

NRP-related retirements



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With a deep sense of the responsibility that comes with the honor of being appointed by President Rolando as director of retired members, I offer this introduction to my background.

In 1971, I worked for six months as a casual mail handler in Oakland, CA, after serving three years in the U.S. Army. Civil Service Retirement System (CSRS) coverage came with a career appointment as a city carrier in 1979 in Corvallis, OR. NALC activism, including elections as shop steward and branch president, followed. I quickly learned that I had the right to make deposits for my military and casual time so that both counted toward my CSRS

retirement. In 1987, I was part of the less than 1 percent who voluntarily transferred to the Federal Employees Retirement System (FERS) in the first FERS transfer open season. I worked for many years as an LBA and then RAA in Region 2, and was appointed as assistant to the president for compensation in 2004. In early 2007, I retired at the age of 59 with an OPM annuity that included a CSRS component, a FERS component and a FERS annuity supplement.

Full retirement lasted little more than a year. I returned to work for the NALC on an *ad hoc* basis in large part because of the Postal Service National Reassessment Program (NRP). That program orchestrated the withdrawal of limited-duty jobs from thousands of letter carriers (and other postal employees) who had suffered on-the-job injuries but remained able and willing to work. Many of those targeted by NRP suffered severe financial distress, as the wheels of the Office of Workers' Compensation Programs bureaucracy moved slowly and, in some cases, resulted in adverse and incorrect decisions denying benefits. Thus, many were forced by financial circumstances into OPM retirement—regular retirement in some cases and disability retirement in others.

With that introduction, a brief discussion of the relationship between OPM disability/regular retirement and additional rights and benefits that may be available to employees with injuries or disabilities will provide some context highlighting the trouble with many NRP-related retirements.

OPM disability retirement¹ is just one of a number of legal rights that protect certain injured or disabled letter carriers. Other rights are found in the Rehabilitation Act, the Americans with Disabilities Act (indirectly through

adoption of its regulatory standards into the Rehabilitation Act), the Federal Employees' Compensation Act (FECA), the Social Security Act and the Family and Medical Leave Act. Some of these are benefits laws, while others are anti-discrimination laws. Some have elements of both. In addition to the legal protections, there are contractual protections, including the light-duty provisions of Article 13 of the National Agreement, the limited-duty provisions in the *ELM* and *EL 505*, as well as other National Agreement articles directly incorporating some of the legal protections into the National Agreement.²

The conditions of coverage are different for each of these legal and contractual protections. The benefits and rights provided also differ. The appeal rights and available avenues vary. Finally, the obligations and responsibilities of the Postal Service, as the employer, are different as well. An employee may be simultaneously covered by more than one, or even by all, of these legal and contractual protections.

When an employee is covered by more than one, the Postal Service has an obligation to simultaneously comply with all of its obligations under the various laws and contract provisions.

For instance, a FERS-covered letter carrier with more than 18 months of service who is disabled from performing the duties of the letter carrier position, but who remains able to perform other work, may have a right to an OPM disability retirement. If the employee's disability meets the requirements of the Rehabilitation Act, the carrier also will have a right to reasonable accommodation by the Postal Service, which could include reassignment to a less physically demanding job. If the disability is due to an accepted on-the-job injury, the carrier will concurrently have the right to restoration to limited duty afforded by the Federal Employees' Compensation Act and the contractual right found in the *ELM 546*, which requires the Postal Service to make every effort toward reassignment to limited duty.

Some of the benefits of the various laws and contract provisions are mutually exclusive. An employee entitled to disability or regular retirement and at the same time entitled to limited-duty work under the FECA must elect one or the other. It should be the employee's choice.

In too many cases, letter carriers were forced by the financial results of improper NRP actions to take regular retirement (where qualified by age and years of service) or disability retirement.

1. 5 USC 83 (CSRS) and 5 USC 84 (FERS)

2. E.g., Article 2.1 incorporates Rehabilitation Act disability antidiscrimination provisions; Article 21.3 incorporates 5 USC 83 and 84; and Article 21.4 incorporates the FECA.