

AGENDA

THE MEETING OF THE

**DISABILITY PROCEDURES AND SERVICES COMMITTEE
and**

BOARD OF RETIREMENT*

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

**300 NORTH LAKE AVENUE, SUITE 810
PASADENA, CA 91101**

9:00 A.M., THURSDAY, MAY 10, 2018 **

*The Committee may take action on any item on the agenda,
and agenda items may be taken out of order.*

COMMITTEE MEMBERS:

William Pryor, Chair
James P. Harris, Vice Chair
Herman Santos
Gina Zapanta-Murphy
Marvin Adams, Alternate

I. CALL TO ORDER

II. APPROVAL OF THE MINUTES

A. Approval of the minutes of the regular meeting of April 4, 2018.

III. PUBLIC COMMENT

IV. FOR INFORMATION

A. Disability Retirement – A Step-by-Step Guide (Memo dated April 24, 2018)

B. Permanent Light-Duty Assignments and Accommodation
Presentation by Frank Boyd, Senior Staff Counsel

V. REPORT ON STAFF ACTION ITEMS

VI. GOOD OF THE ORDER

(For information purposes only)

VII. ADJOURNMENT

***The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five (5) or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote, make a motion, or second on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.**

****Although the meeting is scheduled for 9:00 a.m., it can start anytime thereafter, depending on the length of the Board of Retirement meeting. Please be on call.**

Assistive Listening Devices are available upon request. American Sign Language (ASL) Interpreters are available with at least three (3) business days notice before the meeting date.

Any documents subject to public disclosure that relate to an agenda item for an open session of the Committee, that are distributed to members of the Committee less than 72 hours prior to the meeting, will be available for public inspection at the time they are distributed to a majority of the Committee, at LACERA's offices at 300 North Lake Avenue, suite 820, Pasadena, California during normal business hours from 9:00 a.m. to 5:00 p.m. Monday through Friday.

Persons requiring an alternative format of this agenda pursuant to Section 202 of the Americans with Disabilities Act of 1990 may request one by calling the Disability Retirement Services Division at 626-564-2419 from 7:30 a.m. to 5:00 p.m. Monday through Friday, but no later than 48 hours prior to the time the meeting is to commence.

MINUTES OF THE MEETING OF THE
DISABILITY PROCEDURES AND SERVICES COMMITTEE
and
BOARD OF RETIREMENT

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION
GATEWAY PLAZA - 300 N. LAKE AVENUE, SUITE 810, PASADENA, CA 91101

WEDNESDAY, APRIL 4, 2018

COMMITTEE MEMBERS

PRESENT:

William Pryor, Chair
James P. Harris, Vice Chair
Herman Santos
Gina Zapanta-Murphy
Marvin Adams, Alternate

ALSO ATTENDING:

BOARD MEMBERS AT LARGE

Thomas Walsh
Joseph Kelly
Vivian H. Gray
Les Robbins

STAFF, ADVISORS, PARTICIPANTS

Ricki Contreras, Disability Retirement Services Division Manager
Tamara Caldwell, Disability Retirement Specialist Supervisor
Frank Boyd, Senior Staff Counsel

The Meeting was called to order by Chair Pryor at 1:20 p.m., in the Board Room of Gateway Plaza.

I. APPROVAL OF THE MINUTES

- A. Approval of the minutes of the regular meeting of February 7, 2018.

Mr. Adams made a motion, Mr. Santos seconded, to approve the minutes of the regular meeting of February 7, 2018. The motion passed unanimously.

II. PUBLIC COMMENT

There were no requests from the public to speak.

III. ACTION ITEMS

There were no action items presented to the Committee.

IV. FOR INFORMATION

A. Cancer Presumption

Presentation by Frank Boyd, Senior Staff Counsel

This item will be presented to the Committee at a future meeting.

V. GOOD OF THE ORDER

There was nothing to report during Good of the Order.


VI. ADJOURNMENT

With no further business to come before the Disability Procedures and Services Committee, the meeting was adjourned at 1:22 p.m.

**FOR INFORMATION ONLY**

April 24, 2018

TO: Disability Procedures & Services Committee
William Pryor, Chair
James P. Harris, Vice Chair
Herman Santos
Gina Zapanta-Murphy
Marvin Adams, Alternate

FROM: Ricki Contreras, Manager 
Disability Retirement Services Division

FOR: May 10, 2018 Disability Procedures & Services Committee

SUBJECT: Disability Retirement - A Step-by-Step Guide

BACKGROUND

Members facing the need to file a disability application do so during a difficult time in their lives. LACERA's Disability Retirement Services (DRS) team recognizes the disability process can be confusing and difficult for members to navigate and understand. Along with your Board, and our business partners in Benefits, Member Services, and Systems, the DRS team has worked hard to re-engineer and continuously adjust the disability process in an effort to reduce processing times and improve the overall disability retirement experience for our members.

Over the last several years we have reduced processing times from 24 months to 12-14 months. We have partnered with Member Services to provide joint counseling to members considering a disability retirement. We expanded our efforts by partnering more closely with Benefits to improve the member experience after the Board has granted a disability retirement application. And most recently, expanded that partnership by bringing Member Services into the process after the grant to introduce a case management approach to getting the member on payroll.

The common denominator in all of these improvements is making sure we communicate with our members throughout the process. The DRS team and our partners continually focus on ensuring our members have the information they need

Each Member, Disability Procedures & Services Committee

April 24, 2018

Re: Disability Retirement – A Step-by-Step Guide

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to make informed decisions and the support they need to guide them through the process. Today, we are proud to introduce our latest effort to improve the overall disability retirement experience: the first edition of our new Disability Retirement Step-by-Step guide.


SUMMARY

The Disability Retirement Step-by-Step guide is a labor of love that began in 2015 with our staff members' vision to create a comprehensive, easy-to-read, member friendly guide which combined content from the existing Disability Retirement Application Packet, LACERA.com, Plan Books, and the Disability Pamphlet in addition to frequently asked questions.

Under the capable project leadership of J.P. Harris (then a 120-Day Retiree), the team consisting of DRS management, supervisors and staff members, met for over a year to refine the content and organization of information to be included in the guide. The team didn't just focus on creating the guide alone, they took a holistic view of the entire disability retirement process and included a comprehensive review and editing of all disability retirement application forms, even creating a new Salary Supplement application.

Once content and organization of the information was vetted through the initial project team, collaboration began in earnest with Disability Litigation, Legal, Member Services, Communications and the Executive Office. Each providing insight gained from their unique perspectives of the disability process, and all contributing to the final product available for your perusal in the board packets you received for today's meeting. It is our intention to begin dissemination of the new materials beginning July 1, 2018.

REVIEWED AND APPROVED:



JJ Popowich
Assistant Executive Officer

Attachment

RC:mb

c: Each Member, Board of Retirement



As Revised and Approved by
The Board of Retirement



Disability Retirement

A Step-by-Step Guide

INTRODUCTION

Disability retirement is a benefit meant to provide you with a source of income in the event you become permanently sick or injured and are no longer able to perform the usual duties of your job. **Disability retirement should not be viewed as a part of the normal retirement planning process;** rather, it is the exception brought on by your inability to continue working the usual duties of your job.

This guide is designed to explain LACERA's disability retirement program and help you through the process of applying for it. It is divided into four main sections:

- Eligibility and Benefits
- Application Process
- Board of Retirement Actions
- Frequently Asked Questions



DISABILITY
RETIREMENT
Step-by-Step

Your
Personal
Guide

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1

ELIGIBILITY AND BENEFITS

Eligibility

Members of LACERA's contributory General Plans A, B, C, D, G and Safety Plans A, B, C who become permanently incapacitated from the performance of their usual job duties due to illness or injury are eligible to apply for a disability retirement allowance.

Members of LACERA's non-contributory Plan E are **not** eligible for a disability retirement allowance. However, if you are a Plan E member, you may be eligible for disability benefits under the County's Long-Term Disability and Survivor Benefit Plan. Plan E members should check with their department for details regarding County-sponsored and/or County-administered insurance benefits.¹

If you have withdrawn or at any time withdraw your retirement contributions, you are **not** eligible for disability retirement. The act of withdrawing contributions means any pending disability application or disability appeals will be closed and you may not reapply.

¹ Represented (unionized) Safety members of the Sheriff's Department may also apply for disability benefits under the Peace Officers' Relief Fund (PORF). Contact the appropriate union that represents you for details.

Disability retirement may be granted for two different types of disability, as follows:

- **Service-connected disability (SCD):** Permanent disability resulting from an illness or injury substantially related to your County employment.
- **Nonservice-connected disability (NSCD):** Permanent disability resulting from an illness or injury **not** related to your County employment.

If you cannot perform your usual job duties due to a service-connected disability, there is no requirement of minimum years of service necessary to apply. If you cannot perform your usual job duties due to a nonservice-connected disability, you must have at least five years (60 months) of County (or County and reciprocal) service credit.

In lieu of a pension, a member who is found by the Board of Retirement (BOR) to be permanently incapacitated for the performance of his or her usual job duties, *but who is capable of performing the duties of another County position*, may be eligible for a service-connected or nonservice-connected **salary supplement**.² In such cases, should the member opt to accept a new, typically less arduous County position, LACERA will supplement the difference in compensation up to the maximum disability allowance granted. See Salary Supplement (pg. 5) for more details.

