



# Disability Retirement Handbook

# Steps to Disability Retirement

**1** Obtain the Disability Application by calling ACERA

**2** Complete the Application

**3 Intake Counseling and Packet Preparation:** Schedule Intake Counseling by calling ACERA; bring your application to counseling \* Once completed Application is accepted, case opened by ACERA (allow 15-30 days *if* application is complete) \* ACERA sends Acceptance Letter to member and Notice of Application and Request for Information to Employer (has 30 days to respond) \* ACERA prepares Disability Packet within 30 days after request for information is received from Employer. ACERA sends Disability Packet to Employer and Applicant

**4 Employer and Applicant Review Your Disability Packet** and submit Comment Papers within 30 days \* Employer may request **Independent Medical Evaluation (IME)** during the 30 days

**5 Medical Advisor (M.A.) Makes Evaluation and Recommendation** within 45 days \* MA may request second **IME** during the 45 days

**6 Notice of MA Recommendation** is sent from ACERA to Employer and Applicant within 10 days

**7 Legal Hearing:** You or your Employer may request a **Legal Hearing** within 14 days or receipt of MA recommendation

**8 Board Scheduling and Report Preparation:** ACERA prepares Board Report \* ACERA schedules Board Consideration Date for next Board meeting, at least 15 days notice

**9 Board Action**

**10 Disability Retirement Granted?**

**NO** Member can appeal the Board's Decision (90 days deadline)  
Option for Writ of mandate filed in court  
ACERA administrator's Writ Process  
Court Process

**YES** ACERA conducts final allowance calculations and benefit set up  
Employer can appeal in court  
End of Application Process

## Independent Medical Evaluation (IME) Request

- a. ACERA sends Notice of IME requirements and physician assignment to member and physician (15 days prior to examination)
- b. Members makes appointment with physician
- c. IME physician examines applicant
- d. Physician issues IME Report to ACERA or employer within 45 days
- e. ACERA sends reports to the Employer and the Applicant for Comment Paper within 15 days
- f. ACERA sends packet to MA



If **Legal Hearing** requested:

- a. ACERA sends Notice of Proposed Hearing Officer to Employer and Applicant
- b. ACERA sends Notice of Original Hearing Date to Applicant (3 possible dates are given within 90 days)
- c. Hearing before Hearing Officer
- d. Hearing Officer report issued to ACERA. ACERA sends report to Employer and Applicant within 45 days.
- e. Response Opportunity time—10 days

# Contents

<b>Introduction</b> .....	<b>1</b>
<b>Disability Retirement Application</b> .....	<b>3</b>
Eligibility Requirements:.....	3
<b>Steps toward Disability Retirement</b> .....	<b>5</b>
Step 1: Obtain the Disability Application.....	5
Step 2: Complete the Application.....	5
Step 3: Intake Counseling and Packet Preparation .....	9
Step 4: Employer and Applicant Review Your Disability Packet.....	10
Step 5: Medical Advisor (M.A.) Makes Evaluation and Recommendation .....	10
Step 6: Notice of M.A. Recommendation .....	11
Step 7: Legal Hearing .....	11
Step 8: Board Scheduling and Report Preparation .....	13
Step 9: Board Action .....	14
Step 10: Disability Retirement Granted? .....	15
Yes: Disability Retirement Granted and Calculated .....	15
No: Appealing the Board’s Decision.....	16
Reexaminations .....	16
<b>More Information</b> .....	<b>17</b>
<b>Frequently Asked Questions</b> .....	<b>21</b>
<b>Definitions</b> .....	<b>27</b>
<b>Internal Resources</b> .....	<b>31</b>
<b>External Resources</b> .....	<b>33</b>

---

# Introduction

This Disability Retirement Handbook is designed to assist with you with the filing, proceedings, decisions, and understanding of disability retirement relating to the Application for Disability Retirement under the County Employees' Retirement Law of 1937 (CERL).

In our role as administrative facilitator of your Disability Application, we want you to understand what to expect at each step of this process. This Handbook will educate you about available disability retirement benefit options and help you complete the Application forms.

The Disability Process Flow Chart is printed inside the front cover of this Handbook so that you can have it open for reference as you read through the section, "Steps Toward Disability Retirement."

You will find disability terms capitalized throughout this handbook. This means the word, phrase, or form name is defined in the Definitions Section because it has a very specific meaning in the context of ACERA's disability application process.

This Handbook is also available online at [www.acera.org](http://www.acera.org).

Please call ACERA's Disability Unit at 1.800.838.1932, if you have questions while reviewing this material and a Retirement Specialist will assist you.

---



# Disability Retirement Application

Your application must be based on permanent physical or psychological incapacity, or a combination of both. ACERA acknowledges that this may be a difficult time for you. Therefore, we recommend that you apply as soon as you believe you are reasonably certain your medical condition will prevent you from permanently performing your permanent and usual Duties and you have supporting documents from your physicians who have treated your disability condition. ACERA can begin processing your retirement application once it has been accepted and deemed to be a Completed Application.

ACERA recommends that you seek assistance to ensure the application is properly completed and that supporting documents are properly compiled. The exact nature of the incapacity must be clearly articulated, as disability retirements are considered only upon submitting a Completed Application and proving your incapacity according to the applicable legal standard.

ACERA also provides a website, [www.acera.org](http://www.acera.org) that summarizes all benefits provided, including death, health, dental, and vision plan and retirement allowance options available to service and disability retirement recipients.

## Eligibility Requirements:

Disability retirement eligibility requires the following:

1. Current ACERA membership (contributions still on deposit)
2. Documentation supporting permanent incapacitation from performing your permanent and usual Duties
3. Five (5) years of ACERA Participating Employer service credit, includes reciprocal agency service. (Non-Service Connected only)

## Types of Disability Retirement

There are two types of Disability retirement:

### 1. Service Connected Disability (SCD)

Permanent incapacitation from performing permanent and usual Duties resulting from an injury/illness arising out of your ACERA-covered or reciprocal agency employment. You have the burden of proving the disability is service connected.

---

## **2. Non-Service Connected Disability (NSCD)**

Permanent incapacitation from performing permanent and usual Duties, although the Duties did not substantially contribute to your injury/illness. For this type of disability, you must be a vested member with five (5) full years of credited service.

