



**Administrative Regulations
Office of the Mayor**

Title: DISABILITY PROCEDURES

A.R. Number: 4.2 Effective Date: 2/1/2014 Page: 1 of 4

Supersedes: Disability Procedures A.R.: 4.2 DATED: 2/1/2007

I. PURPOSE

The City's policy on disability seeks to provide employees with an opportunity to continue employment whenever possible. This regulation provides an overview of the disability placement process, and included are procedures for initial disability claims and applying for disability retirement. The City will adhere to the Americans with Disabilities Act (ADA) in applying this regulation. The guidelines set forth below are not intended to confer on employees greater rights to which they are entitled under the Virginia Workers' Compensation Act or the Americans with Disabilities Act. Should any provision of this regulation conflict with state and federal laws or regulations, the state or federal law, as appropriate, shall be controlling.

II. POLICY

- A. The disability placement/separation process, as defined in Personnel Rule 5.11(2), allows certain qualified employees, upon certified medical examination, to be placed in a position to accommodate his or her disability or be separated from City service for a determined disability.
- B. The Richmond Retirement System offers two types of disability retirement:

Ordinary (Non-Job Related) Disability

This disability retirement results from the inability to work due to an injury or illness that is not job-related. The employee must have five years of creditable service and the System's medical examiners must certify that the employee is completely and permanently incapacitated from performing any duties with the City.

Compensable (Job-Related) Disability

This disability retirement results from the inability to work due to an injury or illness that is job-related. The employee's disability must be compensable under the Virginia Worker's Compensation Act and the System's medical examiners must certify that the employee is completely and permanently incapacitated from performing any duties with the City. **For firefighters**, the disability may be the result of respiratory disease, hypertension or heart disease. **For police officers**, the disability may be the result of hypertension or heart disease.

Americans with Disabilities Act - As set forth in Administrative Regulation 4.1, it is the policy of the City to fully comply with the Americans with Disabilities Act (ADA). Accordingly, certain employees may be provided with reasonable accommodations if they are a qualified individual with a disability. Qualified individuals are those who satisfy the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.

III. PROCEDURE

- A. Initial Disability Claim

Purpose: To conduct an initial medical examination of an employee's disability status and to certify continued employment.

1. Initial Medical Determination: Non-Service Related Disability

- a. The employee notifies his or her supervisor of a potential disability. The supervisor notifies the agency's HR Liaison, who acts as an ADA coordinator, of the employee's potential disability. The HR Liaison partners with the Department of Human Resources (HR) to schedule the employee for a medical examination. The employee is referred to the City's Medical Review Officer (MRO), by the HR Liaison.



**Administrative Regulations
Office of the Mayor**

Title: DISABILITY PROCEDURES

A.R. Number: 4.2 Effective Date: 2/1/2014 Page: 2 of 4

Supersedes: Disability Procedures A.R.: 4.2 DATED: 2/1/2007

- b. The MRO conducts an examination and reports medical findings to the Department of Human Resources. HR shall discuss with the Agency the employee's ability to perform the essential job duties. If the report indicates the employee can perform current and essential job duties with or without restrictions, the Appointing Authority with the HR Liaison arranges job accommodation or placement within the Agency. The Appointing Authority notifies the employee and HR in writing of placement action within thirty (30) days.
2. Initial Medical Determination: Service-Related Disability
 - a. The employee reports the injury. The Supervisor completes the Employer's First Report of Accident form (plus appropriate supplements) and submits the form to the City's Safety Officer and any other entities as may be required under the Virginia Workers' Compensation Act. If the injury is serious and considered an emergency, the employee may be taken to the nearest hospital. Once the injury has stabilized, the employee must be referred by the Agency to the City's panel of Workers Compensation physicians. If the injury is not an emergency, the employee is referred directly to the City's panel of Workers Compensation physicians. A physician in the panel group may become the employee's treating physician for purposes of Workers' Compensation. If, however, the employee selects a physician outside of the panel, the employee bears all costs.
 - b. The panel physician, selected by the employee, conducts an examination of the work-related injury. Medical results are reported on the Authorization for Medical Treatment form, with copies to the employee for the Agency and to the City's third party claims administrator.
3. Job Placement and Continued Employment: Service Related and Non-Service Related Disability
 - a. If the employee is medically cleared to return to work and can perform in another job, with or without restrictions, the Appointing Authority initiates job placement efforts within the Agency for thirty (30) days.
 - b. If the Appointing Authority determines that the employee cannot be placed within the Agency, the employee is referred to HR for employment alternatives elsewhere within the City. HR will initiate job placement efforts within the City for thirty (30) days. HR will notify the employee and the Appointing Authority of findings in writing.
 - c. If no appropriate or available employment alternatives exist after a department wide and citywide search was conducted, the Appointing Authority shall recommend to the HR Director and the CAO the separation of the employee from employment. The department is responsible for referring the employee to the Richmond Retirement System (RRS) prior to submitting the recommendation for separation from employment. The employee shall be separated from City service and given a minimum twenty-one (21) calendar days notice prior to the separation date.
 - d. If during any placement process, an employee refuses the placement offered, the employee shall be separated from City service in accordance with Personnel Rules. If separation from City service occurs, the employee must be given a minimum of twenty-one (21) calendar day's notice.
 - e. If the employee is totally and/or permanently incapacitated based on medical information and cannot perform the essential duties of any job, the Appointing Authority shall recommend to the HR Director and the CAO the separation of the employee from employment. The department is responsible for referring the employee to the Richmond Retirement System (RRS) prior to submitting the recommendation for separation from employment. The employee shall be separated from City service and given a minimum twenty-one (21) calendar days notice prior to the separation date.