If you are terminally ill and wish to provide a continuing allowance to your survivor, you or your authorized representative should contact LACERA immediately at 800-786-6464.



² There are two sections of the County Employees Retirement Law (CERL) that apply: 31725.5 for nonservice-connected disabilities and 31725.65 for service-connected disabilities.

Prospective Plan Transfers

Members who transferred from Plan E to Plan D through a prospective plan transfer (PPT) may be eligible to apply for disability retirement benefits. Eligibility requirements are as follows:

- If you have completed two years of uninterrupted service as an active Plan D member after your most recent effective date of transfer, you are eligible to apply for disability retirement benefits. However, if you took time off during your two years of service as an active Plan D member because of a preexisting condition — and that condition is the reason you are considering applying for disability retirement benefits — you are **not** eligible to apply.
- If you have earned a total of five years of service as an active Plan D member after your most recent effective date of transfer, you are eligible to apply for disability retirement benefits even if there was a break in service, including time off.

A Plan D member deemed ineligible to apply for disability retirement due to a PPT is permitted to transfer back to Plan E and continue under the County Long-Term Disability (LTD) program as a Plan E member. Under certain circumstances, it may be more advantageous for the affected member to continue LTD benefits under Plan E than under Plan D.

Members with a double account resulting from a PPT from Plan E to Plan D who are granted a disability retirement under Plan D are **not** eligible to receive Plan E service retirement benefits, regardless of the amount of service credit accrued or if they are vested in Plan E.

For more information regarding Plan D eligibility, call 800-786-6464 to speak with a LACERA Retirement Benefits Specialist.



When to Apply

An application for a disability retirement must be submitted:

- While you are still employed; or
- Within four months after discontinuance of service; or
- Anytime after discontinuance of service, provided that:
 - You are physically or mentally unable to perform your usual duties, that condition has been continuous from the last date of regular compensation, and you have medical evidence to substantiate this continuous disability; and
 - A delay in filing your application has not impaired LACERA's ability to investigate your case.

Anyone may apply on your behalf for a disability retirement, including someone in a position of authority from your department or personnel office,³ spouse, or domestic partner. However, in order for your application to proceed, you will need to fully cooperate with the disability retirement process. You may apply for a *service retirement* (based on



age and years of service) while your disability case is pending. See page 13 for further information on how your employment status and benefits may be impacted by applying for a service retirement while your disability retirement application is pending.

Effective Date

Generally, the disability retirement allowance becomes effective as of the date the application is filed with LACERA, but not earlier than the day following the last day of regular compensation.⁴ Regular compensation includes but is not limited to sick leave and vacation pay *when taken by an employee as time off; i.e., not as a lump sum or termination pay.*



When an application is filed after the member's last day of regular compensation and the member wishes to ask for an earlier effective date, the member must request this by selecting the earlier effective date option on the application. Failure to request an earlier effective date at the time of filing the application for disability retirement constitutes a waiver of this benefit, with two exceptions:

- The application can be amended, without cause, to seek an earlier date at any time prior to the date the member is referred to a Board of Retirement (BOR)-appointed physician for a medical examination.
- Thereafter, the member must seek BOR approval to amend the application, supported with a showing of good cause.

An earlier effective date cannot be granted unless it is shown to the satisfaction of the BOR that either:

³ This is commonly referred to as an Employer Application.

⁴ Government Code Section 31724

- The filing of the application was delayed by administrative oversight; or
- The permanency of the incapacity could not be determined until after the date following the last day of regular compensation.

If the request is granted, the application will be deemed to have been filed on the date following the last day of regular compensation.

In the event the member returns to work or receives regular compensation after the filing of the application for disability retirement, the member will once again receive regular compensation. Accordingly, the earlier effective date will no longer be an option.

Benefits

The benefit amount payable depends on the type of disability retirement granted, final average compensation, age, and years of service credit.

Service-Connected Disability (SCD) Benefits

The amount of retirement allowance granted for an SCD is one-half of your final average compensation⁵ or your full service retirement allowance (if eligible), whichever is higher. SCD benefits include a County healthcare subsidy. The County contributes a minimum of 50 percent of the member's selected retiree medical/dental plan premium or a minimum of 50 percent of the benchmark plan premium, whichever is less. For members with more than 13 years of service credit, the County pays the percentage to which the member is otherwise entitled under the County's retiree healthcare

subsidy. SCD benefits include a lifetime 100 percent continuance of your monthly allowance to your surviving spouse or California state registered domestic partner, if the Unmodified Option is elected.⁶ If you and your surviving spouse or domestic partner pass away before a minor child turns age 18, a minor may continue to collect the benefit until age 18, or through age 21 if unmarried and attending an accredited educational institution full time.

Nonservice-Connected Disability (NSCD) Benefits

The amount of retirement allowance granted for an NSCD is a portion of your final average compensation (depending on age and length of service) or your full service retirement allowance, whichever is higher; or an annuity if your incapacity is determined to be due to the intemperate use of alcohol or drugs, or a violation of the law. NSCD benefits include a lifetime 65 percent continuance of your monthly allowance to your surviving spouse or California state registered domestic partner, if the Unmodified Option is elected.⁷ If you and your surviving spouse or domestic partner pass away before a minor child turns age 18, a minor may continue to collect the benefit through age 18, or until age 21 if unmarried and attending an accredited educational institution full time.

If the NSCD disability applicant is eligible for a service retirement and the amount of that service retirement allowance is equal to or greater than the amount of the disability retirement allowance, the member may prefer to elect a service retirement rather than applying for an NSCD retirement.

⁵ Tax Note: The Internal Revenue Code grants special tax exclusions for certain SCD retirement benefits. Section 104(a)(1) of the Code provides that an amount equal to 50 percent of the member's final average compensation may be excludable from his or her gross income for federal tax purposes. The amount of any cost-of-living adjustments attributable to that amount may also be excludable. Any remaining portion of the allowance is taxable.

Eligible surviving spouses or children who receive a monthly continuing benefit following the SCD retiree's death are also entitled to this IRS tax benefit. The tax benefit does not apply to ex-spouses or surviving domestic partners.

⁶ The one-year marriage requirement prior to the member's retirement does not apply for SCD retirements.

⁷ Marriage or registered domestic partnership must have occurred one year prior to the member's effective date of retirement.

The member would not be subject to the lengthy disability review process, and the allowance would begin on the elected retirement date.

On NSCDs, like service retirements, the County healthcare subsidy applies to members with 10 or more years of service credit; no subsidy is provided for members with less than 10 years of service credit.

A member who is eligible to retire may elect a service retirement and receive the applicable retirement benefit while his or her application for a disability retirement is pending.



Cost-of-Living Adjustment (COLA)

According to the law, every April 1, your retirement allowance may be adjusted (up or down) to account for changes in the cost of living, as reflected in the Bureau of Labor Statistics Consumer Price Index (CPI) for all urban consumers in the Los Angeles–Long Beach–Anaheim area.

The maximum allowable annual adjustment is 3.0 percent for Plan A members and 2.0 percent for members in Plans B, C, D, E, and G.

In the event a COLA decrease is ever required, it will not reduce your allowance to an amount less than the allowance received at the time of retirement. Only COLA increases after the time of retirement would be subject to a decrease.

Salary Supplement

A salary supplement is advantageous if you wish to remain in the workforce in another job classification. The salary supplement minimizes, or eliminates altogether, the difference between your previous salary and your new salary, plus it allows you to

continue receiving County benefits and service credit. Increasing your service credit may increase the amount of your retirement benefit. If you are a Safety member, you will retain your Safety status.

To apply for this benefit, you must complete the Application for Supplemental Disability Allowance and submit it within six months of your disability retirement application.

Qualifying for a Salary Supplement

To qualify for a salary supplement, you must have an incapacity that precludes you from continuing to work in your current job classification, and you must meet the qualifications of another, typically less arduous job classification. This new job must be compatible with the work restrictions necessitated by your existing incapacitating injury. If applicable, your department's Return-to-Work Unit will help you identify an appropriate job for which you qualify. Note that LACERA is required to work with your department to determine if they can make any accommodations for your disability before the Board of Retirement can consider your application for disability retirement.

Benefit Paid in Lieu of Pension

Though granted by LACERA's Board of Retirement, salary supplements from LACERA are not considered pensions; they are benefits in lieu of a pension. Therefore, salary supplements for both service and nonservice-connected disability retirements are taxable per IRS rules. Additionally, salary supplements are not entitled to COLA.

Salary and Salary Supplement Payments

The *salary* for the new job classification is paid by the County. The *salary supplement* is paid by LACERA and is on a separate pay schedule from the County's pay schedule. There is an interval of time between the salary payment and the salary supplement payment so that LACERA can validate the supplement owed to you each month.

Once the BOR grants the salary supplement, your department should immediately place you in the new job classification so that you are paid at the new rate. After two pay cycles (four weeks) at the new rate, LACERA will begin paying the salary supplement. You will receive your first salary supplement check from LACERA approximately six weeks after you are placed in the new job classification, retroactive to the start of the new job. LACERA pays the salary supplement on a monthly basis in a separate check. Direct deposits are not available.