# Steps toward Disability Retirement

## Step 1: Obtain the Disability Application

Contact ACERA by mail at 475 - 14th Street, Suite 1000, Oakland, CA 94612, ATTN: Disability Unit, or by phone at 1.800.838.1932 to obtain the Disability Retirement Application packet , which includes:

1. Disability Retirement Application Forms (Booklet includes the following):
  - Application for Disability Retirement Checklist
  - Application for Disability Retirement
  - Authorization to Obtain and Release Records and Information
  - Disability Application Counseling Worksheet
  - Delayed Disability Application Affidavit
  - Medical Provider Statement
2. Disability Retirement Beneficiary Designation Form
3. Active or Deferred Member Beneficiary Designation Form
4. Election of Retirement Allowance (sample)
5. Retirement Allowance Options

You may also visit our website for information about Disability Retirement at [www.acera.org](http://www.acera.org) or to request an Application.

## Step 2: Complete the Application

### ACERA's Role

ACERA serves as the administrator of your Application process and of the disability retirement allowance, should it be granted. The ACERA Disability Unit is within our Benefits Department and employs Retirement Specialists, who will facilitate your Application process by providing you with the Application, conducting an intake counseling session, following up with the Medical Advisor (M.A.), the



Employer, and the Board, and ensuring the administrative process moves in accordance with applicable law, ACERA Disability Unit policy, and the ACERA Disability Retirement Procedures.

## Your Role

To achieve the goal of submitting a Completed Application, you must carefully read and respond to all questions in the Disability Application. Full instructions are in the Application. Listed below are the areas of information needed for the completion of your Application.

1. **General Information.** We need your contact information and social security number. Please fill it out thoroughly. This enables us to communicate with you regarding your case. If you change your address and or phone number, please contact us with your new information.
2. **Application Type.** Indicate whether your Application is for SCD or NSCD. Under the SCD section, you may indicate if you want to be considered for an NSCD, in the event your disability is found non-service connected. You must have five years of credited service to be eligible for an NSCD.
3. **Employment Information.** We need your employment information on the job classification that you are claiming you are permanently disabling from.
4. **Reciprocity.** If you are a deferred member and have filed a Disability Application with your current Employer's retirement system, you should also complete an Application with ACERA immediately and provide verification that your disability has been approved, whether it's SCD or NSCD, the Effective Date, your final average salary, and benefit amount from the reciprocal agency granting the benefit.

Each retirement system is required to pay its proportional share of the benefit based on the total amount that would have been paid had all service been in one agency. If you are receiving a disability benefit with PERS (Public Employees' Retirement System), speak to a Retirement Specialist about your ACERA benefit prior to applying. In some cases, PERS will pay the entire benefit. In these instances, ACERA will not pay a benefit, other than the Retired Lump Sum Death Benefit.

5. **Current Status.** Let us know if you are already retired and receiving retirement benefits and/or if your current state of health will require an expedited process.
6. **Effective Date.** The Effective Date is the date ACERA begins paying your benefit. This will be the date when your Completed Application was accepted by ACERA or your last day of compensation, whichever is later. If you file your Application later than your last day of compensation, you may request that an Earlier Effective Date be considered. To obtain an Earlier Effective Date you must prove the application was delayed by inability to ascertain the permanency of your disabling condition until after your last day of regular compensation. You must provide evidence supporting your request with your Application. You may also request an Earlier Effective Date if you believe there was an administrative oversight.

7. **Purchase of Service.** If you are applying for an NSCD, you must have five (5) years of credited service with ACERA. If you do not have five (5) years, and you have eligible service available to purchase that will provide a total of five (5) years, the purchase of that service must be completed prior to filing your Application. A Retirement Specialist can assist you in determining whether you have eligible service credit to purchase.
8. **Notice of Right to Legal Representation.** You are not required to have an attorney, but you are entitled to legal representation at your own expense. If you are represented by legal counsel, please provide your legal counsel's name and contact information in this section of your Application.
9. **Current Work Status with an ACERA Participating Employer.** Please provide accurate information regarding your pay status, if you are still employed. This information is important because it will assist in determining your Effective Date and allow us to counsel you on benefit coverage.
10. **Current Non-ACERA Employment.** Provide all information regarding current employment in the event we must contact you regarding your current Duties, if you are working for a non-ACERA Employer.
11. **Injury/Illness. Tell us about your disability.** The Medical Advisor (M.A.) needs complete and accurate information to make a recommendation on your disability status. If you have more than one permanently disabling illness/injury, you may provide information and file the Application for all conditions. However, you must provide independent supporting documentation for each. You may not add an additional illness or injury later into the process without filing a new Application.
12. **Permanent Incapacity from Performing Job Duties.** State the usual Duties you were actually performing at the time you became disabled and those you were required to perform. What Duties can you presently not perform as a result of your injury/ illness? Is your injury/illness permanent? How has your department accommodated you? What are, if any, your permanent work restrictions?
13. **All Medical Treatment within the Past Five (5) Years.** State your health plan providers and history during the last five (5) years, as well as symptoms/conditions.
14. **Other Claims Filed.** Provide information on workers' compensation, state disability, social security, or other benefits you have applied for.
15. **Safety Member Disability Presumption.** If you are a safety member with at least five (5) years of credited service and whose disability is based on heart trouble, cancer, blood borne disease, or exposure to a biochemical substance, you may automatically be presumed to have a Service Connected Disability, if you provide evidence that you are disabled based on one of these conditions. Your claimed presumption condition may not be attributed to any disease existing prior to your disability.

To be considered for cancer presumption and/or exposure to biochemical, you must demonstrate you were exposed to a known carcinogen and/or biochemical substance in the course of your employment. Claiming general exposure during work-related situations is not sufficient. ACERA

will rely on International Agency for Research on Cancer (IARC) to recognize the carcinogen type.

