

# FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

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## FLEOA Victorious in Court Challenge to OPM Decision on FERS Supplements

**Washington, D.C.** – Following a favorable ruling by the Merit Systems Protection Board, Federal Law Enforcement Officers Association (FLEOA) National President Nathan R. Catura hailed the event as a significant victory in the organization's battle to end the U.S. Office of Personnel Management's (OPM) egregious and extralegal assault on certain federal law enforcement and other retirees.

**“The Federal Law Enforcement Officers Association has spent two long years fighting to abolish this unfair decision,”** said Catura. **“OPM leaves our members, on fixed income retirements, with unexpected deficits in their annuities and often the obligation to make large repayments. We spend years planning and saving for retirement only to have it slashed by an unfair and arbitrary decision! In fact, one of our members had his annuity supplement unexpectedly split with a former spouse who was in prison for murder!”**

Certain Federal Employees, including Law Enforcement Officers, are eligible for an annuity before age 62 when they become eligible for Social Security benefits. To provide a sufficient level of income for this period, retirees are entitled to a Federal Employees Retirement System (FERS) Retirement Annuity Supplement (RAS).

Beginning in June 2016, OPM arbitrarily began apportioning this supplement to former spouses and assessing overpayments from annuitants, even in those cases where a divorce decree did not expressly divide the FERS annuity supplement between the spouses and the decree was wholly silent regarding the division of the annuity supplement. Moreover, OPM also retroactively applied its ruling and collected substantial monies from annuitants who could not have anticipated such an indebtedness and could ill-afford payment.

FLEOA, a professional, not for profit, non-political organization representing more than 26,000 officers and agents in 65 agencies, has strenuously objected to this practice. Catura has directly protested the practice to the Acting Director of OPM and to the Acting Inspector General of OPM. This resulted in an IG report highly critical of OPM's decision.

Since the IG released its report, an Air Traffic Controller (ATC) appealed the OPM decision to apportion his annuity supplement to his former spouse, arguing that it was not intended to be divided by their divorce agreement. Lawrence Berger, Esq., Outside Counsel to FLEOA, provided the court with a brief in support of the appellant arguing that the supplement is in the nature of Social Security and not a normal annuity.

Yesterday, Merit Systems Protection Board (MSPB) Administrative Law Judge James A. Kasic agreed with FLEOA's position and ruled in favor of the ATC, stating, **“I find that the appellant has proven by the preponderance of the evidence that OPM, in its December 12, 2017 reconsideration of consideration decision, improperly included the appellant's FERS annuity supplement in its computation of the court ordered division of the FERS annuity.”**

FLEOA President Nate Catura concluded, **“FLEOA will continue its fight until OPM fully ends its attempt to unjustly claw back money from retired federal law enforcement officers. I urge the OPM director, who was recently confirmed, to rectify this erroneous decision implemented by his predecessor, and finally put an end to this policy's disastrous consequences.”**

Lawrence Berger, Outside Counsel, advised that this is an “Initial Decision” and will not be binding until May 21, 2018. He said, “This is a very significant win and OPM is on the wrong side of history.”