

Subject: DISABILITY RETIREMENT

REFERENCES	SECTIONS
Law & Regulation http://leginfo.legislature.ca.gov/faces/codes.xhtml;jsessionid=ec740fb92d7f258ccc38ebd5c0c9	GC: 19253.5, 21150-21176, 19991.4
Memo of Understanding (MOU) http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx	Refer to Applicable MOU
Personnel Management Policy and Procedures Manual (PMPPM)	Section 420
Responsible Control Agency and Program www.calpers.ca.gov	PERS
DPA/SPB Policy Memos http://www.calhr.ca.gov/state-hr-professionals/pages/policy-memos.aspx	PML: 2002-005
Other:	
PERS Circular Letters http://www.calpers.ca.gov/index.jsp?rint=on&refine=Refresh%A0Search&bc=%2Futilities%2Fsearch%2Fhome.xml&mode=sim&qt=Circular+Letters&submit.x=13&submit.y=16	200-084-003, 200-084-03, 2000-195-04, 200-195-04 Attachment, 200-207-05, 200-216-05, 200-259-05, 200-260-05, 200-021-007

Disability Retirement

Policy	<p>It is the policy of DGS to comply with all applicable rules and regulations as provided by the California Public Employment Retirement System (PERS) and Governments Code (GC). In addition, see Section 420 of the Personnel Management Policy and Procedures Manual for the State Personnel Board's (SPB) guidelines.</p>
Definition/ Explanation	<p>Disability or industrial disability retirement consists of a monthly retirement allowance paid to the employee for life or until recovery from the disabling injury or illness. The employee must be substantially incapacitated from the performance of duty. This "substantial incapacity" must be due to a medical condition of permanent or extended and uncertain duration (lasting longer than 6 months), on the basis of competent medical opinion.</p> <p>Disability Retirement – The cause of the disability does not need to be related to your employment.</p> <p>Industrial Disability Retirement – The inability to perform the job duties is due to a job-related injury or illness.</p>
Who can apply?	<p>PERS has recognized the following as having the authority to submit the disability applications:</p> <ul style="list-style-type: none">• For State agencies – the Director or the Executive Officer (or their designee).• The employee or the employee's attorney, spouse, child, parent, etc.
When to apply	<p>As soon as it is believed the employee is unable to perform the job because of an illness or injury, which is expected to be permanent or last longer than six months, the employee or someone on the employee's behalf, should submit an application for disability retirement. The condition does not have to be permanent and stationary before an application is submitted and the employee should not wait until the outcome of workers' compensation issues.</p>

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Disability Retirement, Continued

Eligibility

To be eligible for disability retirement an employee must be:

- A local miscellaneous employee
- Vested (must have 5 years credited service in Tier 1; 10 years credited service in Tier 2)
- Of no minimum age

To be eligible for industrial disability retirement an employee must be:

- A safety employee
 - A peace officer/firefighter
 - A patrol officer
 - A local safety employee
 - A certain State/local miscellaneous employee
 - A State industrial employee (with exception)
 - Of no minimum age or service time
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Information needed to apply

To file on behalf of an employee, you must first obtain authorization from the employee. You must send a letter (certified/return receipt and regular) to the employee, briefly describing the reason for disability retirement, asking the employee if s/he wants the DGS to file for disability on his/her behalf or if s/he waives disability retirement. If the employee waives disability retirement, you can medically terminate his/her employment.

Forms to apply for disability retirement, on behalf of the employee, are found at: <http://www.calpers.ca.gov/index.jsp?bc=/about/forms-pubs/all-mbr-forms/home.xml>

Forms to apply for disability retirement are:

- Complete sections 1-4 and 8 on the Application for Disability Retirement, BAS-369D
- Complete Physical Requirements of Position/Occupational Title, PERS01M005DMC

Forms to apply for industrial disability retirement are:

- Complete sections 1-4 and 8 on the Application for Disability Retirement, BAS-369D
 - Complete Physical Requirements of Position/Occupational Title, PERS01M005DMC
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Disability Retirement, Continued

Information needed to apply
(continued)

Upon completion of the required forms, submit the documents to CalPERS and send a letter (certified/return receipt and regular) to the employee notifying him/her the DGS has filed for disability retirement on his/her behalf.

Supplying medical information

The employee and employer may supply medical information. PERS will request medical information from the workers' compensation carrier that is handling the work-related injury or illness. A workers' compensation award does **NOT** automatically entitle the employee to a PERS industrial disability retirement.

Retirement service pending disability or industrial disability retirement

Employees, who are eligible to retire on a service retirement **and** have a disabling condition, may elect to apply for service retirement pending disability or industrial disability retirement. While the employee's medical qualifications for disability retirement is being determined, the employee could be receiving a service retirement allowance. If the disability retirement is approved, the retirement status and benefits will be adjusted from service to disability, retroactive to the effective service retirement date.

Note: If the disability retirement is denied, the employee will not have mandatory return to work rights.

