

Buying Federal Civilian Retirement Credit for Reserve Service

By Gavriel Swerling¹

[1.3.2.3 – Pension Credit for Service Time](#)

Q: I was on active duty for ten years. Then I was honorably discharged, and got a job in the Federal Government, where I still work. Does my military service count towards my federal pension plan?

A: Your military service does not automatically count towards your federal pension. You can, however, buy back military service to have it count towards your retirement plan. The relevant law provides that federal public employees may buy back time spent in "military service", to have it count towards retirement. 5 United States Code Section 8334(j)(1)(A). Any military service between December 1956 and December 31, 1988 can be bought back for "an amount equal to 7 percent of the amount of the basic pay paid ... for each period of military service". 5 United States Code Section 8334(j)(1)(A). For military service after December 31, 1998 refer to table 1 for percentage of base pay owed:

TABLE 1

Through 12/31/98	3%	of military basic pay
01/01/99 through 12/31/99	3.25%	of military basic pay
01/01/00 through 12/31/00	3.4%	of military basic pay
01/01/01 to the present	3%	of military basic pay

5 United States Code Section 8334(j)(5).

Q: Does reserve service count as time that can be bought back?

Neither Congress nor the courts have clearly defined what counts as military service for the purpose of this law. However, the Army Benefits Center-Civilian center defines "military service" as:

Military service for the Federal Employees Retirement System (FERS) purposes is any honorable active service in the following uniformed services: Army, Navy, Air Force, Marine Corps, and Coast Guard and after 06-30-1960, in the Commissioned Corps of the Public Health Service, and after 06-30-1961, service in the Commissioned Corps of the National Oceanic and Atmospheric Administration and its predecessor agency.

The Benefits Center then goes on to clarify the reservist service counts as well:

¹ Gavriel Swerling, is an ROA Service Members Law Center Associate. He is in his third year at the University Of Maryland School Of Law and is a First Lieutenant in the Marine Corps Reserve. After he graduates from law school and passes the Maryland bar exam, he will go on active duty in the Marine Corps, as a judge advocate, for at least four years. Thank you to RADM James J. Carey and the Washington Scholars for sending him our way.

*The views expressed in this article do not represent the Maryland Law School or the Marine Corps.

Active duty in the various reserve components of the branches listed above is creditable for FERS. That is, service in any reserve component is creditable when you are called for an active duty period only. Such periods include annual active duty training periods. (NOTE: when you perform annual active duty training service during which you are on military leave with pay from a civilian position, the period is credited as civilian, not military, service.)

This means that any periods of active duty and annual training periods count as military service for the purpose of this law, but weekend drill periods (inactive duty training) do not.

For more information on what counts as "military service", I invite you to look at the Army Benefits Center brief on the matter. Available

at: <https://www.abcmil.army.mil/retirements/FERSPost56.htm>

Q: I live in California, but my annual training is at the Pentagon. Does my travel time to get to my annual duty station count as time that can be bought back?

This is a contested issue, for which I have not been able to find a definite answer. The common practice is, however, not to allow service members to buy back travel time, only the time specifically stated on each set of orders. There is not a very strong counter argument for making travel time count as military service. The most equitable way to calculate time of service is by going off the dates listed on each relevant set of orders, otherwise agencies would have to start speculating and there would be no bright line rule for determining what counts as military service. The only exception to this *should* be when annual training orders include "allowable travel time". (This is my opinion, not common practice.) In such a scenario, a day for travel should be added on the front and back of each annual training period when reasonable (i.e. when you are traveling from California to the Pentagon, but not when traveling from Baltimore, MD to the Pentagon). Unfortunately, most agencies do not take such action. The best solution would be for Congress to amend 5 United States Code Section 8334(j)(1)(A) to clearly define what it means by "military service".