

Administrative separations

Outside of the probationary period, or the 90/120 requirement, as a city carrier assistant (CCA), the Postal Service can only involuntarily separate employees in one of two ways; the first is by satisfying the “just cause” standard found in Article 16 of the National Agreement, or second, through an administrative process called separation-disability. This article will define administrative separations and explain the requirements associated with them.

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 manual provisions. The *Employee and Labor Relations Manual (ELM)* Section 365.34 lays out the provisions of separation-disability and begins by defining the term:

Separation-disability is a term used to indicate the separation of an employee other than a non-career or a probationary employee whose medical condition renders the employee unable to perform the duties of the position and who is ineligible for disability retirement.

ELM Section 365.342, Applicability, provides the criteria for employees with one year of continuous absence without pay because of illness, employees covered under the Uniformed Services Employment and Reemployment Rights Act (USERRA) who are recovering from a service-connected disability, and employees covered under the Office of Workers’ Compensation Programs (OWCP) due to an on-the-job injury. This section also details steps that must be taken prior to affecting disability-separation. *ELM* Section 365.342.a explains:

At the expiration of 1 year of continuous absence without pay, an employee who has been absent because of illness may be separated for disability. This action is not mandatory, however, and if there is reason to believe the employee will recover within a reasonable length of time beyond the 1-year period, the employee may be granted additional leave in 30-day periods, not to exceed 90 days. If the employee’s condition indicates that LWOP beyond that period is necessary incident to full recovery, the postal official must submit a comprehensive report to the area manager of Human Resources with appropriate recommendation and retain the employee on the rolls pending a decision.

It’s clear that disability separation is not mandatory. There is discretion to extend leave if the employee might recover within a reasonable length of time beyond the one year of continuous leave without pay (LWOP). Grievance handlers should be sure to examine

the actual LWOP used, in particular any interruptions to LWOP (i.e., they entered into a pay status), as well as reports indicating the employee may be able to recover and when.

USERRA provides rights to employees who are hospitalized or recovering from a service-disconnected disability. This provision is reflected in *ELM* Section 342.b:

An employee covered under USERRA who is hospitalized or convalescing due to a service-connected disability is required to return to work once recovered. The recovery period may not exceed 2 years (see EL-312 773(d)). Before any employee covered under USERRA can be separated for disability, the requesting postal official must submit a comprehensive report through the proper 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.

Employees in an LWOP status due to an on-the-job injury receive additional protections from an administrative separation for disability. *ELM* Sections 365.342.c and 365.342.d state:

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.

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.

Take note that extensions for employees on OWCP for an on-the-job injury are in six-month periods (rather than 30-day periods in Part a) and there is no limit placed on the number of extensions.

Grievance handlers may be able to prevent disability-separations of employees by utilizing light- and limited-duty procedures. Returning an employee to a pay status through these provisions would instantly make the employee ineligible for a disability-separation, as it would break or interrupt the one year of continuous LWOP requirement. The provisions of Article 13, Assignment of Ill or Injured Regular Workforce

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Employees, govern voluntary requests for light-duty work by employees who are temporarily or permanently incapable of performing their normal duties as a result of illness or injury. USPS procedures regarding limited duty (provided for an employee who is temporarily or permanently incapable of performing their normal duties as a result of a job-related compensable illness or injury) are found in Section 540 of the *ELM*. The local union must initiate any limited- or light-duty grievances prior to the effective date of the separation while the employee is still on the postal rolls.

Handbook EL-505, Injury Compensation lays out additional procedural rules that management must follow when separating an employee out on OWCP. *EL-505* Section 4-22 requires the Postal Service to initiate the following actions prior to separating an employee who is injured on duty and has been in a continuous LWOP status for one year:

- Request current claim status and copies of the latest medical reports from OWCP.
- Schedule the employee for a fitness-for-duty exam.
- If the medical documentation indicates that the employee is capable of performing full duty, **return the employee to work.**
- If the medical documentation indicates that the employee is temporarily partially disabled, **issue the employee a written limited duty job offer.**
- If the medical documentation indicates that the employee is permanently partially disabled, **issue the employee a written permanent rehabilitation job offer.**
- If the medical documentation indicates temporary total disability and the injured employee is expected to return to work within six months, extend the LWOP status.
- If the medical documentation indicates permanent total disability, request separation according to the procedures outlined in *ELM* Section 365.

Thus, when a carrier's disability is partial (able to perform some work) and work related, the Postal Service does not have the authority to separate (regardless of whether the partial disability is temporary or

permanent). Instead, it must provide a limited-duty job or rehabilitation assignment.

Union representatives can find evidence of the status of the injured employee's disability (partial versus total and temporary versus permanent) in various places. These include:

- A. Medical documentation. This can come from the attending physician and/or second opinion or referee doctor in the form of CA-17, Duty Status Report, OWCP 5c Work Capacity Evaluation Musculoskeletal Conditions, medical narratives explaining restrictions, etc. It should be noted that when there are differing medical opinions, only OWCP can determine which opinion is controlling.
- B. OWCP case file:
 1. A letter from the claims examiner that states the employee can return to work.
 2. Evidence of vocational rehabilitation. OWCP does not provide vocational rehabilitation when employees are totally disabled.