Limitations on Salary Supplement Amount

The salary supplement is limited to the disability retirement allowance for which you are entitled and cannot exceed your previous salary amount when added to the amount earned in the new position. Therefore, you may receive less than the maximum amount of salary supplement allowed if your earnings in your new job classification plus the full salary supplement would exceed the amount you were paid in the previous job classification. For instance, as shown in **Table 1**, although the salary

supplement allowance is \$3,000, LACERA will only pay the difference of \$2,500 in salary between the old job and the new job.

In the scenario depicted in **Table 2**, the full amount of the salary supplement allowance is paid in order to meet the difference of \$3,000 in salary between the old job and the new job.

Because the salary supplement is limited to the disability retirement allowance granted, there may be scenarios in which the salary supplement does not make up the difference between the old and new salary, as demonstrated in **Table 3**. In this scenario, the difference in salary of \$3,500 exceeds the disability allowance of \$3,000.

Adjustments to the Supplement

Supplemental payments are reviewed on a monthly basis and adjusted when there are increases in salary. If you are promoted in your new position or receive a pay raise, the salary supplement decreases. The salary supplement ceases when the compensation of the new position equals or

Table 1

Children’s Social Worker III Voluntarily Demoted to Senior Typist Clerk	
Previous position’s monthly salary (target amount)	\$6,000
Salary supplement (50% of the previous position’s monthly salary)*	\$3,000
New position’s monthly salary	\$3,500
Previous position’s salary – New position’s salary = Balance left to pay	\$2,500
New position’s salary + SCD salary supplement = Total new salary	\$6,000
<i>LACERA will pay the full “balance left to pay” as long as it is equal to or lower than the salary supplement.</i>	

**For simplicity of demonstrating these calculations, the disability retirement allowance utilized assumes the member has been granted a service-connected disability (SCD) salary supplement. Percentages and numbers vary based on the type of benefit granted.*

Table 2

Children’s Social Worker III Voluntarily Demoted to Typist Clerk II	
Previous position’s monthly salary (target amount)	\$6,000
Salary supplement (50% of the previous position’s monthly salary)*	\$3,000
New position’s monthly salary	\$3,000
Previous position’s salary – New position’s salary = Balance left to pay	\$3,000
New position’s salary + SCD salary supplement = Total new salary	\$6,000

LACERA will pay the full “balance left to pay” as long as it is equal to or lower than the salary supplement.

Table 3

Children’s Social Worker III Voluntarily Demoted to Typist Clerk I	
Previous position’s monthly salary (target amount)	\$6,000
Salary supplement (50% of the previous position’s monthly salary)*	\$3,000
New position’s monthly salary	\$2,500
Previous position’s salary – New position’s salary = Balance left to pay	\$3,500
New position’s salary + SCD salary supplement = Total new salary	\$5,500

LACERA will pay the full “balance left to pay” as long as it is equal to or lower than the SCD salary supplement. In this example, the balance left to pay is greater than the salary supplement; therefore, the total new salary is less than the target amount. LACERA cannot pay more than the salary supplement.

**For simplicity of demonstrating these calculations, the disability retirement allowance utilized assumes the member has been granted a service-connected disability (SCD) salary supplement. Percentages and numbers vary based on the type of benefit granted.*

exceeds the compensation of the former position. These adjustments continue until you elect to retire or until the salary paid to you in the new position exceeds the total supplemental disability retirement allowance.

Requesting Retirement

If you are receiving a salary supplement, you may elect to terminate service at any time and take your

full disability retirement benefit. You must send a signed letter to LACERA stating that it is your wish to retire. The letter should provide the retirement date, which is the date following the termination date, as well as the selected retirement option.

2 APPLICATION PROCESS



To apply for disability retirement benefits, the forms included in this booklet must be fully completed and filed with Disability Retirement Services (DRS).

1. Disability Retirement Application
2. Physician Statement
3. Claims Against Third Parties form
4. Authorization to Obtain and Release Records
5. Missed Medical Appointment form

An applicant must provide a class specification to the physician completing the physician statement to ensure that the physician understands the duties of the class specification. Class specifications are available on the County's website at hr.lacounty.gov. In addition, your department or LACERA can assist in obtaining a copy.

If any of the requested documents are missing, altered, obsolete, and/or incomplete, your application will not be accepted until the correct forms are submitted. The resulting delay will affect the processing and effective date of your disability retirement application.



Once the application has been assigned to a Disability Retirement Specialist, you will receive a letter of acknowledgement from LACERA's DRS. The length of time to process your application depends on the complexity of your claim, how quickly your records can be obtained, and the number of medical appointments required to evaluate your disability. The average processing time is 12 to 15 months, but it may be longer.

The Board of Retirement (BOR) has the statutory duty to determine when a member of the retirement association is eligible for disability retirement under the standards set forth in the retirement law; therefore, LACERA must independently investigate each application for disability retirement, regardless of whether or not the member applying has been deemed disabled through workers' compensation or elsewhere.

The disability application process requires LACERA to obtain your medical records, conduct interviews, and send you to one or more LACERA panel physicians. Additionally, LACERA is required to work with your department to determine if they can make any accommodations for your disability before the BOR can consider your application. If your department is able to permanently accommodate you, your application for a disability retirement may be denied.

LACERA staff is available to help you with the application process, so attorney representation is *not* required. Please note: Members who engage an attorney for representation will likely be required to set aside a portion of any retroactive benefits they may receive to pay the attorney. It is recommended that you discuss this with your attorney in advance.

Discovery and Obtaining Records

A telephone interview is a required part of the application process. The Disability Retirement Specialist may obtain all or some of the following records prior to your telephone interview:

- Workers' compensation documents (benefit awards, notice of work restrictions, any or all injury and incident records)
- Personnel records (timecards/payroll records, accommodation documents, performance evaluations, grievance filings,

internal investigations, criminal investigations)

- Medical/psychiatric records
- Records of hospitalizations
- DMV records

Interview

In the event an applicant is incapable of being interviewed, a designated attorney-in-fact must be appointed pursuant to LACERA's power of attorney policy. The attorney-in-fact may assist by providing required information to the investigator.

During the interview, your assigned Disability Retirement Specialist will ask you about your **occupational history** with Los Angeles County to obtain an understanding of where you worked and what job duties you performed since your date of hire. The interview will focus on your last permanent assignment and the position's daily job duties and physical demands. The specialist will also ask whether you have worked in any modified position(s) and whether the position was considered permanent or temporary.

You will be asked about the **details of your injury and/or illness**, including the specifics of the occurrence and progression of your injury and/or illness and the various physicians who have treated you. This is your opportunity to describe what type of treatment you received or are receiving (physical therapy, pain management, surgery, etc.) and whether you feel the treatment has helped. You will be asked to describe in detail what duties you are no longer capable of performing due to your injury or illness and whether (and if so, how) you believe the injury is work-related.

You will also be asked what your **current complaints/symptoms** are, whether you are currently taking any medication, and whether there are any other factors contributing to your disability.

Independent Medical Examination by a LACERA Panel Physician

LACERA has a large panel of physicians who are board certified. In medicine, “board certified” is a description for a physician who has taken and passed a medical specialty examination by one of several recognized boards of specialists. All applicants are expected to be examined by at least one of the panel physicians specific to their accepted injury or condition. The DRS staff will do the following:

- Prepare a Disability Retirement Evaluation Report (DRER).
- Send the DRER and all relevant records to LACERA’s panel physician.
- Notify the applicant/attorney in writing of the examination date. (Note: LACERA pays for the examination, but the applicant is responsible for paying the physician’s office for any missed appointment fees.)

If the LACERA panel physician issues permanent work restrictions, the applicant’s department will be contacted to see if the restrictions can be permanently accommodated, or if they could have been permanently accommodated at the time you left County service.

Applicants will not be entitled to a copy of the Panel Physician Report until after the Board of Retirement makes a decision.

Board Preparation

Once DRS has received the medical report from the LACERA panel physician and, when necessary, contacts the department, DRS will then make a recommendation and prepare the case for review by the Board of Retirement (BOR).

The recommendation will be to grant or deny the disability retirement. If the recommendation is

to grant, DRS will also make a recommendation concerning entitlement to an earlier effective date, if requested. Please note this is only a recommendation. The BOR as the trier-of-fact is the only body with authority to make a determination on disability retirements.



Board Certified
Panel Physicians

Important Information About Case Reviews



Applicant/attorney will be notified in writing of the date the case will be presented to the BOR.



All cases are heard by the BOR in closed session.



Applicant/attorney may attend the closed session but may not address the BOR regarding their application. Applicant's spouse or non-attorney representative will not be allowed in closed session. Should the attorney/applicant wish to address the BOR during public comment, a request must be submitted prior to the start of the board meeting.



Copies of the BOR packet may be provided upon request to the applicant/attorney after the BOR has taken action on the application. Due to the sensitive nature of certain medical conditions, portions of the BOR packet may be redacted.



Applicant/attorney will be notified in writing of the BOR's action and appeal rights.

3

BOARD OF RETIREMENT ACTIONS

Disability Retirement Granted

If disability retirement is granted and you are still working, your department will be notified. You have been deemed retired and incapacitated from performing usual duties, per BOR action, and you are no longer permitted to continue working in that position.