The difference between a presumption disability and a service connected disability is that by law, if you have five (5) years of service and if you have one of the presumption conditions, you do not have to provide evidence that the condition was job-caused. However, you do have to provide evidence of exposure for cancer and biochemical. Note that your employer may dispute the presumption claim. If you can demonstrate that your condition was job-related without relying on the presumption, an application for a service connected disability independent of the presumption should be submitted. Both types of disability retirement – presumption or service connected are reported as non-taxable, up to 50% of final average salary.

16. **Additional Information.** Add anything that might help the Board decide your case.
17. **Declaration.** Your signature indicates your statements you made to the Application are true and correct and your understanding that the processing of your Application is contingent upon a Completed Application.

Your Application is considered complete when you also include the following documents:

- a. “**Authorization to Obtain and Release Records and Information**” form.
- b. All medical documents supporting your Application. All medical records relating to the claimed disability on the Application must be submitted at the time the Application is filed. The medical records must demonstrate the disabling condition is permanent and has prevented the Applicant from performing his/her permanent and usual duties. For service connected disability claim(s), the medical records must also demonstrate his/her employment substantially contributed to the disability.
- c. “Essential Functions Job Analysis” (EFJA) requested from your Employer; this is a summary of the usual Duties of your job. If you need assistance in obtaining an EFJA, please contact your Retirement Specialist.
- d. “**Delayed Disability Application Affidavit**” must be completed and submitted with your Application if your Application is filed more than four months from discontinuation of service and/or if you are requesting for an Earlier Effective Date.
- e. “Medical Provider Statement” must be completed by your treating physician to provide ACERA of your medical information supporting your disability claim.

Attention to detail and thoroughness with your document submissions are of high importance. An incomplete or altered Application will not be accepted and will be returned to you in its entirety. This can result in a delay in processing your Application.

## Step 3: Intake Counseling and Packet Preparation

Contact ACERA to schedule an intake counseling appointment. Bring your Completed Application and all the supporting medical records to the session. All Applicants are counseled in-person by a Disability Unit Retirement Specialist who assists you throughout the Application process.

Telephone intake counseling is available if you are physically unable to come to the office.

During counseling, the following critical topics will be reviewed:

1. Eligibility Requirements: Service Connected or Non-Service Connected
2. Supporting Documentation
3. Service Retirement Eligibility and Benefits
4. Effective Date of Disability Benefits
5. Delayed Disability Application Affidavit
6. Retirement Allowance Estimates
7. Tax Withholding/Reporting 1099(R)
8. Final Retirement Allowance/Option Contract and Timeline
9. Current Pay Status/Accruals
10. Reciprocity
11. Safety Member Presumption of Disability
12. Legal Representation
13. Documentation Needed to Process Benefits
14. Health, Dental, and Vision Plan Coverage
15. Current Beneficiary Designation and Death Benefits
16. Continuance of Application Upon Death

Disability Unit staff will review your Application for completeness and send a confirming letter stating the acceptance of your Application or whether further documentation is needed.

Information will be sought from your Employer about your job Duties, injury/illness, and other pertinent data. We will obtain a Pre-Employment Examination Report, Agency/Department Statement Form, Occupational Injury/Illness reports, and medical records. Your Employer must submit the statement to us within thirty (30) days of receiving the request.

## Step 4: Employer and Applicant Review Your Disability Packet

### Your Employer's Role

Your ACERA benefits are sponsored by your Employer. Therefore, your Employer is a Party to your case and has an interest in whether or not your disability benefit is granted.

### Disability Packet and Employer notification of Application

Your Completed Application, the supportive documentation you provided, and the information your Employer submit will be compiled and exhibited as the "Disability Packet". It is sent to you and to your Employer for review.

### Comment Papers (30 days)

Once the Disability Packet is received by you and your Employer, a Comment Paper may be submitted to the Disability Unit outlining your respective positions on the Completed Application. Possible Comment Paper topics from your Employer may include their assessment of your incapacity, a request for more information, or that the M.A. examine certain documents more closely. Possible Comment Paper topics from you may include a request that the M.A. examine certain documents more closely or a letter explaining your current health status.

All statements must be supported by documentation contained in the Disability Packet. Argument and unsupported assertions are inappropriate for a Comment Paper.

Comment Papers must be submitted within thirty (30) days of receipt of the Disability Packet. They will be exhibited and become a part of the Disability Packet.

### First possible I.M.E. Referral

During the Comment Paper review period, your Employer may refer you for an Independent Medical Evaluation (I.M.E.) or only refer your Disability Packet for an Independent Medical Review of the records only (I.M.R.). The Employer may also choose the health care professional who conducts the I.M.E./I.M.R. This evaluation is conducted at the Employer's expense and is at no cost to you.

## Step 5: Medical Advisor (M.A.) Makes Evaluation and Recommendation

Next, the Disability Unit sends the Disability Packet, any Comment Papers, and any I.M.E./I.M.R. reports to the Medical Advisor (M.A.) for analysis and recommendation. The M.A. is an unbiased independent consultant, who reviews the Disability Packet and provides a written Report and Recommendation to ACERA's Board of Retirement to grant or deny the Application within 45 business days of receiving the Disability Packet.

The M.A. Report and Recommendation addresses:

1. Whether you are physically or mentally incapacitated from substantially performing the usual duties of your job.
2. Whether the incapacity is permanent.
3. Whether your incapacity is service-connected (if applicable).
4. Whether you are able to perform other job duties based on restrictions imposed by your condition(s).
5. Whether you were continuously physically or mentally incapacitated to perform your duties from the date of discontinuance of service to the time your Completed Application was filed.
6. If you are found permanently incapacitated, whether annual medical examinations should be required.
7. If you requested an Earlier Effective Date, if possible, identify the approximate date you knew or should have known your incapacity was permanent and the basis for that assessment.

### **Second possible I.M.E. Referral**

The M.A. may request additional documents/information on your application through the D.U and/or make referrals for you to be seen by an I.M.E. An extension of time for the M.A. Report and Recommendation is triggered by a consultation referral or requests for information.

## **Step 6: Notice of M.A. Recommendation**

Within ten (10) days of receipt of the M.A.'s written Report and Recommendation (Report), the Disability Unit will send a copy of the M.A. Report to all Parties, along with a **Request for Hearing** form.

