

Contract Administration Unit

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Forced retirement and separation

Employees who have been absent for one year of continuous service without pay because of illness may be separated for disability. When an employee is being separated for disability, management must follow the applicable handbooks and manuals. The *Employee and Labor Relations Manual* (ELM) Section 365.34 lays out the provisions of separation-disability. At the end of one year of leave without pay (LWOP), separation-disability is not mandatory, and extensions should be granted if it's likely the employee will be able to return to work.

ELM 365.342.c

c. If an employee on the rolls of the Office of Workers' Compensation Programs (OWCP) is unable to return to work at the end of the initial 1-year period of LWOP, the LWOP may be extended for successive additional periods of up to 6 months each. Extensions are granted only if it appears likely that the employee will be able to return to work within the period of the extension. If it does not appear likely that the employee will be able to return to work during the period, the employee, upon approval of the area manager of Human Resources (Area), is separated subject to reemployment rights.

In all situations under *ELM* 365.342, approval from the area manager of Human Resources (area) is required.

ELM 365.342.d

d. Before any employee on the rolls of the OWCP can be separated, the requesting postal official must submit a comprehensive report through channels to the manager of Human Resources (Area), with appropriate recommendations. The employee must be retained on the rolls of the Postal Service pending a decision.

If the manager of Human Resources approves the request to proceed with a disability separation, the employee is not separated until given an opportunity to retire, if eligible.

ELM 365.342.e

e. If the manager of Human Resources (Area) approves the request, and if the employee has enough service for entitlement to retirement, the employee is not separated until given an opportunity to retire. For involuntary separation, the notice and appeal procedures outlined in 650 or the applicable collective bargaining agreement, whichever is appropriate, is followed.

Civil Service Retirement System (CSRS) employees must have completed at least five years of creditable federal civilian service to be eligible for disability retirement. Federal Employees Retirement System (FERS) employees must have completed at least 18 months of federal civilian service to be eligible for disability retirement.

If the employee is eligible for disability retirement but

chooses not to apply, he or she is not separated until a complete medical report has been received (by the manager of Human Resources) and the employee has received retirement counseling.

ELM 365.342.f

f. An employee who is eligible for disability retirement but chooses not to apply is not separated for disability until a complete medical report has been received and the employee has received retirement counseling.

There are situations in which management may initiate disability retirement on behalf of the employee. These regulations are found in *ELM* 568 for CSRS employees, and *ELM* 588 for FERS employees.

ELM 588.21 Basis for Filing

An employing office may file an application for disability retirement for an employee who has at least 18 months of creditable civilian service when all the following conditions are met:

- a. The employing office has issued a decision to remove the employee;
- b. The employing office concludes, after its review of medical documentation, that the cause for unacceptable performance, attendance, or conduct is disease or injury;
- c. The employee is institutionalized or, based on a review of medical and other information, the employing office concludes that the employee is incapable of making a decision to file an application for disability retirement;
- d. The employee has no personal representative or guardian;
- e. The employee has no immediate family member who is willing to file an application on her or her behalf.

The Office of Personnel Management (OPM), the government agency that promulgates the CSRS and FERS retirement systems, provides additional restrictions. OPM mandates that the employing agency must file a disability application when all the conditions are met in Section 60A.3.1-2. This criteria is similar to the criteria found in *ELM* 588.21 and *ELM* 568.11.

If the agency files a disability retirement application on an employee's behalf, the application must be filed prior to separating the employee from service. Additionally, the agency should place a statement in the OPF (official personnel file) that describes the agency's attempt to perfect an application and its reasons for believing that such an application was appropriate. These regulations are also found in Section 60A.3.1-2 of the *CSRS FERS Handbook*.