

OVERVIEW OF THE DISABILITY RETIREMENT PROCESS



CITY OF SAN JOSE
**FEDERATED CITY EMPLOYEES'
RETIREMENT SYSTEM**

HOW DISABILITY IS DEFINED

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Section 3.28.1210(A) of the San Jose Municipal Code defines disability as “incapacity for the performance of duty” where the following criteria are met:

- Permanent or extended and uncertain duration
- Occurring while the member is an employee of the City and in Federated City service
- Disability occurred as a result of injury or disease

HOW DISABILITY IS DEFINED

(Cont.)

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- It does not mean mere physical or mental inability to assume responsibilities or perform duties.
- The injury or illness must render the member physically or mentally incapable of continuing to satisfactorily assume the responsibilities and perform the duties and functions of their position and of any other position in the same classification of positions to which the city may offer to transfer them.
- Disability/Incapacity must be determined by the Retirement Board, based on competent medical opinion.

TWO TYPES OF DISABILITY RETIREMENTS

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- Service-Connected Disability Retirement – a disability of a member which arises and results from an injury or disease arising out of and in the course of Federated City Service. (SJMC 3.28.1210 (C))
- Non-Service-Connected Disability Retirement – a disability which is not job related. (SJMC 3.28.1210 (B))

TWO TYPES OF DISABILITY RETIREMENTS

(Cont.)

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- Based on medical examination and available evidence and information, the Retirement Board determines if there is a service-connected disability or a non-service-connected disability. (SJMC 3.28.1270)

DISABILITY RETIREMENT PROCESS

STEP 1: APPLICATION

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- The process for disability retirement applications is 7 steps.
- The member must submit an application for a disability retirement:
 - While they are employed as a Federated City employee; or
 - Within four months of separating from Federated service; or
 - During the continuance of the member's disability - if it continues after he leaves Federated City Service.

(SJMC 3.28.1240)

DISABILITY RETIREMENT PROCESS

STEP 1: APPLICATION (Cont.)

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- Office of Retirement Services (“ORS”) Sends an Acknowledgment Letter and Process Checklist to the Applicant.
- ORS Sends Notification to the Applicant’s Department, advising of the receipt of the application and requesting memo giving current work status.
 - If applicant is separated, their work status at time of separation is requested.

DISABILITY RETIREMENT PROCESS

STEP 2: COMPLETION OF FILE

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- The disability retirement application includes a Consent signed by the applicant. The San Jose Municipal Code stipulates that all medical information under the control of the city and the member, including reports in connection with worker's compensation claims or proceedings to the extent permitted by law, shall be made available. (SJMC 3.28.1250(C))

DISABILITY RETIREMENT PROCESS

STEP 2: COMPLETION OF FILE (Cont.)

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- If the member is requesting a non-service-connected disability retirement, they will need to provide ORS with all medical records applicable to their disability.
- If the member is applying for a service-connected disability retirement, ORS requests, receives and reviews medical records from Workers' Compensation and prepares them for distribution to Independent Medical Evaluator and Board Medical Advisor.
 - In addition, the member may submit medical reports from their private physician(s) or surgeon(s). (SJMC 3.28.1250(B))

DISABILITY RETIREMENT PROCESS

STEP 3: INDEPENDENT MEDICAL EVALUATION

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- The file is submitted for an Independent Medical Evaluation* (IME). The IME includes a review of the file, a physical exam of applicant and the IME physician's report.

*IME is an Independent Medical Evaluation used when a medical doctor, psychologist, or other licensed healthcare professional conducts an examination of an individual and a review of their medical history to help answer specific questions related to the qualifying criteria for the disability retirement applications.

DISABILITY RETIREMENT PROCESS

STEP 4: BOARD MEDICAL ADVISOR REVIEW

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- The IME Report and complete file are submitted to Board Medical Advisor, (BMA), Susan Tierman, M.D.

BMA Dr. Tierman's report provides a summary of the file, conclusions on disability/incapacity and service-connection (if applicable), and work restrictions.

DISABILITY RETIREMENT PROCESS

STEP 5: ACCOMMODATION OF RESTRICTIONS

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- The BMA's work restrictions are sent in a memo from ORS to the Return-to-Work Coordinator at the Office of Employee Relations (OER).
- OER responds with a memo advising if the restrictions can be accommodated in the applicant's regular position, or any position within the applicant's job classification.
 - If the applicant qualifies for Alternate Employment, the restrictions are also sent to OER for review by the Alternate Employment program to determine if suitable positions are available.

DISABILITY RETIREMENT PROCESS

STEP 6: DISABILITY COMMITTEE HEARING

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- ORS schedules the case to be heard by the Federated Disability Hearing Committee.
- The Disability Hearing Committee is comprised of ORS CEO and Benefits Division Manager or ORS Deputy Director. The Board Medical Advisor Dr. Tierman and Board Legal Advisor Counsel Russ Richeda attend the hearing and summarize the results of their review of the file.

DISABILITY RETIREMENT PROCESS

STEP 6: DISABILITY COMMITTEE HEARING (Cont.)

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- The Committee is charged with the following:
 - Reviewing the medical information.
 - Pursuing clarification from the applicant and Board Medical Advisor.
 - Weighing the medical evidence and information to formulate a recommendation to the Retirement Board.

DISABILITY RETIREMENT PROCESS

STEP 7: RETIREMENT BOARD DECISION

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- ORS places the case on the Retirement Board's agenda.
 - If the Disability Hearing Committee recommends approval, the item is placed on the Consent Calendar.
 - The case can be pulled from the Consent Calendar by one of the trustees for a full hearing at a future meeting at the discretion of the Board.

DISABILITY RETIREMENT PROCESS

STEP 7: RETIREMENT BOARD DECISION (Cont.)

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- If the Disability Hearing Committee recommends denial, the Retirement Board conducts a full hearing of the case and determines if the evidence affirms a disability retirement.
- The Board makes the decision to approve or deny the disability retirement application.

DENIAL PROCESS

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- If Denial, a Denial Resolution is prepared and agendized for Board approval.
- The applicant may request a rehearing based on any of the following criteria:
 - The Retirement Board acted without and in excess of its powers
 - The order, decision or award was procured by fraud
 - The evidence did not justify the determination
 - The applicant has discovered new evidence which could not have reasonably been discovered or procured at the hearing (SJMC 3.28.240)
- The applicant may appeal the Board's decision to the California Superior Court.

QUESTIONS AND COMMENTS?

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