The case can go in one of two directions at this point in your Application process as stated below:

1. The M.A. will recommend granting your application for a disability retirement and if there is no objection from any Party, the case will go before the Board. If this occurs, proceed to Step 8; or
2. The M.A. recommends denying your application for disability retirement or your case is contested by a Party, proceed to Step 7.

## **Step 7: Legal Hearing**

If your case is contested or the M.A. does not recommend a disability benefit, you may choose to have your case heard before a Hearing Officer (H.O.). Your Employer may request a Hearing as well, if they do not agree with the M.A. recommendation.

If any Party desires that the case be heard before a H.O., they must submit a Request for Hearing within fourteen (14) days of service of the M.A. Report and Recommendation. The request must be signed by the Party requesting the Hearing.



### **Role of the Hearing Officer**

The H.O. conducts a Hearing when the M.A. Recommendation on an Application is disputed and a Hearing is requested. Hearing Officers are obtained from a panel of an independent arbitration system, such as the American Arbitration Association.

### **Notice of Proposed Hearing Officer**

This notice is sent by the ACERA's Legal Department and identifies the next assigned Hearing Officer in rotation. Parties have ten (10) days, from service of the notice, to challenge the named Hearing Officer in writing. If a Party exercises a challenge, the next Hearing Officer in the rotation shall be assigned the case. The other Party will have ten (10) days from the service of the notice to challenge the H.O. in writing.

### **Withdrawing of Application with and without Prejudice**

You may withdraw your Application at any time. However, if you do so after your Application has been assigned a Hearing Officer, your Application would be withdrawn with prejudice. This precludes you from filing a future Application based on the same injury/illness.

### **Withdrawal of Application without Prejudice**

You may withdraw your Application without prejudice prior to an H.O. assignment. An Application withdrawn without prejudice is treated as though it was never submitted. A subsequent Application, including resubmission of the withdrawn Application, is considered a new Application and must meet all requirements, including timely filing requirements.

### **Notice of Original Hearing Date**

Once selection of a H.O. is final, the ACERA's Legal Department offers all Parties the option of three Hearing dates within ninety (90) days. Once selected, the Hearing date is scheduled and deemed the "Original Hearing Date." ACERA's Legal Department issues a "Notice of Original Hearing Date to the Parties and the Hearing Officer" stating the time and place of the Hearing. ACERA arranges for a stenographic reporter, an interpreter (if needed), and use of a Hearing room.

### **The Hearing**

Hearings are held at ACERA's office. The Hearing Officer (H.O.) must hold a Hearing within ninety (90) days from the Original Hearing Date, except when the ACERA's Legal Department authorizes a delayed Hearing date. Failure of the Applicant or the Employer to complete a Hearing within six (6) months of the Original Hearing Date may be cause for dismissal of the Application with prejudice.

The Hearing Officer has ninety (90) days from the Original Hearing Date to receive all of the evidence, both testimonial and documentary, to complete the Hearing (including any closing arguments and final briefing), and to close the record.

## Hearing Officer's Decision

The Hearing Officer will send a written report to ACERA summarizing the evidence, fact findings, and making a recommendation to the Board within forty-five (45) days after the Hearing is concluded and the record is closed. The document is called the Proposed Findings of Fact and Recommended Decisions, which complies with the legal requirements of a civil administrative decision. ACERA provides all Parties with a copy of the recommendation.

## Objection to the Hearing Officer's Decision

After servicing the Proposed Findings of Fact and Recommended decision, any Party objecting to a Hearing Officer's recommendation has ten (10) days to submit written objections to ACERA. ACERA will send any objections to the other Party and provide a courtesy copy to the Hearing Officer. That Party then has five (5) days to respond, in writing, to the objections. Any timely objections and responses received by ACERA will be incorporated into the record for consideration by the Board.

## No Hearing Requested

If you and/or the Employer does not submit a Request for Hearing to the Disability Unit within the 14-day limit after the service of the Notice of the M.A. Recommendation, the Disability Unit will place the matter on the calendar for the next available Board meeting, with at least fifteen (15) days notice to all Parties of the Board consideration date. The Disability Packet and all subsequent documentation will be submitted to the Board for consideration, along with staff's administrative report.

## Step 8: Board Scheduling and Report Preparation

The Disability Unit will place the matter on the calendar for the next available Board meeting, with at least fifteen (15) days notice to all Parties of the Board consideration date. The Disability Packet and all subsequent documentation will be submitted to the Board for consideration, along with staff's administrative report.

Before your Completed Application, including a copy of all the M.A. Recommendations and any Hearing Officer Proposed Findings of Fact and Recommended decisions, is sent to the Board for a decision, the D. U. reviews the file and prepares an administrative report to the Board addressing the following matters:

1. **Permanent Disability** whether the M.A. recommendation and the H.O. findings support a Board decision determining permanent incapacity from performing your usual Duties.
2. **Service Connected Disability** whether the M.A. recommendation and the H.O. findings substantiate the incapacity results from injury/illness or disease arising out of and in the course of employment.
3. **Non-Service Connected Disability** summary of the M.A. recommendation(s), and any H.O. Proposed Findings of Fact and Recommended decisions regarding the disability not being service connected.
4. **Return to Work** whether the opportunity for accommodation or returning to work is supported by the applicable legal standard.



5. **Annual Examinations**    if you are under age 55, whether the M.A. recommendation and/or the H.O. findings determine that annual medical exams should be required following disability retirement.
6. **Effective Date of Disability**    recommendation of the date your disability retirement begins, which is either:
  - i. the date your Application is deemed complete by the Disability Unit or
  - i. the date after the last date you received regular compensation.

## **Step 9: Board Action**

### **Board Consideration and Decision**

Board meetings are regularly scheduled on the 3rd Thursday of every month unless otherwise scheduled. Disability Unit will present your Application for Board's review and consideration on the date noticed to all Parties. Each decision is based on all admissible evidence presented to the Board, including but not limited to the M.A. recommendation and Hearing Officer Proposed Findings of Fact and Recommended decisions. ACERA staff's written administrative report alone is not deemed evidence by the Board.