Appealing the determination

The employee and employer are notified when PERS has made a determination of disability. Although all determinations may not include appeal rights, all parties have the right to appeal the approval/denial of the application for disability/industrial disability retirement for the medical condition state, in accordance with Section 555.3, Title II, California Code of Regulations. The employee or designated representative and/or employer may appeal the decision by filing a written request with PERS within 30 days of the mailing of the determination letter. An appeal, if filed, should set forth the factual basis and legal authorities for such appeal (explain the basis for the appeal).

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Disability Retirement, Continued

Responsibility The chart below depicts the participant and their responsibility in relation to the disability/industrial disability retirement process.

Participant	Responsibility
Employee or designee	<ul style="list-style-type: none"> • An employee is required to inform his/her supervisor if s/he has filed for disability retirement. As a general rule, employees are not allowed to remain on the job if they have medical substantiation that indicates they are incapacitated for the position s/he holds. • Become familiar with the information in the “Guide to Completing Your CalPERS Disability Retirement Election Application” and follow the instructions accordingly.
Employer	<ul style="list-style-type: none"> • Provides the employee with the “Guide to Completing Your CalPERS Disability Retirement Election Application.” (Note: It is important that the employer or employee become familiar with the information. • Does not reproduce forms/application for employee (they must be the original form from the “guide”. (The employer may submit retirement forms downloaded from the CalPERS web site). • Is a supportive source of information. • Explains how/when to file for disability/industrial disability retirement and what information is needed. • Refers to the disability retirement application forms and is able to assist the employee on which forms need to be completed and where to submit them. • Does not sign the application; except, if it is an employer-originated application. • Receives application, forwards to CalPERS as soon as possible. Does not delay the application for the purpose of workers’ compensation issues (i.e., awaiting permanent/stationary rating). • Provides CalPERS with important information, which would assist in the disability determination process. • Submits a job analysis on all occupations where one is available. • Provides comments on the employee’s condition and affects on work performance and attendance.

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Disability Retirement, Continued

Responsibility (continued)

Participant	Responsibility
Employer (continued)	<ul style="list-style-type: none"> • Provides comments on any special circumstances or issues involving the employee, which may or may not be related to the application for disability retirement (i.e., employee was terminated, dismissed, or was to be served with an adverse action). • Provides the name and telephone number of the Return-to-Work Coordinator, Health and Safety Officer, or designated individual handling disability. • Keeps CalPERS informed.
Supervisor	<ul style="list-style-type: none"> • Notifies the Personnel Liaison (PL) when an employee files for disability retirement. • Provides PL all supporting medical substantiation along with the employee's current duty statement (in essential function format).
Personnel Liaison (PL)	<ul style="list-style-type: none"> • Gathers and provides all information and forwards to the Classification and Pay (C&P) Analyst. • Provides the employee with disability retirement information and resources and answers any questions s/he may have. • Notifies the Attendance Clerk (AC).
C&P Analyst (Note: it is essential to review PML 2002-005 regarding notice, options and leave requirements)	<ul style="list-style-type: none"> • Reviews all information provided by PL to determine nature of disability and determines whether an emergency disability retirement application should be processed, explains why employee cannot remain at work or determines whether employee can remain on the job pending approval of application from CalPERS. • Checks with workers' compensation case manager to see if employee has current claim(s) and coordinates the termination of industrial disability leave (IDL) benefit payments upon approval of disability retirement. • Works with supervisor who will provide copy of employee's current duties and determines if job duties have or should be modified to accommodate disability. • Sends duty statement to the Personnel Transactions Unit (PTU) who forwards to CalPERS • Works with CalPERS monitoring progress of disability retirement application and keeps supervisor informed.

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Disability Retirement, Continued

Responsibility

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Participant	Function
Workers' Compensation Case Analyst	<ul style="list-style-type: none">• If employee is receiving IDL injury benefits, notifies the State Compensation Insurance Fund (SCIF) of effective date of employee's disability retirement.• Notifies the Personnel Transactions Unit (PTU) to discontinue processing benefit payments.
PTU	<ul style="list-style-type: none">• Works with C&P Analyst and Workers' Compensation Case Analyst to obtain a copy of all pertinent information and submits to CalPERS. The essential functions duty statement must contain the employee's name, social security number, and civil service classification title.• Processes advance payroll information from PERS-BAS 194 when received from CalPERS.• Verifies leave balances with AC.• Receives notification of approval or disapproval from CalPERS and notifies C&P Analyst.

CalPERS contact information

For additional information or questions contact:

CalPERS Benefit Services Division
Disability Determination Section
P.O. Box 2796
Sacramento, CA 95812-2796
(800) 352-2238

-or-

Contact any [CalPERS Regional Office](#).

-or-

To find out if an employee has applied for retirement or the status of a retirement application, contact a CalPERS representative at the following number; and, if they ask, DGS' code number is 5594. You will also need to provide the employee's social security number and name:

1-888-225-7377
