



Medina County Policy Manual



Policy: Involuntary Disability Separation	Section: Separation	Number: 8.000
Issued: 09/17/07	Reviewed/Revised: 12/29/08 – Res. 08-1174	Page #: 1 of 2

Previous Res. 07-900

OAC 123:1-30-01

Attorney General Opinion 97-059

- A. When an Appointing Authority has reason to believe that an employee is incapable of performing the essential functions of the employee's position due to disabling illness, injury, or condition, the Appointing Authority may require the employee to submit to a medical or psychological examination conducted by one or more licensed practitioners selected by the Appointing Authority. It is not, however, necessary for the Appointing Authority to require the employee to submit to such examination prior to involuntary disability separation if: (1) the employee is hospitalized at the time such action is to be taken, and (2) the employee has exhausted any leave to which he is entitled under the FMLA, (3) Substantial credible medical evidence already exists that documents the employee's inability to perform the essential job duties.
- B. When the Appointing Authority has received the results of a medical or psychological examination and initially determines that the employee is incapable of performing the essential functions of the employee's position due to a disabling illness, injury, or condition, the Appointing Authority will institute pre-separation proceedings. Under the proceedings, a hearing will be scheduled and advance written notice of at least seventy-two (72) hours will be provided to the employee. At the hearing, the employee will have a right to examine the Appointing Authority's evidence of disability, to rebut the evidence, and to present testimony and evidence on the employee's own behalf. The employee should also be permitted to waive his right to a hearing.
- C. If the Appointing Authority determines, after weighing the testimony presented and the evidence admitted at the pre-separation hearing, that the employee is unable to perform the essential functions of his position, the Appointing Authority will issue an involuntary disability separation order.
- D. The effective date of separation, for the purpose of reinstatement, will be based on the date the employee was no longer in active work status due to the disabling illness, injury, or condition. The total continuous time of absence due to the disabling illness, injury, or condition will not exceed two (2) years for purposes of reinstatement rights.
- E. An employee who is involuntarily disability separated will have the right to appeal in writing to the State Personnel Board of Review within ten (10) days following the date the order is served on the employee.

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F. The Appointing Authority will also notify the employee, at the time the involuntary disability separation order is provided to the employee, of the required procedures to apply for reinstatement.