**Administrative Regulations
Office of the Mayor**

Title: DISABILITY PROCEDURES

A.R. Number: 4.2 Effective Date: 2/1/2014 Page: 3 of 4

Supersedes: Disability Procedures A.R.: 4.2 DATED: 2/1/2007

4. Job Reinstatement Upon Recovery of Job Related Disability

- a. If the employee after being placed in a new position because of a service related disability placement now meets the minimum requirements for the previously held position, the employee may reapply for the previous position if a vacancy is available.
- b. If the employee is selected and rehired in the previously held position with no break in city service, the employee will be treated with the same seniority as if he/she served continuous in the previously held position (applicable to sworn employees upon the completion of required basic training).

B. Retiree Disability Re-Examination Claim

Purpose: To conduct an annual medical re-examination of the retiree's ability to return to employment during the first and second years of disability. After three or more years of receiving disability retirement, the employee may no longer be subject to re-examination requirements.

1. Medical Re-examination

The RRS notifies the disabled retiree of re-examination and schedules an appointment for a medical examination with an approved Medical Examiner. If the retiree's condition is unchanged or has deteriorated, RRS notifies the retiree of the continuance of disability retirement benefits. If the Medical Examiner determines that the disability retiree is capable of performing in the retiree's last position or in a position other than that of the retiree's last position, the Board shall refer him/her to HR for job placement in the retiree's last position or possible job placement in a position for which he/she qualifies.

2. Job Placement

- a. If the retiree can return to work with or without restrictions in the member's last position, RRS makes a referral to HR. Upon receipt of the medical report, HR conducts a review and initiates job search/placement efforts. HR will notify the retiree, RRS and the Appointing Authority of the action in writing within forty-five (45) calendar days.
- b. If the retiree cannot return to work with or without restrictions in the retiree's last position, but can return to an alternate position in the City, HR will notify the retiree, RRS, and the Appointing Authority of the job placement recommendation within thirty (30) days.

3. Impact on Pay

- a. Retirement - If a retiree, who retired on a job-related (compensable) disability, is determined by the medical examiners to be capable of performing the duties of a position other than that of the last position for which the retiree was qualified, by education, training, or experience, the Board shall refer the retiree to the Director of HR for job placement. When assigned, the retiree should be compensated as follows:
 - i. For a member who retired on a job-related (compensable) disability the wages should be at least one hundred percent of the retiree's last salary, including any cost-of-living adjustments and equity increases, through a combination of salary and RRS benefits.
 - ii. For a member who retired on a non-job-related (ordinary) disability, wages should be at least eighty percent of the retiree's last salary, based on a combination of salary and RRS benefits.
- b. If an employee is placed in his same position and class, pay remains at the same salary held prior to the disability retirement. If an employee is placed in a different but lateral position and class, pay remains at the same salary held prior to the disability. If the employee is placed in a different but lower position, pay is adjusted to the same salary in the new range or the maximum of the new range, whichever is higher.



**Administrative Regulations
Office of the Mayor**

Title: DISABILITY PROCEDURES

A.R. Number: 4.2 Effective Date: 2/1/2014 Page: 4 of 4

Supersedes: Disability Procedures A.R.: 4.2 DATED: 2/1/2007

c. Under Workers' Compensation, employees who incur qualified disabilities shall have the same pay rights as all other employees, except that injured employees returning to restricted or less than normal work hours, may receive workers' compensation indemnity benefits (injury leave supplement) for the hours not worked as provided by State law.

4. Impact on Retirement

If a retired employee is placed in another position with the City under these procedures, all retirement benefits (other than salary) shall be calculated as if the retired member were still in the position from which he/she initially became disabled.

5. Impact on Refusals

The failure or refusal of the member, within one month, to accept any position offered for which the wages are as stated in section 3(a) above, shall result in the member being deemed ineligible for any disability retirement benefits.

IV. DEFINITIONS

Terms	Definitions
ADA	Americans with Disabilities Act
HR Liaison	Agency representative who collaborates with supervisors and employees to evaluate and recommend workplace accommodations.
Medical Examiners	Physicians approved by the Richmond Retirement System's Board of Trustees who provide written evaluations of an employee's medical limitations to the Retirement Board.
Medical Examination Report to Employer (MERE)	A medical report generated by the medical provider at Employee Medical Services identifying the extent of the employee's medical limitations.
Medical Examination Report to Employer Supplement (MERE Supplement)	A medical report generated by the medical provider to provide additional medical information when the employee is not qualified to perform any work at the time of the report.
Medical Services Provider	Employee Medical review office under contract with the City to provide medical services to City employees and job applicants.
WC TPA	The City's Third-Party Administrator for Workers' Compensation claims

V. REGULATION UPDATE

The Department of Human Resources and Richmond Retirement System shall be responsible for modifications to this Policy.

RECOMMEND APPROVAL: /Original signed copy on file in HR/

Byron C. Marshall, CHIEF ADMINISTRATIVE OFFICER

APPROVED:

/Original signed copy on file in HR/

Dwight C. Jones, MAYOR