### **Consent Calendar Cases**

Since no hearing is requested after service of the Notice of the M.A. recommendation, your case is reviewed and considered as a consent item by the Board of Retirement. Consent items are normal business items that are grouped together and approved as one, including service retirements and death benefit payments. They are not addressed individually during the Board meeting. However, if a Board member or the Employer chooses to address your case, it will be postponed to the following month so it can be added as a regular agenda item.

### **Board Consideration on Hearing Cases**

ACERA presents your Disability Packet to the Board on the date noticed to all Parties. The Board may immediately vote and take action or request that any Party, ACERA staff, and/or the M.A. respond to questions.

Any Party or their counsel may ask to orally present to the Board on this date and the Board has sole discretion to grant this request. Oral presentations are limited to ten (10) minutes and any other Party can immediately orally respond, but must do so within a five (5) minute time limit. New evidence or witness testimony will not be heard or received by the Board on this date.

After presentations, the Board may take any of the following actions on your Application:

1. Approve and adopt H.O.'s Proposed Findings of Fact and Recommended decisions
2. Refer Back to H.O. for further proceedings

3. Receive and review all evidence considered by the H.O. (including transcripts and affidavits, if any) and make a decision based on its own independent review of the testimony and evidence. In doing so, the Board may reject the decisions of the H.O. and make its own determinations.
4. Conduct a Board hearing by setting the matter for a Hearing and deciding the matter as if it had not been referred to the H.O. If the Board holds the Hearing itself, the Board will render its decision by the second regular meeting after your case is submitted.

### **Notice of Board's Action**

The Disability Unit notifies the Parties and their representatives of the Board's decision within ten (10) days of the Board consideration date. The notice of Board decision includes the decision, the date the decision was rendered, and notice of the right to judicial review.

## **Step 10: Disability Retirement Granted?**

### **Yes: Disability Retirement Granted and Calculated**

Your granted Disability Retirement can be Service Connected Disability or Non-Service Connected Disability and the calculations depend on the particulars of your case. Your Disability Retirement benefit is payable on a monthly basis for your lifetime. The continuation of your disability benefit may be subject to annual medical review to determine if you are continuously disabled. If you are found to be no longer disabled, your benefit may cease if you become employable with your Employer. Re-employment will be coordinated between ACERA and your Employer.

#### **Service Connected Calculations**

When you retire under a Service Connected Disability, the retirement allowance is equal to one-half (50%) of your final average salary, or, if qualified for a service retirement, you will receive your service retirement allowance, if it is greater. Your benefit amount will not exceed the limitation set forth by applicable law.

#### **Non-Service Connected Calculations**

A NSCD benefit is typically one-third (1/3) of your final average salary. However, this amount will depend on your age and service credit.

#### **Cost of Living Adjustments (COLA)**

COLA is equally applied to disability retirement and regular service retirees.

#### **This is the end of your application process**

However, employer may obtain review of the Board's decision in a court of law by filing a Petition for Writ of Mandate (Petition) with the Superior Court of Alameda County (Superior Court) no later than the ninetieth (90th) day following the date the Board's decision is finalized.

## No: Appealing the Board's Decision

Any Party may obtain review of the Board's decision in a court of law by filing a Petition for Writ of Mandate (Petition) with the Superior Court of Alameda County (Superior Court) no later than the ninetieth (90th) day following the date the Board's decision is finalized. An extension will be granted if you request the record within ten (10) days of the decision. A copy of any petition filed must be served on all Parties and the ACERA's Legal Department.

### **Important:**

The process of seeking judicial review through a petition is a complex legal proceeding and it is beyond the scope of this handbook. However, ACERA recommends that you seek the advice of an attorney. Please note that strict deadlines apply to petitions, so you must act promptly to avoid waiving your rights to appeal.

### **Non-Service Connected Disability Retirement Pending Review of Right to Service Connected Disability Benefits**

If the Board determines you are entitled to a Non-Service Connected Disability (NSCD) retirement, you may accept a Non-Service Connected Disability retirement benefit while you are pursuing a rehearing or judicial review concerning your right to Service Connected Disability retirement.

If later determined that you are entitled to a Service Connected Disability retirement, appropriate adjustments will be made to your retirement allowance retroactive to the Effective Date.

## Reexaminations

When you are granted a Disability Retirement, and under age 55, the Board may require you to undergo annual reviews and medical examinations, at ACERA's expense. You will be required to complete a **Continuing Disability Questionnaire** form and submit a current medical report as part of this review. These examinations and records are reviewed by the M.A. who makes a recommendation to the Board regarding whether you remain permanently incapacitated for the performance of duty. The Board will determine if you are unable to perform the usual Duties of the position you held when your disability retirement was granted.

Your retirement allowance will be cancelled, if, over a period of one year, you refuse to submit to a medical examination, supply requested information, or provide requested release forms.

# More Information

## **Service retirement allowance pending determination of your application**

If eligible, you may apply for a regular service retirement allowance pending the determination of your Application for Disability Retirement. You must be at least age 50 with ten (10) years of credited service to be eligible for a service retirement. If you are a safety member with 20 years of credited service, you may apply for service retirement before you reach age 50. Adjustments will be made to your allowance retirement retroactive to your Effective Date, if applicable, if you are found eligible for Disability Retirement.

If you are granted regular service retirement and found not entitled to Disability Retirement, you will not be eligible to return to your job because your employment terminates upon accepting a regular service retirement.

Neither you nor your beneficiaries may receive more than one type of retirement allowance for the same period of time.

## **In the Event of Death during Disability Retirement**

Your Beneficiary, personal representative, or successor-in-interest may elect to continue your pending Disability Retirement Application process on your behalf if you die before the Board makes a final determination on your Completed Application and/or before your Election of Disability Retirement Allowance is executed.

The person who continues your pending Disability Application must complete and execute a **Continuation of Disability Retirement Proceedings After Death of Member** form.

Upon a showing of good cause, the Disability Unit may accept such a designation after ninety (90) days, however, in all cases where no form is received, the Application will be deemed withdrawn with prejudice six (6) months after the date of your death.

## **Supplemental Disability Allowance**

The Board may pay a Supplemental Disability Allowance in lieu of the full disability allowance if you are granted a Disability Retirement and accept alternate County or Participating Employer work with lower pay. Under such circumstances, the amount of the Supplemental Disability Allowance is equal to the difference between your salary in the former position and your salary in the new position, and not to exceed the amount of your approved disability benefit.