When the evidence shows that disability is permanent and total after one year of LWOP, prior to separating an employee, *EL-505* Section 4-23 requires local management to prepare a request letter to Postal Service Headquarters that includes:

- A brief history of the employee's injury.
- The date the employee entered into an LWOP-IOD status. The employee must have been in an LWOP-IOD status for one year before separation is requested.
- Conclusive medical reports that are no more than six months old and a summary of pertinent medical documentation substantiating the request for separation.
- A request to the area HR analyst for confirmation to terminate the employee's LWOP-IOD status and initiate separation action. The request is to be agreed with by the district HR manager and the appropriate functional manager and be signed by the district manager.

After management has prepared their request in accordance with the above provision, they are then required to submit the request to USPS headquarters and maintain the employee on the rolls until a formal

decision is received from headquarters. If applicable, the letter carrier must be advised of retirement rights in the final notification letter.

To preempt management arguments that the *EL-505* is not enforceable through the grievance procedure, grievance handlers can cite the Postal Service's post-argument brief dated Jan. 6, 2012, in MSPB case *Latham v. USPS* (docket no. DA-0353-10-0408-1-1). In this brief, the Postal Service argues that the *EL-505* is part of the collective-bargaining agreements, and as a result binding. The brief states, in part:

But there is no dispute that *ELM* § 546 and *Handbook EL-505* are, for all intents and purposes, collective-bargaining agreements...As a result, *ELM* § 546 and *Handbook EL-505* have been transformed from unilateral policy statements to binding agreements.

In all situations under *ELM* Section 365.342, management must retain the employee on the rolls pending a decision. In each case, the requesting official must submit a "comprehensive report" to the manager of Human Resources (Area). Stewards should be sure to request the comprehensive report (be sure to do so in writing and include the request in the case file).

ELM Section 365.342.e explains that 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. *ELM* Section 365.342.e states:

e. If the manager of Human Resources (Area) approves the request, and if the employee has sufficient 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, they are not separated until a complete medical report has been received (by the manager of Human Resources) and the employee has received retirement counseling. *ELM* Section 365.342.f states:

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.

Separated employees can still apply for disability retirement even if they chose not to while employed. The application for disability retirement must be received by the Office of Personnel Management (OPM) within one year after the date of the separation.

There are situations in which management may initiate disability retirement on behalf of the employee. These regulations are found in *ELM* Section 568 for CSRS employees, and *ELM* Section 588 for FERS employees. *ELM* Section 588.21, Basis for Filing, explains:

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 of the following conditions are met:

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

OPM, the government agency that promulgates CSRS and FERS, mandates that the employing agency must file a disability application when all of the conditions are met in the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) *Handbook for Personnel and Payroll Offices (CSRS FERS Handbook)*, Chapter 60. These conditions are similar to the conditions 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 found in Section 60A.3.1-2 of the *CSRS FERS Handbook*.

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Employees must receive official notice if being separated for disability. *ELM* Section 365.343, Notice to Employee, states:

No employees who have completed their probationary period are separated for disability until given a notice in writing of the proposed action and an opportunity to reply in accordance with appropriate adverse action procedures. Employees eligible for disability retirement are advised and notified that unless they file application for disability retirement within 1 year of separation their rights will lapse.

Employees who receive notice of separation should immediately contact their union representative for assistance. In disability-separation grievances, the union should be sure to fully document the contract violation with appropriate contentions and evidence that supports the violation. Remember that these grievances are not the same as discipline cases, and the union bears the burden of proof.

The Postal Service also has attempted to use administrative separation procedures on employees

after they have passed their probationary period (or 90/120 requirement as a CCA) when these employees received an unfavorable National Agency Check with Inquiries (better known as a NACI background check). Through disputes over these separations, management has argued that the provisions of Article 16 and the “just cause” principle are not applicable. However, in a national award by Arbitrator Newman dated June 30, 2025, (USPS Case No. 6X 21C-6X-C 3281423 and C-37276 in NALC’s arbitration system), Arbitrator Newman found that grievances protesting the separation of non-probationary employees based upon an unfavorable NACI report are arbitrable, and in such cases the Postal Service must prove that it had just cause for the separation/removal under the principles of Article 16. Grievances concerning separations after probation due to an unfavorable NACI report should be sure to include this national award.

It is vital for grievance handlers to discover and attack all procedural errors when management initiates an administrative separation outside of the probationary period.

Director of Life Insurance

Individual Disability FAQ (continued)

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two years from the policy date, and is due to a pre-existing condition, benefits will not be paid unless you have gone for a period of one year while the policy is in force without receiving any medical advice or treatment for that condition.

What is a concurrent disability? A concurrent disability means one continuous period of total disability that is caused, or is continued by, more than one injury or sickness. Benefits will be paid as if the concurrent disability was caused by one injury or one sickness. In no event will the insured be considered to have more than one continuous period of total disability at the same time.

What is recurrent disability? A recurrent disability is a disability due to the same or related cause applicable to the prior period of total disability; it also occurs within 180 days after the end of the prior total disability. In such cases, the benefit period will be reduced by the number of days benefits were paid for the prior period (or periods) of total disability. The elimination period must be satisfied with each recurrence. Two or more periods of recurrent disability may not be used to determine completion of one elimination period.

Additional information can be obtained about any of our policies on our website at nalc.org/mba or by calling the office at 202-638-4318 Monday to Friday 8 a.m. to 3:30 p.m. Eastern time.