

Disability Retirement Process

Contra Costa County Employees'
Retirement Association

Initial Contact

Initial Contact:

Member may call or drop-in, or
Employer may call CCCERA directly

- Disability process explained
- Disability packet mailed
- Counseling Appointment

Application Filed with CCCERA

- ▶ Applications must be filed with at least one medical report to support application.
- ▶ Applications filed without supporting medical evidence are returned to the member until this information is filed with CCCERA.
- ▶ Burden of proof of disability is on the applicant.

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Eligibility to File for Disability Retirement

- ▶ Service Connected:
 - All Tiers: disability retirement may be filed at any time during your employment. (All Tiers) §31720 and 31720.1
- ▶ Non-Service:
 - Tier 1 and Safety: disability retirement after completing at least five (5) years of retirement service credit. §31720
 - Tier 3: disability retirement after completing at least ten (10) years of retirement service credit. §31720.1

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Service Connected vs. Non-Service Connected Disability Retirement Tier 1 and Safety:

- ▶ Member must be "Permanently incapacitated for performance of duty":

Service connected:

The incapacity is a result of injury or disease arising out of or in the course of employment and the member is unable to continue performing usual and customary duties of current position.

Non-Service connected:

The incapacity did not arise from his or her employment and the member is unable to continue performing usual and customary duties of current position.

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Tier 1 and Safety Disability Allowance:

- ▶ Service Connected disability retirement:

50% of final one year average compensation, or the amount of the regular service retirement, whichever is greater.

- ▶ Non-Service Connected disability retirement:

Generally equal to 1/3 of your final one year average compensation, or regular service retirement, whichever is greater.

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Service Connected vs. Non-Service Connected Disability Retirement Tier 3:

- ▶ Service Connected Disability: the incapacity is substantially caused by injury or disease arising out of or in the course of employment, and the member is unable to engage in any gainful employment.
- ▶ Non-Service Connected disability: the incapacity was not caused by injury or disease arising out of or in the course of employment, and the member is unable to engage in any gainful employment.

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Service Connected vs. Non-Service Connected Disability Retirement Tier 3:

- ▶ “Permanent incapacity” is defined as:
 - The member is unable permanently to engage in any “substantial gainful employment”.
 - “Substantial Gainful Employment”, as adopted by the Board in 1991, is the ability to earn either the amount the applicant would receive in the initial disability benefit or \$300, whichever is more.
 - “Permanent Inability” to work is determined by examination of a combination of many specific factors, such as age, experience, training, education and appropriate jobs available.

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Tier 3 Disability Retirement Allowance:

- ▶ For both Service Connected and Non-Service Connected disability:
 - 40% of final three year average salary plus 10% of final three year average salary for each of your minor children (up to three children), or
 - The amount of the regular service retirement, whichever is greater.

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37 Act Presumptions – Safety

- ▶ Heart Presumption §31720.5
- ▶ Cancer Presumption §31720.6
- ▶ Blood-Born Infectious Disease §31720.7
- ▶ Biochemical Substance §31720.9
- ▶ Effect: members with the above conditions are relieved of the burden of proving their illness arose out of and in the course of employment, but permanent incapacity must still be proved. Presumptions are rebuttable

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Application and Medical Evidence Filed

- ▶ Application filed by Department:
 - Member notified
 - If member joins in filing, applicant has burden of proof of disability and department is notified.
 - If member does not join in filing, department has burden of proof of disability and is notified that member did not join in the filing.
- ▶ Application filed by Member:
 - Confirmation letter sent to member
 - Department is notified

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Additional Records Requested by Staff:

- ▶ Risk Management:
 - Medical records
- ▶ Employer:
 - Job Description
 - Essential Job Duties
 - Request information on accommodations
 - Other records as available
- ▶ Occupational Health:
 - As available

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Board's Medical Advisor

- ▶ CCCERA staff submits the following to medical advisor for review and recommendation:
 - All medical records received
 - Disability Application
 - Job Description and Completed Essential Functions and accommodation response from department
 - Occupational Health records

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Board Medical Advisor May Recommend Any of the Following:

- ▶ Recommendation to grant application as filed.
- ▶ There is insufficient medical evidence to make recommendation.
- ▶ Recommendation to grant non-service connected disability when applicant filed for service connected disability retirement.

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If the Medical Advisor Recommendation is to Grant:

- Applicant is notified.
- Department is notified.
- Employer Human Resources department is notified.
- The recommendation is placed on next available Retirement Board agenda.

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If Medical Advisor Opines there is insufficient medical evidence for determination:

- Applicant, department, and employer Human Resources department are notified.
- Applicant advised they can file additional medical evidence to support claim for disability retirement, and/or request a hearing within six (6) months.

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Recommendation to Grant NSCDR When Application is for SCDR

- ▶ Letter sent to Member regarding recommendation
- ▶ Member may accept the recommendation for NSCDR
- ▶ Member may object to recommendation and submit additional medical evidence to support claim for service connected disability and staff will resubmit additional evidence to Medical Advisor.
- ▶ If the Medical Advisor issues the same recommendation, then the member may accept the recommendation and request a hearing within six (6) months to determine causation (*may also supply additional medical evidence in support of claim for a service connected disability retirement*).

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When a Disability Hearing is Requested by Applicant:

- ▶ CCCERA staff sends complete file to County Counsel.
- ▶ Vocational assessment conducted for Tier 3 applicants.
- ▶ County Counsel begins discovery process.
- ▶ Independent Medical Evaluation is requested on behalf of the Retirement Board.

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If Applicant Does not Request a Hearing or Submit additional evidence:

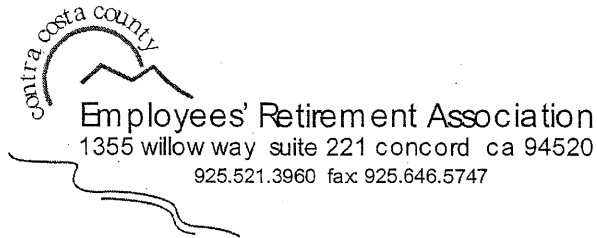
- File is closed.
- Confirming letter to applicant.
- Department and Employer HR are notified.

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Questions???

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APPLICATION OF "SUBSTANTIAL GAINFUL EMPLOYMENT" UNDER TIER III DISABILITY

For a member in Tier III to be found disabled, the member must be unable permanently to engage in any substantial gainful employment (Government Code Section 31720.1).

In making this determination, the following will apply:

- **"Substantial employment"** is work activity that involves physical or mental effort, regardless of the time spent.
- **"Gainful employment"** is work activity that is done for pay or profit, whether or not a profit is realized, including work as a self-employed individual.

In general, employment will be considered gainful if the monthly salary from that employment is equal to or exceeds the greater of either: (a) \$300 a month, or (b) the initial monthly disability retirement benefit which would otherwise be payable.

In general, self-employment will be considered gainful, without regard to income if the activity is comparable to that of unimpaired individuals who are in the same or similar business as their means of livelihood.

- Inability will be determined using the following factors:
 - a) Previous work experience.
 - b) Education or training whether formally obtained through schooling or informally obtained through work experience.
 - c) Transferability of knowledge, skills and abilities to other work.
 - d) The extent to which chronological age affects the ability to adapt to a new work setting.
 - e) The existence of jobs in one or more occupations, having requirements which the member is able to meet and which lie within a 100 mile radius of the member's residence, regardless of whether a specific job vacancy exists, or whether the member would be hired if he or she applied, or whether the member wishes to do a particular job.

Adopted 4/16/91