If the alternate position cannot be arranged at the time of eligibility for disability retirement allowance, such disability retirement allowance to which you are entitled shall be paid until such time the new position is available and accepted.

### **Reciprocal Disability Benefits**

CERL '37 encourages career public service by granting reciprocal retirement benefits to eligible members. If you have worked for another California public retirement system and met necessary requirements, your membership is reciprocal. Accordingly, there is reciprocity in disability retirement benefits among Reciprocal Systems, e.g., the CERL '37 Act Counties, the Public Employees' Retirement Systems ("PERS"), the State Teachers' Retirement System, the Judges' Retirement System, and the retirement systems of any other public agency within the State of California that has established reciprocity with PERS by meeting all necessary statutory requirements.

Generally, each Reciprocal System calculates its respective obligations based upon your service with that entity and each adjusts its payment on a pro rata basis. No retirement system or political entity is liable for more than its just financial obligation. Your combined reciprocal benefit will not be higher than it would have been were all service credit earned in one system. In some cases, PERS will pay the entire benefit. In these instances, ACERA will not pay a benefit, other than the Retired Lump Sum Death Benefit. It is important to know what your benefit amount will be from each system for service retirement (if eligible), as well as disability retirement, before you apply for retirement benefits. A member having established reciprocal membership must retire with the same type of retirement and with the same effective date.

### **Safety Member Presumption**

If you are a safety member with at least five years of credited service and whose disability is based on heart trouble, cancer, blood borne disease, or exposure to a biochemical substance, you may automatically be presumed to have a Service Connected Disability. You must provide evidence that you are disabled based on one of these conditions. Your claimed presumption condition may not be attributed to any disease existing prior to your disability

To be considered for cancer presumption and/or exposure to biochemical, you must demonstrate you were exposed to a known carcinogen and/or biochemical substance in the course of your employment. Claiming general exposure during work-related situations is not sufficient. ACERA will rely on International Agency for Research on Cancer (IARC) to recognize the carcinogen type.

The difference between a presumption disability and a Service Connected Disability is that by law, if you have five (5) years of service and if you have one of the presumption conditions, you do not have to provide evidence that the condition was job-caused. However, you do have to provide evidence of exposure for cancer and biochemical. Note that your employer may dispute the presumption claim. If you can demonstrate that your condition was job-related without relying on the presumption, an application for a Service Connected Disability independent of the presumption should be submitted. Both types of Disability Retirement – presumption or service connected are reported as non-taxable, up to 50% of final average salary.

**Important:**

The Application and use of legal presumptions involve complex legal and technical issues and detailed analysis that are beyond the scope of this Handbook. ACERA recommends that you seek the advice of an attorney. You must act promptly to avoid waiving valuable rights, if this applies to you.

**Taxability**

ACERA reports each type of retirement allowance according to the rules and regulations of the U.S. Department of Treasury.

- a. **Non-Service Connected Disability retirement:** disability retirement allowance payments are reported as taxable income.
- b. **Service Connected Disability retirement:** disability retirement allowance payments that are equal to 50% or less of your final average salary are not reported as taxable income.
- c. **Service Connected Disability retirement allowance higher than 50% of your final average salary:** If your benefit formula at retirement is higher than 50% of final average salary (FAS) and you are granted a Service Connected Disability, 50% of FAS will be reported as non-taxable income. The amount over 50% of FAS will be reported as taxable.

**Important:**

State and federal tax laws are subject to change without notice. It is not the purpose of this handbook to provide legal or tax advice.

**Advanced Disability Payments—Safety Members**

A safety member who qualifies for benefits under Labor Code Section 4850 and applies for a Service Connected Disability is eligible to receive Advanced Disability Payments from Alameda County commencing no later than 30 days from the employee's last day in pay status. This payment will continue until the disability application is granted or denied. The payment is based on 50% of salary. If the disability application is approved, ACERA will deduct the total of the advanced disability payments made to date from the first retirement check which includes retroactive pay to the benefit effective date. If the disability application is not approved, a repayment plan will be initiated by the County's Central Collections Department.



# Frequently Asked Questions

## May I receive a regular service allowance while waiting for the Board to decide upon my disability application?

Yes. If you meet the eligibility requirements for a regular service retirement, you may apply for the benefit pending the outcome of the disability claim.

However, receipt of a regular service retirement will make you ineligible to return to regular employment in the event that your disability Application is denied.

## When must I file my disability Application?

As soon as you are reasonably certain that your medical condition prevents you from permanently performing your usual Duties and

- You have supporting documentation of your disability and
- You are still employed or
- Within four (4) months after you have discontinued service or
- Any time after you have separated from employment if

(1) you have been continuously disabled since your separation and (2) ACERA's ability to investigate your Application has not been impaired because of an unreasonable delay in filing the application.

## Can I apply if I have resigned from employment and have withdrawn my retirement contributions?

No. Your ACERA benefits are forfeited when funds are withdrawn.

## May another person file an Application for me?

Yes. The head of your department, a member of the Board of Retirement, or any other person may file an Application on your behalf.



### **How long does this process take?**

Usually from eight (8) to fifteen (15) months. This depends entirely on the complexity of the claim, the timeliness of the responses to ACERA's requests for information, and whether the case is referred for Hearing. However, there is no time limit set within the law.

### **Is there anything I can do to speed up the process?**

Yes: 1. Submit a Completed Application, including supporting documents and 2. Apply for an expedited administrative review, if you have suffered a sudden and catastrophic incapacitating injury/ illness or are terminally ill.

### **Do I need to retain an attorney to represent me?**

An Application may be filed without the assistance of an attorney. Staff is available to assist you with the Application process. However, every Applicant has a right to be represented by legal counsel. Costs of legal counsel are the responsibility of the Applicant. ACERA cannot provide you legal advice.

### **Can my Workers' Compensation attorney represent me in this matter?**

In most cases, Workers' Compensation attorneys do not handle disability retirement applications. Check with your attorney. ACERA can provide a list of attorneys who represent disability applicants.

