

Divorce Decrees, Court Orders and Foreign Service Annuities

In the unfortunate event of a divorce or separation, it is vitally important to be aware that any spousal agreement or court order that waives retirement benefits that are due under the Foreign Service Act to a former spouse must do so expressly. The term "expressly" is used in the Foreign Service Act and has been interpreted as requiring that any spousal agreement or court order that waives retirement benefits that are due under the Foreign Service Act to a former spouse must specifically refer to Foreign Service retirement benefits and cannot merely mention generic retirement benefits, nor can they refer erroneously to FERS retirement benefits. Earlier this year, AFSA understands, the State Department's the Office of the Legal Adviser re-examined this issue and reaffirmed this longstanding legal interpretation.

To "expressly" waive benefits, any spousal agreement or court order must sufficiently identify the retirement system involved. To leave no room for doubt, the words Foreign Service, FSRDS, or FSPS must appear in the document.