Within 45 days of the Notice of Board Action, you will be contacted by the LACERA Benefits

Division to discuss retirement options. Disability retirement benefits, once granted, generally become effective as of the date the application is filed with LACERA, but not earlier than the day following the last day of regular compensation.⁸ Regular compensation includes but is not limited to sick leave and vacation pay,⁹ holidays, some workers' compensation benefits, and short-term disability.

After you have been granted a disability retirement, you are responsible for your finances while you are waiting to receive your retirement allowance, which may take up to 90 days.

The department will determine the last date of compensation and finalize the termination date. This date is essential for LACERA to calculate and pay a benefit. LACERA cannot independently establish the last date of compensation. If there is a delay in receiving the termination date from the department, the benefit will also be delayed. Note that the termination date determined by the department cannot be provided until all administrative tasks for your termination process are completed (e.g., papers are signed, you have turned in all of your County-owned equipment, etc.).

If you service retired after you applied for disability and your disability retirement is granted, you may select a different retirement option, if desired. Additionally, if you previously service retired, your benefit will be adjusted to reflect the granting of your disability retirement. This may include a change in your effective date, monthly allowance, and/or tax status.

⁸ Government Code Section 31724

⁹ When taken by an employee as time off



what's next?



Note: If the Board of Retirement finds that you are permanently incapacitated but the disability is not work-related, the Board may grant a nonservice-connected disability retirement, even if you selected “service-connected disability” on your application. You may appeal that decision. However, in an appeal, the Board reviews the case again in its entirety. This means that the Board’s original finding of permanent incapacity could be overturned during the appeal process, and it could be decided that you are not eligible for any disability retirement benefits.





Disability Retirement Denied

If disability retirement is denied and you are still working, nothing changes. You continue to work and receive regular compensation. If you are still in active County service but not working, your department is legally obligated to engage you in the interactive process to discuss return-to-work options.¹⁰

You may file an appeal to any adverse BOR action within 30 days from the date of the Notice of Board Action. *LACERA strongly encourages you to retain an attorney during this process*; however, you may represent yourself in any hearing or court proceeding. *LACERA staff cannot provide legal advice*. The appeal process can take three or more years to complete. Refer to Procedures for Disability Retirement Hearings (DIS112) for further details.

Service Retirement While the Board's Decision Is Pending

You may apply for a *service retirement* while your disability case is pending; however, there are some consequences that must be considered before you make the decision to service retire pending a decision on your disability retirement application.¹¹

If you take a service retirement, you may *not* return to your former position regardless of whether the BOR grants you a disability retirement. However, if you do not service retire pending the BOR's decision and are determined not disabled, you have the right to be reinstated to your former position, as long as you have not terminated County service.

¹⁰ Government Code Section 31725

¹¹ You may obtain information specific to your plan on lacera.com, Benefits, Planning for Retirement, Retirement Eligibility.





4 FREQUENTLY ASKED QUESTIONS

1. If I take a service retirement while my disability application is pending, may I change my retirement option once my disability retirement is approved?
You (or your eligible survivor) may change your retirement option if you applied for a service retirement after applying for a disability retirement. The change is retroactive to your service retirement date, and previously paid benefits will be adjusted.

2. Am I eligible for a Pension Advance Option?
You are *not* eligible to elect the Pension Advance Option if you:

- Submit an application for a service retirement while your disability application is pending; or
- Are currently receiving a service retirement allowance and have applied for, or are granted, a disability retirement.

You *may* elect the Pension Advance Option if you are not granted a disability retirement.

3. If I am granted a disability retirement, will I still be eligible for healthcare insurance?

Yes. You will be eligible for LACERA-administered retiree healthcare benefits, which include a choice of medical and dental/vision plans. The cost of your portion of the insurance premiums, if any, will be deducted from your retirement allowance.

The County healthcare subsidy amount differs based on the type of disability retirement granted, as follows:

- **Service-connected disability (SCD):**
The County contributes a minimum of 50 percent of a member's selected retiree medical/dental plan premium or a minimum of 50 percent of the benchmark plan premium, whichever is less. For members with 13 or more years of service credit, the County pays the percentage to which the member is otherwise entitled under the County's retiree healthcare subsidy.
- **Nonservice-connected disability (NSCD):**
The County healthcare subsidy applies to members with 10 or more years of service credit; the percentage subsidized is determined by the amount of service credit accrued. No exceptions are made on NSCDs with less than 10 years of service credit.

4. May I obtain employment with an employer other than the County if the board determines I am disabled?

Yes. You may obtain full- or part-time employment outside the County, provided the duties of the new job are different from those of your former position. If permanent work restrictions were issued by a LACERA panel physician, your new job duties may not be in conflict with these restrictions.

5. How does reciprocity affect me if I am granted a disability retirement?

If you are a reciprocal member, it might *not* be advantageous for you to apply for disability retirement, since sometimes the amount you would receive with a service retirement benefit exceeds the amount you would receive with a disability retirement benefit.

If you are a reciprocal member who is granted a disability retirement by LACERA or by your reciprocal retirement system, you cannot receive a larger disability retirement benefit than what you would have received if all of your service had been with just one system. Accordingly, your disability retirement benefit **may be subject to an offset** in order to ensure that this does not occur.

If you are a reciprocal member, please contact LACERA at 800-786-6464 and ask to speak to a Retirement Benefit Specialist regarding your specific circumstances.

6. Can LACERA cancel my disability retirement at a later date?

Yes. If you are under age 55, LACERA can request a medical reevaluation. If the BOR determines you are no longer disabled, your disability retirement can be canceled; however, the County must agree to reinstate you to your former position.¹²

If you do not return to work after being reinstated to your former position, your disability retirement allowance will cease.

7. May I receive retirement service credit for my prior employment or for time off due to illness?

You may submit an application to purchase prior service credit earned while employed with the County, city, state, or federal agencies

¹² County Employees Retirement Law of 1937, Article 10, Sections 31729 and 31730

(including military service), or time when you were absent from work without pay due to illness. You may also redeposit withdrawn retirement contributions, plus interest.

Your service credit payment contract must be paid in full before you retire, or by lump-sum payment within 120 days after your retirement date.

Please note that purchasing service credit **may or may not be beneficial** if you are granted a disability retirement. Contact LACERA to request additional information on purchasing service credit and to learn about its impact on your disability retirement allowance.

8. What are the advantages of purchasing my prior service credit?

Purchasing service credit adds to your total years of retirement service credit. It might increase your disability retirement allowance and the amount of your retiree healthcare subsidy under certain circumstances.

If you have less than five years of County employment, purchasing your prior County service credit may make you eligible to apply for a nonservice-connected disability retirement. You must have completed your purchase of prior service credit before your application for a nonservice-connected disability retirement is accepted.

It is not always advantageous to purchase service credit. Contact LACERA to request additional information on purchasing service credit and its impact on your disability retirement allowance.

9. Is my disability retirement allowance reported to the IRS?

Yes. All disability retirement payments are reported annually to the Internal Revenue

Service and the California Franchise Tax Board.

The IRS grants special tax exclusions for certain SCD retirement benefits. Check with a professional advisor regarding tax matters; **LACERA does not offer tax advice.**

10. What benefits will my surviving spouse or domestic partner receive when I die?

Survivor benefits for disability retirement vary according to the type of disability retirement granted:

- **SCD benefit for a surviving spouse or domestic partner**
 - If the Unmodified Option was elected: 100 percent of member's monthly SCD allowance for life. Marriage or California state registration of domestic partnership must have occurred prior to member's retirement; one-year requirement does not apply.
 - If one of the numbered retirement options was elected: Benefit paid to beneficiaries will be based upon the option chosen.
- **NSCD benefit for a surviving spouse or domestic partner**
 - If the Unmodified Option was elected: 65 percent of member's monthly allowance for life. Marriage or California state registration of domestic partnership must have occurred one year prior to member's retirement.
 - If one of the numbered retirement options was elected: Benefit paid to beneficiaries will be based upon the option chosen.

11. What if I die before meeting the prospective Plan D member service credit requirement and/or before I am eligible to retire?

If you transferred prospectively to Plan D and die prior to meeting the disability application eligibility requirements listed in Prospective Plan Transfers (pg. 2), your surviving spouse or domestic partner will not be eligible for a monthly survivor allowance.

12. What if I die before completing the disability retirement application process?

In the event of a pre-retirement death, your spouse, California state registered domestic partner, minor child, or estate may continue the application to seek any earned but unpaid funds.

Death benefits in the form of a lump sum or continuing monthly allowance may be payable depending on your length of service and whether the death was service- or nonservice-connected.

13. If I do not have a spouse, California state registered domestic partner, or minor children, who will receive my continuance?

In the event of a pre-retirement death when the estate is other than a spouse, registered domestic partner, or minor child, the estate is limited to the retirement funds owed the member. A continuing benefit may not be paid to an estate or designated beneficiary.

14. If I injure myself while working under the salary supplement provision, do I need to reapply for disability retirement?

No, you are not required to reapply for disability retirement if you injure yourself while working under the salary supplement provision. You may elect to terminate service at any time and receive your full disability retirement benefit.