### **How is a determination made regarding my disability retirement application?**

A Medical Advisor (M.A.) is assigned to review medical evidence regarding your claim and to make a recommendation. The recommendation will be presented to the Board of Retirement for a final determination. If you are ultimately found not disabled, you may have the right to be reinstated to your job.

### **Does the Medical Advisor work for my employer?**

The M.A. is an independent contractor with ACERA who reviews medical documentation regarding your claim and makes a written Report and Recommendation based on that review. The Board uses this recommendation to make a final determination.

### **Who will the Hearing Officer be?**

H.O.s are assigned to cases using a neutral system of rotation. Similar to the M.A., the H.O. is an independent contractor, as well as a member of the California State Bar Association. A Hearing will occur when properly requested and the M.A. recommendation is being contested.

## What if my Workers' Compensation claim determines that I am permanent and stationary? Does that mean I am eligible for a disability retirement from ACERA?

Workers' Compensation findings do not guarantee eligibility for a disability retirement from ACERA because Workers' Compensation and ACERA have different laws governing the determination of disability.

## If my Application is approved, when will my disability retirement become effective?

- The date you filed your Completed Application with the Board of Retirement; or
- The date following the last day you received regular compensation, whichever is later
- You may also request an Earlier Effective Date if you filed your disability Application later than your last date in pay status and meet certain conditions.

## Am I able to receive two types of retirement benefits: regular service and disability?

No, you may apply for service retirement pending your disability, however, if disability retirement is granted it will replace your service retirement benefit.

## How much will my disability retirement allowance be?

The amount of money you receive for a Service Connected Disability retirement is 50% of your final average compensation or your service retirement allowance, whichever is greater. The amount of money you receive for a Non-Service Connected Disability retirement is based on your age and how many years you have contributed to ACERA. It is generally equal to one-third of your final compensation but also depends on your age and years of service. If you have reciprocity with another retirement system, your benefit will be prorated based on credited service and benefit payments in each system.

## When will I receive my first check?

Usually within 60 days after the Board approves your Application. In order for ACERA to process your benefit in a timely manner, you must be terminated from your Employer. ACERA can not process your retirement if you are still in the payroll system as an active employee.

## How frequently and how long will I receive this benefit?

It is paid monthly during your lifetime as long as you remain permanently disabled from your position you held.

## Will I be eligible for medical and dental insurance?

If you are approved for a Service Connected Disability retirement, ACERA will provide the same Monthly Medical Allowance as is provided for a retiree with twenty (20) years of service. The medical plans available to you are administered by ACERA. See ACERA's most current Retiree Enrollment Guide for available medical plans. In order to receive the benefit of the monthly medical allowance, you must enroll in an ACERA-sponsored medical plan. Plans may be limited based on service areas.

If you receive a Non-Service Connected Disability retirement and have at least ten (10) years of retirement credit, you are eligible for a monthly medical allowance, which will be based on your total years of ACERA credited service. Refer to ACERA's most current Retiree Enrollment Guide for available medical plans. In order to receive the benefit of the monthly medical allowance, you must enroll in an ACERA-sponsored medical plan. Plans may be limited based on service areas.

The cost of your portion of the insurance premium not covered by the monthly medical allowance, if any, will be deducted from your retirement allowance.

All retirees with 10 or more years of ACERA credited service are mandatorily enrolled in ACERA-sponsored dental and vision plan coverage with single-party premium fully paid by ACERA.

The monthly medical allowance and vision and dental subsidies provided by ACERA are funded by the Supplemental Retirees Benefit Reserve (SRBR), a trust administered by the Board of Retirement for retiree benefits. The benefits provided by this fund are non-vested as they are subject to available assets. Consequently, they may be reduced or eliminated at the discretion of the Board.

Retirees with less than 10 years of ACERA service may enroll in the voluntary medical, dental, and vision plans, which offer the same coverage. Dental and vision premiums are slightly higher for retirees with less than 10 years of service. The full premium will be deducted from your retirement check. Dependent coverage is also available. Please refer to the Retiree Enrollment Guide for eligibility requirement or you may contact our office.

## What benefits are payable to my spouse/domestic partner?

If you were married or state-registered before your effective disability retirement date and are receiving a Service Connected Disability allowance, your surviving spouse/domestic partner will receive 100% of your monthly allowance for his or her lifetime.

If you were married/state-registered for at least one year before your effective disability retirement date and are receiving a Non-Service Connected Disability allowance, your surviving spouse/domestic partner will receive 60% of your allowance for life, unless you elect a different option that will actuarially reduce your monthly allowance. There is also a \$1,000 lump sum death benefit payable to your nominated beneficiary.

### **May I continue to work for my employer if I am found to be disabled by the board?**

Yes. You may accept a new position with your Employer, if you are able to perform other Duties.

If the salary of your new job is less than what you earned when you became disabled, you will receive a Supplemental Disability Allowance from ACERA, in place of a disability retirement benefit.

The supplemental disability allowance you receive will generally increase up to the compensation you were receiving from your old job; however, it may not be greater than the disability allowance you would have received if you had accepted a disability retirement.

If a Safety Member is found to be disabled and works in a non-safety position, the member's safety status will be maintained.

### **May I obtain work other than with my employer, if I am found to be disabled?**

Yes. You may obtain full or part-time employment in an occupation that you are not deemed incapacitated to perform.

### **Can my disability retirement be canceled at a later date?**

Yes. If you are under age 55, ACERA can require you to submit to a medical re-evaluation. If the Board determines that you are no longer incapacitated, your disability retirement can be canceled, if the Employer agrees to reinstate you to your former position.

If you are working in a position you are deemed disabled to perform, ACERA may discontinue your disability benefits.

### **Is my retirement allowance reported to the IRS?**

All disability retirement income is reported to the state and federal governments during the years you receive it.

### **Are taxes withheld from my retirement allowance?**

Federal and state tax withholding is available, at your option. Consult a tax professional to determine the taxable portion of your retirement allowance.



# Definitions

## ***Agency/Department Statement Related to Application for Disability Retirement***

**form:** Provided to your Employer by ACERA requesting identifying, job duty, and related information from your department. A completed form also includes a detailed statement about all efforts undertaken to find alternative employment for you within your capacity to perform, the results of this effort, or a detailed explanation why such efforts were not undertaken.

