

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE  
STATE PERSONNEL MANAGEMENT MANUAL**

**Advisory Memorandum #20-01**

**2200 Separations and Leaves**

**June 10, 2020**

**To:** Department and Agency Directors of Human Resources, Personnel and Affirmative Action Officers, Equal Opportunity Specialists, Diversity and Inclusion Specialists

**From:** Jessica Rowe, Director of Staffing Services

**Subject:** Terminations Under Civil Service Law §71 and §73 During the COVID-19 Public Health Emergency

The purpose of this memorandum is to provide guidance to agencies on the termination of employees placed on leave prior to the COVID-19 public health crisis.

Under Civil Service Law §71, an employee with a disability resulting from occupational injury or disease as defined in the Workers' Compensation Law is entitled to a leave of absence of at least one year, unless the employee's disability permanently incapacitates the employee and the employee cannot perform her or his duties. If the disability is caused by an assault in the course of employment, the employee is entitled to a leave of absence of at least two years, with the same condition for permanent incapacitation.

Under Civil Service Law §73, when an employee has been continuously absent from and unable to perform the duties of the employee's position for one year or more because of a disability not due to an occupational injury or disease, the employee may be terminated and the position may be filled by a permanent appointment.

While it is generally at the discretion of appointing agencies to terminate an employee once timeframes provided in Civil Service Law §71 and §73 have been met, due to the COVID-19 public health emergency, agencies should delay any such action until after July 31, 2020. Any questions should be directed to the Department of Civil Service.

---