15. My workers' compensation physician has not declared me permanent and stationary. Can I still apply?

Yes. The workers' compensation system is completely separate from LACERA. It is possible for someone to be deemed permanently incapacitated from performing work under the County Employees Retirement Law of 1937 even while their workers' compensation claim is pending.

16. May I cancel my disability retirement and return to work for the County of Los Angeles after I am found to be disabled?

If the BOR has determined you are disabled, you must provide medical evidence stating you can return to full, unrestricted duties before the BOR can consider your cancellation request. In addition, you must be under the age of 55 and your department must agree to return you to work.

17. I have been asked to return to work under the 120-day provision. Do I need to be reexamined by a LACERA panel physician?

No, you are not required to be reexamined by a LACERA panel physician when returning to work under the 120-day provision.

18. I have multiple injuries and illnesses. What should I apply for?

You may apply for any and all permanently incapacitating conditions that prevent you from performing your usual duties. A physician statement from the appropriate medical specialist must be submitted for each incapacitating condition.

19. I have already been approved for Social Security benefits and workers' compensation. Will I automatically be approved for a disability retirement?

No. Approval for Social Security benefits or workers' compensation benefits due to permanent disability do not have a bearing on your application for a disability retirement with LACERA. The laws under which Social Security and workers' compensation determine eligibility for benefits under their respective programs are different than those governing LACERA.

20. My doctor says I will be able to return to work after a short recovery period. Can I receive disability retirement benefits while I recuperate?

No. You must be permanently incapacitated to receive disability retirement benefits.

21. My department wants to conduct an interactive process meeting to discuss my options. Can I request that a LACERA Disability Retirement Specialist be present?

Yes. Contact LACERA at 800-786-6464 and ask to speak to Disability Retirement Services.

22. Who can I call if I have more questions?

Call LACERA at 800-786-6464 with any additional questions.



Your Disability Retirement Guide



Disability Retirement

A Step-by-Step Guide

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

LACERA

300 N. Lake Avenue | Pasadena, CA 91101

lacera.com

Business: 626-564-6000

Retirement Information: 800-786-6464

Application for Disability Retirement

Read the Disability Retirement: A Step-by-Step Guide prior to completing this application.

Section I - PERSONAL INFORMATION

Date: _____ Print Name: _____
(First) (Middle) Last

Other Name(s) Used: _____

Home Address: _____
(Street) (City) (State) (ZIP)

Mailing Address (if different): _____
(Street) (City) (State) (ZIP)

Social Security No.: _____ Employee ID No.: _____ Department No.: _____

Work Phone: _____ Home Phone: _____ Cell Phone: _____

Email: _____ Age: _____ Gender: _____ Birth Date: _____

Driver's License No: _____

Currently married or registered as a domestic partner? Yes or No

If yes, date of marriage/registration: _____

Spouse's/Domestic Partner's Name: _____

Names and birth dates of children under 18 years of age:

Name	Date of Birth

I hereby apply for (**select one**): Service-Connected Disability Retirement Nonservice-Connected Disability Retirement

Note: If the Board of Retirement finds you are permanently incapacitated but the disability is not work-related, the board may grant a nonservice-connected disability retirement. You **may appeal** that decision. However, the board's finding of permanent incapacity could be overturned during the appeal process.

I am willing to accept another position with the County via a supplemental disability allowance.
 Yes or No

If Yes: Complete the Application for Supplemental Disability Allowance included in this packet. For information about salary supplements, refer to §1.2.4 in the Disability Retirement: A Step-by-Step Guide.



Section II - EARLIER EFFECTIVE DATE

Requesting an Earlier Effective Date for Your Disability Retirement

Generally, the disability retirement allowance becomes effective as of the date the application is filed with LACERA, but not earlier than the day following the last day of regular compensation.¹ However, you may be entitled to have your disability retirement begin earlier if you delayed in filing your application and that delay was due to administrative oversight or the inability to determine your incapacity was permanent. For details, refer to §1.1.3 in the Disability Retirement: A Step-by-Step Guide.

I hereby apply for the following earlier effective date (Month) (Day) (Year): _____

If you are applying to have your disability allowance become effective earlier than the date this application is filed, select the reason for this requested adjustment and provide a brief explanation.

Administrative oversight due to: _____

At the time I last received regular compensation, the permanence of my incapacity could not be determined for the following reason: _____

Warning: Failure to complete this section will constitute the waiver of the right to apply for an earlier effective date unless (1) you amend your application prior to the date you are referred to a LACERA-appointed physician for an examination, or (2) you amend this application at a later date by showing good cause for an amendment in accordance with Article VIII, Section 2(c) of the Bylaws of the Board of Retirement. Please initial your acknowledgement of this warning.

¹Government Code Section 31724

Initials _____

Section III - OCCUPATIONAL HISTORY

Position for which you are permanently incapacitated: _____

Item No.: _____ Department Name: _____

Location of Assignment: _____ Years of Service: _____

Last date physically at work: _____

Location Address: _____

Current work status with County (check all that apply):

- Working full duty, with or without work restrictions.
- Working modified or alternate duty, permanently or temporarily.*
- Resigned or terminated from County service. Effective date: _____
- Retired from County service. Effective date: _____

*If you are currently working a modified or alternate duty position, please describe in detail your current work restrictions. Be sure to indicate whether your work restrictions are permanent or temporary and whether your modified or alternate duty assignment is permanent or temporary. You may need to consult with your employer to determine whether your assignment is permanent or temporary.

I am not physically working for the County, but I am receiving:

- Sick leave with compensation. Start date: _____ End date: _____
- Industrial leave with compensation (temporary disability, LC4850, etc.):
Start date: _____ End date: _____
- Long-term disability benefits Start date: _____ End date: _____
- Short-term disability benefits. Start date: _____ End date: _____
- Peace Officer Relief Fund benefits. Start date: _____ End date: _____
- Not** receiving pay Since _____

Describe **actual** duties performed at the time your disability arose. A class specification cannot be utilized in lieu of your written description of your actual duties.

List all employers (including other County departments) for which you have worked in the last 10 years. Include addresses, telephone numbers, and periods of employment.

►Please provide the name and contact information of your last supervisor.

Name: _____

Unit of Assignment: _____

Address: _____

Telephone Number: _____

Email Address: _____

►If this individual supervised you for less than one year, provide the name and contact information of your prior supervisor.

Name: _____

Unit of Assignment: _____

Address: _____

Telephone Number: _____

Email Address: _____

►Please provide the name and contact information of the department's return-to-work representative that has assisted you.

Name: _____

Unit of Assignment: _____

Address: _____

Telephone Number: _____

Email Address: _____

Current Outside Employment

Are you presently self-employed or employed by anyone other than the County? . . . Yes or No

If Yes: List employer's name, address, and telephone number as well as your job duties and hours.

Previous Outside Employment

Were you previously self-employed or employed by anyone other than the County? . . Yes or No

If Yes: List employer's name, address, and telephone number as well as your job duties and hours.

Section IV - HISTORY OF INJURY/ILLNESS

Please describe the injuries, conditions, body parts, organ systems, and/or disease processes that are causing you permanent incapacity from your usual job duties.

Which doctor placed you off work and why?

Please note: All body parts and disabilities indicated must be certified as incapacitating in the Physician's Statement (included in this packet) from the relevant medical specialist in order to be included in your application for disability retirement.

What was the date of your injury or onset of your illness? _____

Where did the injury or illness occur?

Unit of assignment or location: _____

Unit of assignment or location address: _____

Describe in detail how the injury occurred or what caused the onset of the illness. *Please be specific. Add additional pages if necessary.*

Please list all witnesses to your incapacitating injury/illness. Provide the following information:

Witness Name	Unit of Assignment/ Location	Address	Telephone Number

Describe in detail the actual duties you cannot perform due to your incapacitating injury/illness.

Are any of the injuries or conditions that you are applying for pre-existing? Yes or No

Nature of the pre-existing injury or illness: _____

Date of the original occurrence of the injury or onset of the illness: _____

Are you claiming your job or job environment has aggravated or accelerated the pre-existing injury or conditions listed? If yes, please state how the job caused or contributed to any aggravation or acceleration.

Section V - MEDICAL TREATMENT

List the names, addresses, and telephone numbers of all doctors or other service providers with whom you consulted or were treated for your incapacitating injury/illness. Include approximate dates of consultations or treatment, if known.

List the dates of any future appointments related to your injury or illness (**add additional pages if necessary**).

Physician Name	Medical Specialty	Address	Telephone Number	Dates of Consultations/ Treatment

If you have been treated at a Kaiser Permanente facility, list the location and address of each facility. **Please include the Kaiser Medical Record Number.**

Kaiser Permanente Location and Address	Kaiser Medical Record Number

Section VI - ADDITIONAL INFORMATION

Additional Disability Benefits

What disability benefits have you received? Please check all that apply:

Workers' compensation awards Disability pension/allowance from other public employment
Name of public agency: _____

Other compensation for this or another injury/illness through the County or previous employers
(please provide details)

Additional Comments

Include any information you would like the Board of Retirement to consider when reviewing your application for disability retirement.

Have you retained an attorney to represent you in this disability retirement application process?

