



Legal Opinion L-2005-17
July 13, 2005

U.S. Railroad Retirement Board Phone: (312) 751-7139
844 North Rush Street TTY: (312) 751-4701
Chicago Illinois, 60611-2092 Web: <http://www.rrb.gov>

TO : Ronald Hodapp
Chief of Information Resources Management
Bureau of Information Services

FROM : Steven A. Bartholow
General Counsel

SUBJECT : Form G-319 Statement Regarding Family and Earnings
Form G-320 Student Questionnaire
Forms Approval

This is in reply to the request of June 14, 2005, from the Board's Records Officer for my comments regarding the proposed revisions to Board Forms G-319 (Statement Regarding Family and Earnings) and G-320 (Student Questionnaire).

Proposed Form G-319 will continue to be used to obtain information for use in determining whether the employee annuity may be increased under the social security overall minimum guaranty provision of section 3(f)(1) of the Railroad Retirement Act. The revised Form has been expanded to include additional information regarding eligible students in conjunction with the revision of Form G-320 as described below. In addition, the prior reference to incarceration for felony conviction has been corrected to reflect the 1994 and 1999 amendments to the Social Security Act (Public Laws 103-296 and 106-170, respectively). I have no legal objection to these revisions, and in my opinion the information collected is necessary to the administration of section 3(f)(1).

I note, however, that item 29 of proposed Form G-319 continues to request further information regarding any public service pension the employee's spouse may receive, only if social security taxes were not paid on the last day of public employment. Pursuant to the 2004 amendments to the Social Security Act, this period has been expanded from the last day to the last 5 years. See Legal Opinion L-2004-05. Item 29 should be revised in accord with the analysis provided by L-2004-05.

The employee annuitant completes current Form G-320 as part of the initial submission of evidence necessary to determine whether the employee annuity may increase by reason of including a child age 18 or 19 in the section 3(f)(1) computation. The current Form is signed only by the employee annuitant. Proposed Form G-320, in conjunction with another Form, will be used on a recurring basis as part of the Board's monitoring of the student's continuing eligibility. The proposed form adds a short certification that the student has attended school full time which will be signed by the school registrar or home school teacher, as the case may be. Questions regarding the student's earnings for the previous, current and future year, and regarding confinement for criminal offenses, have been removed because this information will be entered on the proposed Form G-319. I have no legal objection to these revisions, and in my opinion the information collected is necessary to the administration of section 3(f)(1).

I also note that the employee certification of the correctness of the information furnished on proposed Form G-320 has been modified to remove the explicitly listed reportable events, and to substitute a reference to booklet G-316. The original format, which listed reportable events preceding the certification signature, is better evidence that the employee had notice of the reporting requirements. Nevertheless, I believe reference to the events listed in the booklet ordinarily suffices to place the employee on notice, especially given the short period to which a student may be considered eligible for inclusion in the 3(f)(1) social security minimum guaranty calculation.