

123:1-30-02

Voluntary disability separation.

- (A) An employee who is unable to perform the essential job duties of the position due to a disabling illness, injury or condition may request a voluntary disability separation. A voluntary disability separation occurs when an employee does not dispute his or her inability to perform the essential job duties of the position due to a disabling illness, injury or condition.
- (B) Appointing authorities may grant an employee's request for voluntary disability separation or may ~~require~~ have the employee ~~to~~ submit to a medical or psychological examination pursuant to rule 123:1-30-03 of the Administrative Code. If the examination supports the employee's request, the appointing authority ~~shall~~ will grant the employee's request for voluntary disability separation. If the medical examination does not support the employee's request, the appointing authority ~~shall~~ will not approve the employee's request for voluntary disability separation.
- (C) Pre-separation hearing. An employee who is granted a voluntary disability separation waives the right to a pre-separation hearing with the agency's appointing authority ~~an~~ and to an appeal of the decision to approve the employee's request with the state personnel board of review.
- (D) Right to reinstatement. An employee ~~that~~ who is granted a voluntary disability separation ~~shall retain~~ retains the right to be reinstated to his or her position for two years from the date that the employee is no longer in active work status due to a disabling illness, injury or condition. An employee may submit a written request for reinstatement from a voluntary disability separation in accordance with the procedure established in rule 123:1-30-04 of the Administrative Code.
- (E) For purposes of this rule only, "active work status" does not include those hours worked during a transitional work program authorized by paragraph (B) of rule 123:1-33-07 of the Administrative Code or in a temporary part-time position authorized by paragraph (A) of rule 123:1-33-07 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 5/15/2023

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 124.09
Rule Amplifies: 124.32
Prior Effective Dates: 11/10/1996, 10/29/2006, 07/01/2007