Yes or No

If Yes:

Attorney's Name: _____ Firm Name: _____

Address: _____ Telephone No.: _____

Email: _____

Note: The disability retirement application process is a separate matter from workers' compensation. You must arrange alternate legal representation.

I declare, under penalty of perjury, that to the best of my knowledge the foregoing is true and correct.

Executed on: _____ in _____
(Date) (City and State)

Applicant's Signature*: _____ Title*: _____

Telephone No.: _____

*If there is a power of attorney or guardianship for the employee, please attach a copy.



Section VII - ADDITIONAL INFORMATION

Physician Statement for Disability Retirement

Patient's Name: _____ Date of Birth: _____

Employee ID No.: _____

Dear Doctor:

The patient referenced above is a Los Angeles County employee who has applied for a disability retirement. The employee must present medical evidence from a physician pertaining to the disabling illness or injury to be considered for a disability retirement.

We request that you fill out the enclosed Physician Statement for Disability Retirement form. This form will be included in the package of information sent to the Board of Retirement's panel physician. Your evaluation should determine whether the employee can perform the particular duties as outlined in the Los Angeles County Class Specification (provided to you by the employee).

To be considered disabled under retirement law, the patient must be:

- 1) permanently disabled; and
- 2) unable to perform a substantial portion of the tasks of his/her County job.

Please complete and sign the Physician Statement, attach the Class Specification, and return the documents to the patient. Please do not attach an earlier narrative report in lieu of filling out this form. Note that an incomplete form will cause the employee's application to be rejected.

If you have questions, please call LACERA's Disability Retirement Services Division at 626-564-2419.

Sincerely,

Disability Retirement Services
Los Angeles County Employees Retirement Association
300 N. Lake Ave., Pasadena, CA 91101
P.O. Box 7060, Pasadena, CA 91109-7060
www.lacera.com
626-564-2419

PHYSICIAN STATEMENT FOR DISABILITY RETIREMENT

Patient's Name: _____ Date of Birth: _____

Employee ID No.: _____

1. The patient is (circle one) (insert job title):

a. Permanently and substantially incapacitated from performing the duties of a _____
_____ as outlined in the attached Los Angeles County Class Specification

OR

b. Temporarily incapacitated from performing the duties of a _____
as outlined in the attached Los Angeles County Class Specification

2. I am the patient's primary treating physician for the following condition(s): _____

3. I have treated the patient from _____ to the present.

4. I maintain the patient's complete medical history.

Date of First Visit (mm/dd/yyyy)	Date of Last Examination (mm/dd/yyyy)	Date Present Illness/Injury Occurred (mm/dd/yyyy)

5. What is your diagnosis? _____

6. What objective findings support your diagnosis(es)? _____

7. What are the symptoms related to this illness/injury? _____



PHYSICIAN STATEMENT FOR DISABILITY RETIREMENT

Patient's Name: _____ Date of Birth: _____

Employee ID No.: _____

8. When and how did the symptoms first appear? _____

9. What functions of the job can the patient *not* perform? Why? Please be specific. _____

10. Will the patient's condition improve enough to return to work? Please explain your answer in detail. _____

PHYSICIAN SIGNATURE

I hereby certify the Physician Statement is based on my examination and the attached Class Specification of the patient's duties.

I am a licensed physician under the Laws of the State of California as a Doctor of _____.

Name of Physician / License No.		Specialty	
Address (Street)	(City)	(State)	(ZIP)
Phone	Fax Number	Email	
Signature (Original required. No stamps or copies.)		Date	



Missed Medical Appointment

As provided in California Government Code Section 31723, upon determination that a medical examination is necessary, LACERA may order such an examination to determine the existence of the disability. At LACERA's expense, a medical appointment will be scheduled with a physician selected by LACERA. You will be notified by letter of the selected physician's name, address, telephone number, and the date and time of the appointment. Should you fail to keep this appointment without 48 hours advance notice to both Disability Retirement Services and the physician, you will be billed the physician's charges.

I understand it is my duty to contact the Disability Retirement Services division of LACERA and the selected physician if I am unable to keep the medical appointment so ordered. If I fail to do so, the cost of the missed medical appointment is my responsibility.

Applicant's Signature: _____

Date: _____

Applicant's Name

Employee ID No.





Claims Against Third Parties

Please read the entire form then complete either Section I or Section II (whichever applies) and Section III.

SECTION I

I certify that my disability is not a result of, caused by, or connected to, in any manner, an injury or illness that involves a third party (i.e., someone or an organization other than your County/ District employer).

_____ Please initial here and complete Section III.

SECTION II

If your disability involves a third party, please provide the following information:

Name of Third Party: _____ Phone No.: _____

Address: _____

City: _____ State: _____ ZIP: _____

Description of how the injury or illness occurred, including third party's involvement.

Did you file a claim of any type against the third party named above?

Yes No

Case Name: _____ Case No.: _____ Date Filed: _____

If No, do you plan to file a claim in the future?

Yes No If No, please explain why not:

Applicant's Name

Employee ID No.



SECTION III

I, the undersigned, agree to notify LACERA if I file any type of claim against a third party, whether or not named above, for my injury or illness.

Signature: _____ Print Name: _____

Social Security No.: _____ Date: _____



Application for Supplemental Disability Allowance

I am interested in continuing my County employment in another job classification that is compatible with my work restrictions and for which I meet the minimum requirements. The following job classification has been identified for which I am qualified and willing to accept:*

Item No.: _____ Job Title: _____

As part of the medical evaluation by the LACERA-appointed physician, I am requesting that in addition to determining incapacity from my current job classification, the physician also evaluates whether I am able to perform the above-listed job. Should the Board of Retirement deem me incapacitated from my current job classification, I request that I be placed in the item number and job title listed above.

Print Name: _____

Applicant's Signature: _____ Date: _____

***Note:** The class specification must be attached. Class specifications are available on the County's website at hr.lacounty.gov.

Department Return-to-Work Specialist

I certify that the applicant meets the minimum requirements for the position identified above, the position is currently available and will remain available, and the applicant will be placed into that item number and job title if deemed incapacitated by the LACERA Board of Retirement.

Name: _____ Telephone No.: _____ Date: _____

Signature: _____ Date: _____

Department Authority

I certify that I have the authority to make determinations concerning whether the department can offer the applicant an alternate position.

Name: _____ Telephone No.: _____ Date: _____

Signature: _____ Date: _____

Employee ID No.





Attorney Representation for Disability Retirement Applicant

I, _____ (Applicant Name), Employee ID No. _____, have retained the attorney indicated below to represent me in connection with my LACERA application for a disability retirement.

Applicant's Signature: _____ Date: _____

For completion by applicant's attorney. Please fill out and return to LACERA.

Please be advised that _____ (Applicant Name) has retained our offices in connection with his/her LACERA application for a disability retirement. This correspondence serves as our notice of representation. Please direct all communications to the office of the undersigned at:

Attorney Name: _____ Email: _____

Firm Name: _____

Firm Address: _____
(Street) (City) (State) (ZIP)

Phone: _____

Fax: _____

Attorney Signature: _____ Date: _____





Authorization for Release of Medical, Psychological, Employment Records and Information, and Worker's Compensation Records (Service-Connected Death)

SECTION A: DECEDENT INFORMATION

Last Name	First Name	Middle Name	Employee Number
Other Names Used, if any			Date of Birth
Social Security Number		Kaiser Medical Records Number (if applicable)	

SECTION B: MEDICAL AND PSYCHOLOGICAL RECORDS AND INFORMATION

1. **Information to be disclosed:** I hereby authorize you to disclose to LACERA (*see 3. Authorized Recipient, below*) in any format, including electronic and hard copy, any and all of my protected health information, including but not limited to, hospital and other records; test results including x-rays, HIV test(s), and lab reports; medical and psychological records, notes, and reports; and records and/or results from any providers of services. This also includes any and all records pertaining to alcohol and/or substance abuse treatment.

2. **Disclosing Parties:** This Authorization applies to any and all health and/or medical related information about me in the possession of any doctor, psychologist, healthcare provider, health plan, laboratory, treatment facility, insurance company or fund, employer or plan administrator, government agency, organization or entity administering a benefit program, and rehabilitation organization or program.

3. **Authorized Recipient:** I hereby authorize the Los Angeles County Employees Retirement Association (LACERA), or any authorized agent thereof, to receive the information disclosed pursuant to this Authorization.

4. **Purpose:** The purpose of this Authorization is to permit the investigation and processing of my application for disability retirement filed with LACERA.

5. **Expiration Date:** Unless expressly revoked, this Authorization shall expire on the date of final determination of my application for a disability retirement or in three years (3) from the date of my signature on this Authorization, whichever comes first. Anyone making a disclosure pursuant to this Authorization may rely on LACERA's representation as to the status of the application.

6. **Potential for Re-disclosure:** I understand that information disclosed pursuant to this Authorization may be re-disclosed to individuals or organizations not subject to state and federal privacy and confidentiality laws, including HIPAA. I hereby release you in your individual and professional capacity from any and all liability arising from any such disclosure.

