

SAN DIEGO COUNTY EMPLOYEES RETIREMENT ASSOCIATION
BOARD POLICY ON DISABILITY RETIREMENT

I. INTRODUCTION

Disability retirement applications and re-examinations should be evaluated in a fair and unbiased manner. Disability hearings should be conducted in a manner that is fair, unbiased and provides due process to the parties.

Nothing in this Policy expressly or impliedly changes any applicable provision of the County Employees Retirement Law of 1937, California Government Code Section 31450, et seq. (CERL). If any provision of this Policy is inconsistent with the provisions of CERL, the provisions of CERL prevail.

II. PROCEDURE FOR FILING AND PROCESSING DISABILITY RETIREMENT APPLICATIONS

A. Who May File Applications: Disability retirement applications may be filed by SDCERA Members, the Member's Employer Department or any other person acting on a Member's behalf (Applicant). SDCERA's Chief Legal Officer will prepare an internal process for the filing and processing of a disability retirement application.

B. Investigation and Evaluation: When a disability application is filed, SDCERA staff will conduct an appropriate investigation and evaluate the application to determine if the Member is eligible to receive disability retirement benefits. SDCERA's Chief Legal Officer will prepare and implement an internal process for investigation and evaluation of the application.

C. Staff Recommendation to Grant the Application: If staff determines that the Applicant has met the burden of proof to show eligibility for a disability retirement benefit, staff will place the matter on the open session consent calendar at a Board of Retirement meeting with a recommendation to grant. Staff will provide the Applicant or Applicant's attorney and Applicant's employer with a Notice of Decision within five (5) business days of the Board meeting. If the Applicant disagrees with any finding made by the Board on staff's recommendation to grant, then within 30 days of the date of service of the Notice of Decision, Applicant may request a hearing de novo. Staff will prepare and implement an internal process for requesting a hearing de novo, a copy of which will be provided to the Applicant with the Notice of Decision.

D. Staff Referral to Hearing De Novo on Recommendation to Deny: If staff determines that the Applicant has not met their burden of proof to receive a disability retirement benefit, staff will refer the matter directly to a hearing de novo before a hearing officer on SDCERA's Hearing Officer Panel.

E. Staff Recommendation to Grant Applicant's Non-Service Connected Disability Retirement and Referral to Hearing De Novo on Applicant's Service Connected Disability Retirement: If staff determines that Applicant has met the burden of proof to receive a non-service connected disability retirement, but has not met the burden of proof to receive a service connected disability retirement, staff will, unless the Applicant objects:

1. Place the recommendation to grant the non-service connected disability retirement on the consent calendar at a Board of Retirement meeting; and
2. Refer the application for service connected disability retirement to a hearing de novo before a hearing officer on SDCERA's Hearing Officer Panel.

F. Hearing De Novo Rules: SDCERA's Chief Legal Officer will prepare Administrative Hearing Rules consistent with the purposes of this Policy for use at any hearing de novo. Applicants will be provided with a copy of the Administrative Hearing Rules when their matter is referred to a hearing de novo.

G. Board Decision after Hearing De Novo: Upon completion of the hearing de novo, the Hearing Officer's recommendation will be placed on the agenda for the next regularly-scheduled Board meeting as provided in the Administrative Hearing Rules. The matter will be heard in open session unless Applicant timely requests a closed session as set forth in the Administrative Hearing Rules. No additional evidence may be provided at the Board meeting.

Board decisions become final and effective upon service of the Notice of Decision to Applicant or Applicant's attorney and Applicant's employer. Staff will provide the Applicant or Applicant's attorney and Applicant's employer with a Notice of Decision within five (5) business days of the date the Board acts on the application. The time for filing a writ review request will run from the date of service of the Notice of Decision. Applicants are not entitled to reconsideration of a final Board decision.

III. DISABILITY RETIREE RE-EXAMINATION

SDCERA will assess whether disability retirees should be referred to a medical re-examination and provide recommendations to the Board consistent with the provisions of Government Code Sections 31729, 31730 and 31731. SDCERA's Chief Legal Officer will prepare an internal process for the re-examination of disability retirees.

Staff will provide a report, including the number of disability retirees who underwent re-examination, the outcome of the re-examination and the number of disability retirees who were offered reinstatement, to the Board at its January meeting.

REVIEW

This policy will be reviewed by the Board at least every three (3) years and may be amended at any time.

HISTORY

June 21, 2018 Adopted