FERCCA (see § 839.611(a)) does not begin to run until you are notified of the error.

(b) If your error was previously corrected, the 18-month time limit on making an election of retirement coverage ends on September 19, 2002. Employers and OPM may extend the time limit if you were prevented from making a timely election due to a cause beyond your control (see § 839.612).

Subpart D—Retirement Coverage Elections for Errors That Were Not Previously Corrected

ERRONEOUS CSRS OR CSRS OFFSET

§ 839.401 What can I elect if I was put in CSRS or CSRS Offset by mistake?

If you were placed in CSRS or CSRS Offset due to a qualifying retirement coverage error and you should have been in FERS, you may elect CSRS Offset or FERS. If you were placed in CSRS or CSRS Offset due to a qualifying retirement coverage error and you should have been in Social Security-Only, you may elect CSRS Offset or Social Security-Only. This is summarized in the following chart:

You are in:	And you belong in:	You may elect:
CSRS	FERS	CSRS Offset or FERS.
CSRS Offset	FERS, Social Security-Only.	CSRS Offset or Social Security-Only.
CSRS	Social Security-Only.	CSRS Offset or Social Security-Only.
CSRS Offset	Social Security-Only.	CSRS Offset or Social Security-Only.

ERRONEOUS FERS

§ 839.411 What can I elect if I was put in FERS by mistake?

If you were placed in FERS due to a qualifying retirement coverage error and you should have been in CSRS, you may elect FERS or CSRS. If you were placed in FERS due to a qualifying retirement coverage error and you should

have been in CSRS Offset, you may elect FERS or CSRS Offset. If you were placed in FERS due to a qualifying retirement coverage error and you should have been in Social Security-Only, you may elect FERS or Social Security-Only. This is summarized in the following chart:

You are in:	And you belong in:	You may elect:
FERS	CSRS	FERS or CSRS.
FERS	CSRS Offset	FERS or CSRS Offset.
FERS	Social Security-Only.	FERS or Social Security-Only.

is disqualified from making an election of retirement coverage under the FERCCA (see §839.221). If you were not allowed to remain in FERS and were placed in CSRS due to a qualifying retirement coverage error, you may elect FERS or remain in CSRS. If you were not allowed to remain in FERS and were placed in CSRS Offset due to a qualifying retirement coverage error, you may elect FERS or remain in CSRS Offset. If you were not allowed to remain in FERS and were placed in Social Security-Only due to a qualifying retirement coverage error, you may elect FERS or remain in Social Security-Only. This is summarized in the following chart:

Subpart E—Retirement Coverage Elections for Errors That Were Previously Corrected

MOVED OUT OF CSRS OR CSRS OFFSET

§ 839.501 What can I elect if my employer moved me out of CSRS or CSRS Offset?

If you were moved out of CSRS or CSRS Offset due to a qualifying retirement coverage error and were placed in FERS, you may elect CSRS Offset or remain in FERS. If you were moved out of CSRS or CSRS Offset due to a qualifying retirement coverage error and were placed in Social Security-Only, you may elect CSRS Offset or remain in Social Security-Only. This is summarized in the following chart:

You were in:	And your coverage was previously corrected to:	You may elect:
FERS	CSRS	CSRS or FERS.
FERS	CSRS Offset	CSRS Offset or FERS.
FERS	Social Security-Only.	Social Security-Only or FERS.

You were in:	And your coverage was previously corrected to:	You may elect:
CSRS	FERS	CSRS Offset or FERS.
CSRS Offset	FERS.	CSRS Offset or Social Security-Only.
CSRS	Social Security-Only.	
CSRS Offset	Social Security-Only..	

Subpart F—Making an Election

GENERAL PROVISIONS

§ 839.601 How do I make an election?

You may make your election using the form issued by OPM. If you are an employee, your employer will provide you with this form. If you are not a current employee, OPM will provide the form.

§ 839.602 What if I don't make an election?

(a) If your qualifying retirement coverage error was not previously corrected and you fail to make an election within the time limit under §839.611(a), your retirement coverage is summarized in the following chart:

§ 839.511 What can I elect under the FERCCA if my employer put me into FERS by mistake and then I was not allowed to remain in FERS when the error was discovered?

An employee who was erroneously placed in FERS during a time when the employee should have had an opportunity to elect FERS is allowed to keep the erroneous FERS coverage. If the employee was given an opportunity to remain in FERS, then the employee

If you are in:	And you belong in:	You are considered to have elected:
CSRS or CSRS Offset.	FERS	CSRS Offset.
FERS	CSRS, CSRS Offset or Social Security-Only.	FERS.
CSRS or CSRS Offset.	Social Security-Only.	CSRS Offset.

(b) If your qualifying retirement coverage error was previously corrected