7. **Right to Revoke:** I understand that I have a right to revoke this Authorization at any time. My revocation must be in writing by letter directed to the LACERA Disability Retirement Services Division at the address above. I understand that any information released before LACERA receives my revocation will not be affected. I understand by revoking this Authorization, LACERA may not have enough medical information to continue to process my disability retirement application and that may result in closure of the application.

8. **Right to a Copy:** I understand I have a right to receive a copy of this Authorization at any time. A copy shall be considered the same as an original.

Signature of Authorized Representative* (Please attach proof of legal authority)

Date

SECTION C: EMPLOYMENT AND OTHER RECORDS

I authorize the disclosure to LACERA of any and all personnel and other employment-related records on file which relate to my job duties, work performance, disciplinary actions and other work-related issues including, but not limited to, attendance and sick leave records and records of administrative, judicial, and law enforcement action arising out of, or related to, my past or present employment. This Authorization shall apply to any present and former employers, as well as any other governmental and law enforcement agency that may be in possession of any such records.

Signature of Authorized Representative* (Please attach proof of legal authority)

Date

SECTION D: WORKERS COMPENSATION RECORDS

I authorize the disclosure to LACERA of any and all records related to my Worker's Compensation claim, including, but not limited to, medical records (Subject to the terms of Section B, above), surveillance video, deposition transcripts, and investigation reports.

(For Official Use Only)

Signature of Authorized Representative*

Date

* An Authorized Representative is any person granted the legal authority to act on behalf of the Applicant under a Power of Attorney, Conservatorship, or other legally recognized written proof of such authority. Attach copy of written proof of legal authority.

Authorization for Release of Medical, Psychological, Employment Records and Information, and Worker's Compensation Records

SECTION A: APPLICANT INFORMATION

Last Name	First Name	Middle Name	Employee Number
Other Names Used, if any			Date of Birth
Social Security Number		Kaiser Medical Records Number (if applicable)	

SECTION B: MEDICAL AND PSYCHOLOGICAL RECORDS AND INFORMATION

1. **Information to be disclosed:** I hereby authorize you to disclose to LACERA (see 3. *Authorized Recipient, below*) in any format, including electronic and hard copy, any and all of my protected health information, including but not limited to, hospital and other records; test results including x-rays, HIV test(s), and lab reports; medical and psychological records, notes, and reports; and records and/or results from any providers of services. This also includes any and all records pertaining to alcohol and/or substance abuse treatment.

2. **Disclosing Parties:** This Authorization applies to any and all health and/or medical related information about me in the possession of any doctor, psychologist, healthcare provider, health plan, laboratory, treatment facility, insurance company or fund, employer or plan administrator, government agency, organization or entity administering a benefit program, and rehabilitation organization or program.

3. **Authorized Recipient:** I hereby authorize the Los Angeles County Employees Retirement Association (LACERA), or any authorized agent thereof, to receive the information disclosed pursuant to this Authorization.

4. **Purpose:** The purpose of this Authorization is to permit the investigation and processing of my application for disability retirement filed with LACERA.

5. **Expiration Date:** Unless expressly revoked, this Authorization shall expire on the date of final determination of my application for a disability retirement or in three years (3) from the date of my signature on this Authorization, whichever comes first. Anyone making a disclosure pursuant to this Authorization may rely on LACERA's representation as to the status of the application.

6. **Potential for Re-disclosure:** I understand that information disclosed pursuant to this Authorization may be re-disclosed to individuals or organizations not subject to state and federal privacy and confidentiality laws, including HIPAA. I hereby release you in your individual and professional capacity from any and all liability arising from any such disclosure.

7. **Right to Revoke:** I understand that I have a right to revoke this Authorization at any time. My revocation must be in writing by letter directed to the LACERA Disability Retirement Services Division at the address above. I understand that any information released before LACERA receives my revocation will not be affected. I understand by revoking this Authorization, LACERA may not have enough medical information to continue to process my disability retirement application and that may result in closure of the application.

8. **Right to a Copy:** I understand I have a right to receive a copy of this Authorization at any time. A copy shall be considered the same as an original.

Signature of Applicant or Authorized Representative* (For Representative, attach proof of legal authority)

Date

SECTION C: EMPLOYMENT AND OTHER RECORDS

I authorize the disclosure to LACERA of any and all personnel and other employment-related records on file which relate to my job duties, work performance, disciplinary actions and other work-related issues including, but not limited to, attendance and sick leave records and records of administrative, judicial, and law enforcement action arising out of, or related to, my past or present employment. This Authorization shall apply to any present and former employers, as well as any other governmental and law enforcement agency that may be in possession of any such records.

Signature of Applicant or Authorized Representative* (For Representative, attach proof of legal authority)

Date

SECTION D: WORKERS COMPENSATION RECORDS

I authorize the disclosure to LACERA of any and all records related to my Worker's Compensation claim, including, but not limited to, medical records (Subject to the terms of Section B, above), surveillance video, deposition transcripts, and investigation reports.

(For Official Use Only)

Signature of Applicant or Authorized Representative*

Date

* An Authorized Representative is any person granted the legal authority to act on behalf of the Applicant under a Power of Attorney, Conservatorship, or other legally recognized written proof of such authority. Attach copy of written proof of legal authority.

PERMANENT LIGHT-DUTY ASSIGNMENTS AND ACCOMMODATION UNDER GOVERNMENT CODE SECTION 31720

Francis J. Boyd
Sr. Staff Counsel

INTRODUCTION

- LACERA is governed by the County Employees' Retirement Law of 1937 (CERL). Court decisions determining what duties are to be used as a measurement of incapacity first came out of the California Public Employees' Retirement Law of 1937 (PERL) and then were adopted by decisions involving CERL.
- This presentation will discuss the seminal decisions that shaped the issue of accommodation when there is evidence of available permanent light-duty assignments.

PERMANENT INCAPACITY

- LACERA is governed by the County Employees' Retirement Law of 1937 (CERL).
- Government Code section 31720 which states the following in pertinent part:

“Any member permanently incapacitated for the performance of duty shall be retired for disability”

PERMANENT INCAPACITY DEFINED

Permanent incapacity is established under Government Code section 31720 when the evidence demonstrates that a member is substantially unable to perform his or her usual duties. Usual duties are “normal” or “common,” not remote.

- *Mansperger v. Public Employees’ Retirement System* (1976) 6 Cal.App.3d 873, 866-877;
- *Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689, 694-696.

PERMANENT MODIFIED LIGHT-DUTY ASSIGNMENT

Barber/Craver Rule:

A member is not permanently incapacitated under Section 31720 where the evidence establishes that she is able to perform the duties of an available permanent light-duty assignment within the same job classification.

- *Barber v. Retirement Board* (1971) 18 Cal.App.3d 273, 278;
- *Craver v. City of Los Angeles* (1974) 42 Cal.App.3d 689, 695-696.
- *Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689, 694-696.

POST-RETIREMENT DETERMINATIONS

A retirement board can make a post-retirement determination that an applicant was capable of performing a permanent light-duty assignment that was available at the time the member retired, so long as it bases its finding on evidence establishing how the employer could have and would have accommodated the application.

- *Meyers v. Board of Administration etc.* (2014) 224 Cal.App.4th 250, 260.

POST-RETIREMENT DETERMINATIONS (CONT.)

Meyers establishes that the retirement association (LACERA) carries the burden of proof of showing that a permanent light-duty position was available when the applicant retired.

SAME SALARY, BENEFITS, AND PROMOTIONAL OPPORTUNITIES AS OTHERS IN THE SAME JOB CLASSIFICATION

A board may deny the application when the “employee retains his [job classification], continues to receive the same salary and fringe benefits, and has the same promotional opportunities as other employees in the [job classification].

- *Stuessel v. City of Glendale* (1983) 141 Cal.App.3d 1047, 1051.

QUESTIONS?



PERMANENT LIGHT-DUTY ASSIGNMENTS AND ACCOMMODATION UNDER GOVERNMENT CODE SECTION 31720

A. Introduction

LACERA is governed by the County Employees' Retirement Law of 1937 (CERL). Court decisions determining what duties are to be used as a measurement of incapacity first came out of the California Public Employees' Retirement Law of 1937 (PERL) and then were adopted by decisions involving CERL. The following is a review of these cases.

B. Permanent Incapacity Defined

Permanently incapacity is established under Government Code section 31720 when the evidence demonstrates that a member is substantially unable to perform his or her usual duties. Usual duties are "normal" or "common," not remote.

This definition of "incapacity" was established in the case of *Mansperger v. Public Employees' Retirement System*,¹ a PERL case, and was then adopted in *Harmon v. Board of Retirement of San Mateo*,² a CERL case.

C. Permanent Modified Light-Duty Assignment

The issue of modified light duty does not arise unless and until the member has met her prima facie burden to prove permanent incapacity from her usual duties.

A member is not permanently incapacitated under Section 31720 where the evidence establishes that she is able to perform the duties of an available permanent light-duty assignment within the same job classification. This is referred to as the *Barber/Craver* rule. Naturally, the modified light-duty assignment must also comport with the member's work restrictions.

This rule was established in *Barber v. Retirement Board*³ and *Craver v. City of Los Angeles*,⁴ two PERL cases, and was then adopted by courts in *Harmon v. Board of Retirement*⁵ and *Schrier v. San Mateo County Employees' Ret. Ass'n*,⁶ two CERL cases.

