

3 FAM 7730 FSN EMPLOYEE SEPARATIONS

3 FAM 7731 POLICY

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. Under the authority of section 612 of the Act, an FSN may be separated at any time according to the criteria and procedures normally followed in the locality in similar circumstances and those set forth below.

b. The heads of overseas establishments are responsible for developing uniform rules governing the separation of FSN employees. The rules shall conform to the procedures and circumstances governing separations used by other reputable, competitive employers in the post locality to the extent consistent with the other instructions contained in this section. Under no circumstances may a separation be arbitrary or capricious. The rules developed should contain such a statement.

c. A separation notice period should be established and be included in the separation rules. The period established should also conform to local prevailing practice.

—An FSN employee is separated from an overseas establishment without the usual advance notice if:

—The head of the overseas establishment determines that the continued employment of the employee presents a security threat to the United States; or

—The final results of a security and suitability investigation are adverse and recommendation for separation is made by the regional security officer.

3 FAM 7732 TYPES OF SEPARATION

3 FAM 7732.1 For Cause

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Separation for cause occurs when an employee is separated for security reasons, malfeasance, misconduct, unsatisfactory performance of duties, insubordination, theft, fraud, accepting or soliciting favors or gifts, etc. Abandonment of position may also become a separation for cause case if disciplinary action is involved. The heads of overseas establishments should jointly prescribe rules governing this type of separation. Before the determination is made to separate an employee for cause, it is suggested that the employee:

- Receive notice of shortcomings prior to separation and have an opportunity to overcome such shortcomings.
- Be informed of the charges, except when adverse security reasons are the cause of separation.
- Be permitted to appeal to some person other than the one who brings the charges.
- Be permitted to have a hearing at the overseas establishment in a language intelligible to the employee.

3 FAM 7732.2 By Disqualification

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

- (1) Separation by disqualification occurs when an employee:
- Fails to qualify during a probationary period.
 - Is found to have made false statements on the employment application.
 - Fails to meet medical standards.
 - Fails to qualify as a result of security investigations, or as a result of a review of security investigation by the regional security officer.

—Who is a participant in CSR, (1) reaches the mandatory separation age established by the mission for the employee's category of employment in the mission's Separation for Age Plan, and

(2) meets the minimum requirements for an immediate annuity upon involuntary retirement.

3 FAM 7732.3 For Age

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Separation for age occurs when an FSN employee reaches the mandatory separation age established by the mission's Separation for Age Plan for the employee's category of employment. Such age limit normally is established in accordance with local law and prevailing practice in the locality. In addition, efficient operation of the mission based on sound management practices is a legitimate consideration in establishing the age limit(s). FSN employees are exempt from the provision of U.S. law which prohibits the establishment of a mandatory age requirement for certain U.S. citizen employees of the Federal Government. All employees must be included in the mission's Separation for Age Plan. Adequate advance written notice of pending separation must be given to the employee.

3 FAM 7732.3-1 FSN Participants in CSR

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

For FSN participants in CSR, separation at the age established in a mission's Separation for Age Plan is an involuntary separation in that the employee is disqualified from further employment with that overseas establishment. The Nature of Action Code and Nature of Action for discontinued service retirement is "300 Retirement-Mandatory."

3 FAM 7732.3-2 Separation for Age Plan

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

a. Each mission should develop a Separation for Age Plan to reflect prevailing law and practice in its locality and efficient operation of the mission. The mission may establish either an appropriate age for the mandatory separation of all FSN's or establish an appropriate age for one or more categories of positions, such as chauffeurs.

b. The mission should ensure that its plan includes a provision that FSN participants in CSR who reach the mandatory age for separation qualify at the same time for an immediate CSR annuity. The Office of Personnel Management establishes criteria by which a participant in CSR qualifies for an immediate annuity. The mission's Separation for Age Plan may not alter or modify these criteria.

3 FAM 7732.4 By Reduction in Force

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Separation by reduction in force (RIF) occurs when an employee is separated involuntarily because of lack of funds, reorganization, decrease of work, or similar reason. The heads of overseas establishments should jointly establish rules and procedures governing such separation. Consideration is given to the local labor laws and practices and the employee's performance, type of appointment, and length of service. A point-score system may be developed to provide an equitable retention register after the overseas establishment has determined competitive areas relating to occupational skills and qualifications.

3 FAM 7732.5 For Abandonment of Position

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

Separation for abandonment of position occurs when an employee quits their post of duty or fails to return to duty after the end of authorized leave. The overseas establishments should jointly establish a period of time to permit receipt of an explanation from the employee of such absence before taking separation action.

