

## ***Disability Retirement – Agency Requirements under Act No. 519***

Effective July 1, 2006, Act No. 519 amends OCGA 47-2-123(b) **requiring the employing agency** of an applicant for disability retirement to attempt to provide an alternative position for the applicant. **The applicant is required** to submit a complete copy of his or her application for disability retirement (with supporting documentation) to his or her employer at the same time it is submitted to ERS. We are instructing applicants to file their application through their agency's human resources office. The **HR office should** forward a copy to ERS or confirm that the applicant has submitted a copy to us.

The **agency is responsible** for arranging an interview between the applicant and the **agency head** within 10 business days of receipt of the application. The **agency head may designate someone** to conduct the interview. Any **such designee must** be an agency official above the level of the applicant's immediate supervisor and must be authorized to make job assignment decisions. Based on the interview and the information contained in the disability application packet, the **agency head or designee must determine** if an alternative position is available for the applicant which meets the following requirements:

- (A) The physical requirements for such position are compatible with the employee's physical limitations;
- (B) The annual compensation and possibility for future advancement for such position shall be the same as or greater than that of the current position of the employee;
- (C) The duties for such position shall be reasonably compatible with the experience and educational qualifications of the employee;
- (D) The position shall be one which includes the holder thereof as a member of the Employees' Retirement System;
- (E) The position must be available for acceptance by the employee and an offer of the position to the employee must be made, in writing, by not later than 45 days after the employee submitted his or her application for a disability retirement.

If a position meeting the above criteria is offered to the employee, your **agency must notify ERS** within 45 days of the date the application for disability retirement was received. The **employee must** either **accept** the offer or **dispute** his or her ability to perform the tasks required by the position offered. Your **agency should notify ERS** if the employee accepts the offer, which renders the application for disability retirement void. If the **employee disputes** his or her ability to perform the tasks of the offered position, **he or she must file a written appeal** to your agency and ERS within 30 days of receiving the offer. Upon receipt of such notification, **your agency must submit** a detailed description of the requirements of the offered position to ERS. **ERS will** at that time submit the application packet, including descriptions of the original position and the offered position to our medical board. The medical board will determine if the applicant is capable of performing the duties of either position. If the medical board determines he or she is unable to perform the tasks required of either the original or alternative position, if any, the applicant is immediately placed on disability retirement. If the medical board determines the applicant is able to perform in either position, the applicant is not eligible for disability retirement. The decision of the medical board as to the applicant's ability to perform the job duties of the alternative position is final.

If the **employee** is offered a position and **does not accept** it, his or her **application for disability retirement is no longer valid** unless he or she **disputes** his or her ability to perform the tasks of the offered position, **and files** a written appeal to your agency and ERS within 30 days of receiving the offer.

If your **agency determines** that it has no position meeting the above criteria, you should notify ERS that no alternative position is available no later than 45 days from receipt of the application. Remember that **the agency has 45 days** in which to offer an available alternative position; however if the agency is certain that no such position will become available, the **agency head or designee may notify** ERS that there is no position available at that time.

The **agency must notify ERS** of the results of its efforts to offer alternative employment. The enclosed form “Disability Retirement-Alternative Position” should be used for such notification. The form should be completed and submitted when:

1. The applicant has been offered an alternative position and:
  - A. Accepted the position **or**;
  - B. Disputes his or her ability to perform the tasks required of the position, **or**;
  - C. Has refused the offered position

**OR**

2. The agency has determined it has no position available to offer the employee.

Effective 07/01/06  
Act 519, O.C.G.A. § 47-2-123(b)

Timetable

Agency Head/Designee Interview 10 business days	Agency Job Offer  35 days	Employee Accept/Dispute Job Offer 30 days	Medical Board Final Decision  10-15+ days
Application Filed →10	days → 45	days → 75	days → 90+ days

## ***FREQUENTLY ASKED QUESTIONS***

*Q. Does the agency head need to personally conduct an interview with the employee/applicant?*

A. No. The agency head may designate someone else within the agency who is at a level higher than the employee's immediate supervisor and who is authorized to make position assignments.

*Q. How soon must the interview be conducted?*

A. The interview must be conducted within 10 days of the employee filing the application for disability retirement.

*Q. How does the agency determine the physical or mental limitations of the employee?*

A. The employee is required to provide a complete copy of his or her application for disability retirement, including medical information documenting his or her limitations. In some instances the agency will be able to determine how those limitations can be accommodated in another position. In other instances, the agency may need to consult medical experts to assist in making the determination.

*Q. Can the agency seek alternative positions within another agency?*

A. There is no requirement that the agency look for alternative positions outside the agency; however the statute does not restrict the agency from seeking alternative positions outside the agency.

*Q. If the agency determines it has no position available, does it need to wait 45 days to notify ERS that no position meeting the criteria is available?*

A. The agency should utilize the time allowed to make every effort to find an alternative position. If the agency is certain that no position will become available within 45 days of the application being filed, it may notify ERS that no position is available.

*Q. Is the employee/applicant required to accept any position offered?*

A. Yes. Remember that the agency has determined the position meets all the criteria required. If the employee feels he or she is not medically able to perform the tasks of the position offered, he or she must notify your agency and ERS within 30 days of the offer. The agency should at that time submit a detailed description of the tasks required in the new position to ERS and we will have our medical board determine the applicant's disability for both the initial position and the alternative position which was offered.

*Q. Can an employee inquire as to alternative positions prior to applying for disability retirement?*

A. That is an agency decision. We recommend the agencies develop policies that encourage employees to seek agency assistance with medical concerns prior to applying for disability retirement.