D. Post-retirement determinations regarding permanent light-duty assignment

Recently, the court has determined that a retirement board can make a post-retirement determination that an applicant was capable of performing a permanent light-duty

¹ *Mansperger v. Public Employees' Retirement System* (1976) 6 Cal.App.3d 873, 866-877.

² *Harmon v. Board of Retirement of San Mateo* (1976) 62 Cal.App.3d 689, 694-696.

³ *Barber v. Retirement Board* (1971) 18 Cal.App.3d 273, 278.

⁴ *Craver v. City of Los Angeles* (1974) 42 Cal.App.3d 76, 79-80.

⁵ *Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689, 695-696.

⁶ *Schrier v. San Mateo County Employees' Ret. Ass'n* (1983) 142 Cal.App.3d 957, 961-962.

assignment that was available at the time the member retired, so long as it bases its finding on evidence establishing how the employer could have and would have accommodated the applicant.

This rule was established in *Meyers v. Board of Administration etc.*⁷ *Meyers* is a PERL case, not a CERL case. The courts have not yet applied the *Meyers* decision in a CERL case, but neither the California Constitution nor the Board's governing legislation prevents a retirement board from applying other disability laws, such as workers' compensation and CERL laws by analogy when they are related in subject matter and are harmonious in purpose.⁸ In *Meyers*, the court was addressing a definition of incapacity found in the San Jose Municipal Code. The court described the municipal code as defining incapacity for duty as a permanent disability which:

‘ . . . renders the member physically or mentally incapable of continuing to satisfactorily assume the responsibilities and perform the *duties and functions of the position then held by him and of any other position in the same classification of positions* to which the city may offer to transfer him. . . .’ (*Meyers* at 257, italics and bold emphasis added).

The above language preceding the word “and” (in bold text) describes the “duties and functions of the position then held by him.” This description is analogous to the “usual duties” standard expressed in *Mansperger*. The language coming after “and” – “any other position the city may offer to transfer him” – is analogous to the *Barber/Craver* rule which allows the Board to deny an application if the applicant is able to perform the duties of an available permanent light duty assignment with the same job classification.

- ***Meyers* establishes that the retirement association carries the burden of establishing the availability of a permanent light-duty position when the applicant retired.**

Meyers is helpful because it confirms that the retirement association (LACERA) carries the burden of proof of showing that a permanent light-duty position was available at the time the applicant retired. This is the first case to place the burden on the retirement association. In the 1976 *Harmon* decision, when discussing light duty positions available in the San Mateo County Sheriff's Department, the court stated the following:

The assistant sheriff's testimony when taken as a whole does not foreclose the **possibility** that there were positions in the sheriff's

⁷ *Meyers v. Board of Administration* (2014) 224 Cal.App.4th 250, 260.

⁸ See *Heaton v. Marin County Employees Retirement Bd.* (1976) 63 Cal.App.3d 421, 428; *Reynolds v. City of San Carlos* 126 Cal.App.3d 208, 215; *Bowen v. Bd. of Ret.* (1986) 42 Cal.3d 572, 576, fn. 4.

office which could be performed by one subject to the disability which the doctors reported the deputy suffered. (*Harmon* at 697, bold emphasis added).

Notice the court used the word “possibility” that there were light-duty positions in the department. This has been used by retirement associations to mean that the association does not carry the burden to prove that a permanent light-duty position was available. The *Meyers* decision undermines this argument.

- **Post-retirement determinations**

Meyers also confirms that a retirement association can make a post-retirement determination regarding permanent light-duty assignments. In discussing the evidence and addressing the retirement board’s post-retirement determination of whether or not a permanent light duty assignment was available, the court specifically stated: “That is not to say the Board’s inquiry cannot be performed retrospectively. But the Board’s findings must be based on evidence showing how the City could and would have accommodated the member.” (*Meyers* at 260).

- E. Same salary, benefits, and promotional opportunities as others in his job classification**

*Stuessel v. City of Glendale*⁹ is a PERL case wherein the court adopted the *Barber/Craver* rule and upheld a board decision to deny a police officer a disability pension because the department had a permanent light duty position available within his job classification. In evaluating the evidence, the court specifically stated that a board may deny the application when the “employee retains his police officer classification, continues to receive the same salary and fringe benefits, and has the same promotional opportunities as other employees in the police officer classification.” (*Stuessel* at 1051).

- F. Outlier cases**

- 1. *Curtis v. Bd. of Ret.* (1986) 177 Cal.App.3d 293.**

Curtis was a LACERA member who was injured in an automobile accident while on duty as an Eligibility Worker. LACERA’s Board denied her disability retirement claim. Curtis filed a writ in superior court and attempted to submit new medical evidence. The trial court denied the writ and did not consider the new medical evidence.

The court of appeal remanded the case back to LACERA with directions to consider the new medical reports. The court noted that pursuant to California Civil Code of Procedure section 1094.5(e), trial courts are allowed to consider evidence not available

⁹ *Stuessel v. City of Glendale* (1983) 141 Cal.App.3d 1047.

at the administrative hearing in connection with mandamus proceedings. The court found that it would be appropriate for the Board to have the first opportunity to decide the case on the basis of all the evidence. (*Curtis* at 297-298).

The decision in *Curtis* was based solely on the introduction of medical evidence at the writ level. The court did not determine Curtis' eligibility for a disability retirement and there are no facts in the case suggesting that LACERA had based its decision on the availability of a light duty assignment. However, in the decision, the court made the following statement:

By the terms of Government Code section 31720, the appellant need be incapacitated only for performance of duty and it is not enough to disqualify appellant to show that she is able to do some other kind of job than she has been working in the county.

The court in *Mansperger v. Public Employees' Retirement System* [citation omitted], a case involving injuries to a game warden's arm that he contended made him physically incapacitated from performing his duties, stated as follows: 'We hold that to be "incapacitated for the performance of duty" within section 21022 means the *substantial* inability of the applicant to perform his usual duties. While it is clear that petitioner's disability incapacitated him from lifting or carrying heavy objects, evidence shows that the petitioner could substantially carry out the normal duties of a fish and game warden. The necessity that a fish and game warden carry off a heavy object alone is a remote occurrence. Also, although the need for physical arrests do [*sic*] occur in petitioner's job, they are not a common occurrence for a fish and game warden. A fish and game warden generally supervises the hunting and fishing of ordinary citizens.' (*Curtis* at p. 297, italics emphasis is included in quote, but bold emphasis was added).

In the above two paragraphs, the court simply restates the *Mansperger* rule for measuring incapacity. Some parties quote the first bold-text paragraph by itself and argue that the court in *Curtis* rejected the *Barber/Craver* light-duty rule. But this is not the case. Because the court's statement of the facts did not indicate an assertion by LACERA that Curtis could perform a light-duty position and because the court's decision is solely decided on the admission of new medical records, the court's statement that Curtis could not be disqualified for a disability retirement by a showing that she could return to other duties fails to meet the requirement of *stare decisis*. This discussion of how incapacity is to be determined is only dicta—it is not a ruling on the case which would serve as precedent or authority for the way future cases should be decided.¹⁰

¹⁰ See *Weissman v. Los Angeles County Employees Ret. Ass'n.* (1989) 211 Cal.App.3d 40, 45.

Despite the ineffectiveness of *dicta* in the *Curtis* decision, the Board of Retirement's responsibility to retire a disabled employee cannot be avoided by an employer by transferring him to some other kind of position outside of his job classification.¹¹

2. *Nolan v. City of Anaheim* (2004) 33 Cal. 4th 335.

Nolan does not apply to disability retirement cases under CERL because the issue addressed by the California Supreme Court was the definition of "state service" under a PERL statute. LACERA's Board of Retirement is charged with determining, Government Code section 31720, whether or not a member is "incapacitated for the performance of duty," not "state service."

Nolan was a City of Anaheim police officer seeking a disability retirement under a PERL statute, Government Code section 21156. The California Supreme Court was asked to determine the meaning of "state service" under Government Code section 21156 which stated the following in pertinent part:

If the medical examination and other available information show to the satisfaction of the board . . . that the member is incapacitated physically or mentally for the performance of **his or her duties in the state service** and is eligible to retire for disability, the board shall immediately retire him or her for disability . . . (*Nolan* at p. 339, bold emphasis added).

The psychiatric medical evidence established that *Nolan* was incapable of performing any job at the Anaheim Police Department because of fear of his personal safety and retaliation. *Nolan* argued that under the light-duty doctrine, established in *Barber and Craver*, a police officer is not considered incapacitated if an officer is capable of performing a permanent light-duty position that is available within the department. The Supreme Court distinguished the light-duty cases from *Nolan's* case because the light-duty cases did not involve a statute requiring incapacity from "state service." The court stated:

Mr. *Nolan* will have to show not only that he is incapacitated from performing his usual duties for Anaheim, but also that he is incapacitated from performing the usual duties of a patrol officer for other California law enforcement agencies.

LACERA members do not have the burden of proving incapacity from their usual duties throughout the state. So the *Nolan* case does not apply.

¹¹*Schrier v. San Mateo County Employees' Ret. Ass'n.*, *supra*, 142 Cal.App.3d 957, 961-962.