3 FAM 7732.6 For Disappearance

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

Separation for disappearance occurs when an employee remains missing or has disappeared for 1 year, and it has been impossible during that time to obtain an official document as to death. The advice of the appropriate headquarters office should be sought regarding appropriate statutes of limitations, as to disposition of the employee's salary, lump-sum leave payment, or contributions to the Civil Service Retirement Fund.

3 FAM 7732.7 For Military Service

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

Separation for military service occurs when an employee is called to active duty in the armed forces of a country other than the United States or when given leave of absence because of entering or recall to the U.S. Armed Forces. The heads of overseas establishments should jointly prescribe rules governing separation of employees entering the armed forces of another country. Good personnel practice would be to place the employee in a nonpay (furlough or LWOP) status, if feasible, rather than effect a separation action. FSN employees entering or recalled to U.S. military service are entitled to the benefits as provided in 3 FAM 2560 (to be published), and 3 FAH-1 H-2500 for U.S. citizen employees.

3 FAM 7732.8 For Disability

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

Separation for disability occurs when an employee is physically or mentally incapable of performing satisfactorily the duties required of employee's position. This type of separation normally applies to employees who are not covered under the provisions of the Civil Service Retirement and Disability System. However, it may apply to an employee who is covered under the System, but who is ineligible for disability retirement under it.

3 FAM 7732.9 By Death

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

In cases of separation by death, Form SF-50, Notification of Personnel Action, should reflect the employee's separation from the service as of the close of business on the date of death.

3 FAM 7733 PREPARATION OF SEPARATION ACTION

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

(See also 4 FAM.)

3 FAM 7733.1 General

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

In all cases of separation, a Form SF-50, Notification of Personnel Action, is prepared and distributed in accordance with instructions in 3 FAH-2H, Chapter 3, and the following supplemental instructions:

- Under the "Remarks" section on each separation action, enter:
- Date on which any advance notice of separation was given the employee.
- Amount of leave for which any lump-sum payment is authorized. (See 3 FAM 7400.)
- Dollar equivalent of annual local currency salary at official rate.

3 FAM 7733.2 Separation for Age

(TL:PER-237; 1-1-95)
(Uniform State/USAID/USIA/Commerce/Agriculture)
(Applies to Foreign Service Nationals Only)

- (See 3 FAM 7723.3)

a. For employees separated under mission's rules on separation for age, the following guidelines for preparing the Form SF-50 should be closely adhered to:

(1) The Nature of Action Code is "300."

(2) The Nature of Action is "Retirement-Mandatory."

(3) The "Remarks" section must include in addition to other applicable statements (See 3 FAH-2H, Chapter 3):

(a) The date on which advance notice of separation was given to the employee:

(b) A statement that "(insert employee's name) has reached the age and length of service required for retirement in (insert name of post or country) in accordance with the mandatory separation for age established by this mission's separation for age policy document."

b. In addition, a copy of the advance notice of separation letter (see 3 FAH-2H, Chapter 3) and a copy of the mission's Separation for Age Policy Document should be securely attached to Form SF-2806, "Individual Retirement Record."

3 FAM 7734 RETIREMENT CERTIFICATE

3 FAM 7734.1 State/USIA

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

The heads of overseas establishments may adopt the practice of presenting a plaque to FSN employees upon their retirement from the Service. (See 3 FAH-2H, Chapter 3).

3 FAM 7334.2 Special Provisions Applicable to USAID

3 FAM 7734.2-1 General

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

All retiring FSN employees upon meeting voluntary or involuntary retirement eligibility requirements will be entitled to receive a retirement certificate and a retirement plaque.

Eligibility is not restricted to those retiring under the Civil Service Retirement and Disability System. Those who meet the years-of-service criteria for retirement under local insurance systems are also eligible. For those employees not covered by retirement insurance of any kind, missions will apply the years-of-service criteria for either the CSR or local system. Missions with no retirement plan in effect will apply the local-practice rule in determining years of service for retirement eligibility.

3 FAM 7734.2-2 Certificate and Plaque Procurement

(TL:PER-237; 1-1-95)

(Uniform State/USAID/USIA/Commerce/Agriculture)

(Applies to Foreign Service Nationals Only)

—See Handbook 30, Separations and Disciplinary Actions.

3 FAM 7735 THROUGH 7739 UNASSIGNED