**Applicant:** The person or entity filing the disability Application, including an Alameda County Employees' Retirement Association Member, the Employer, the Board or its agents, or any other person on your behalf who is entitled to claim disability retirement benefits on behalf of a Member.

**Application Date:** The date your Application meets all requirements and is filed and accepted by ACERA.

**Application for Disability Retirement:** The disability retirement Application forms and associated documents you submit to ACERA to identify the exact nature of your incapacity.

**Authorization to obtain and Release Records and Information form:** Legal release providing permission to release relevant medical and employment records and information to ACERA ensuring a full evaluation of your Application.

**Beneficiary:** A person or entity designated to receive an ACERA benefit as a result of a legal arrangement or instrument.

**Board:** ACERA Board of Retirement.

**Burden of Proof:** The Burden of Proof is on the Applicant throughout the entire disability retirement Application process. This means you must prove your case throughout the Application process by a preponderance of the evidence. This includes showing a permanent incapacity (physical or mental) from your performance of duty by demonstrating substantial inability to perform your usual Duties.

- **The burden of proof for Non-Service Connected Disability:** You must demonstrate permanent incapacity from substantially performing your regularly assigned job Duties. For Service Connected Disability retirement, you must also demonstrate that the employment contributed substantially to the disability.
- **Burden of proof for safety members with five (5) or more years of service:** Certain diseases/disabilities are presumed to arise out of and in the course of employment. For these Applicants, it is presumed that your usual job Duties caused your injury/illness and the burden is now on your Employer to prove that the Duties did not cause your injury/illness.

**Chief Executive Officer (formerly known as the general manager— G.M.):** Appointed by the Board as executive manager of ACERA.

**Comment Paper :** Documents that may be prepared and provided by each Party, to be made part of the Disability Packet being, which will be provided to ACERA's Medical Advisor, setting forth that Party's position or comments related to the Disability Packet

**Completed Application:** An Application for Disability Retirement reviewed and determined by the Disability Unit to include all necessary attachments and information to support your claim.

**Confirming Letter:** Letter from the Disability Unit confirming your Application is received and has been accepted as complete; or a letter accompanying your returned Application because it is incomplete and further information is required to process your claim.

**Contested:** A decision and/or recommendation objected to or opposed by a Party.

**Continuing Disability Questionnaire form :** May be required if you are under 55 years old and granted a disability retirement.

**Continuation of Disability Retirement Proceedings After Death of Member form :** Used by spouse/domestic partner or minor who may be entitled to pursue a deceased member's pending disability benefit by completing this form.

**County Counsel :** Office of the County Counsel of Alameda County that represents and advises the County in legal matters.

**Days :** Calendar days are every day on the calendar, Sunday through Saturday. When "days" is intended to refer only to business days, Monday through Friday, it is noted.

**Delayed Disability Application Affidavit :** Submitted when applying for disability retirement more than four months after discontinuation of service to address whether disability has been continuous since the last date of service.

**Designation of Legal Representation form :** Filed with the Disability Unit providing notice of your legal representation.

**Disability Counseling Worksheet :** Used by staff and signed by you, during your counseling session, to ensure all critical elements of the Application process have been reviewed with you.

**Disability Packet :** All relevant documentation received during the Application process, including the Completed Application.

**Disability Retirement Procedures (DRP) :** A Board approved process manual that governs the filing, proceedings, decisions, and review of decisions relating to the Application for Disability Retirement under the County Employees' Retirement Law of 1937 (CERL '37)

**Disability Unit :** A team of ACERA employees who handle the processing of disability matters. The Disability Unit includes Disability Retirement Specialists and the Disability Manager.

**Duties :** The permanent and usual Duties of your position that you must be able to perform, with or without reasonable accommodations.

**Earlier Effective Date :** The disability retirement allowance begins the date your Application is deemed complete by the Disability Unit or the date after the last date you received regular compensation, whichever is later. You may request that your allowance start at an earlier date by completing Section 5 of the *Application for Disability Retirement* form and attaching documentation showing 1) when you left service, 2) an inability to ascertain the permanency of your incapacity, and 3) that you have been continuously disabled since you left service. This is the date after the last date you received regular compensation.

**Effective Date :** The disability retirement allowance begins the date your Application is deemed complete by the Disability Unit or the date after the last date you received regular compensation, whichever is later, unless an Earlier Effective Date is granted.

**Employer :** The public agency, including the County of Alameda or Participating Employer, by which the Member is employed at the time or immediately before, the Application is submitted to ACERA.

**Essential Functions Job Analysis (efja) form :** An Employer's summary of the Duties and requirements of any particular job, including mental and physical demands. This document is generally shared with the Medical Advisor and is used to determine which job(s) within a department, if any, you are capable of performing.

**He, him, his, Chairman :** Used for convenience and intended that each gender is given exactly equal respect and treatment throughout.

**Hearing :** The presentation of evidence to a Hearing Officer (H.O.) toward the development of H.O. Proposed Findings of Fact and Recommended Decisions for consideration of your Application by the Board.

**Hearing Officer (H.O.) :** Conducts a hearing when the Board Medical Advisor's Recommendation on an Application is disputed and a hearing is requested. Hearing Officers are obtained for the panel from an independent arbitration system, such as the American Arbitration Association. An H.O. must be a current member of the State Bar of California whose name is contained on the approved Hearing Officer panel.

**Independent Medical Examination (I.M.E.) :** You may be required by your Employer, the Board of Retirement, or the M.A. to submit to a medical exam by a physician, psychologist, or specialist in the medical condition identified in your Completed Application at no cost to you.

**Independent Medical Review (IMR) :** An independent medical review of the Disability Packet and/or Applicant by a qualified medical specialist with expertise relative to the medical condition identified in the Completed Application.

**Medical Advisor (M.A.) :** The physician(s) advising the Board on disability claim medical matters.

**Medical Provider Statement :** Your physician must address stating whether you are permanently incapacitated from performing your permanent and usual Duties. This must be filed with your Application.

**Minor:** An unmarried/unregistered person either 1) under age 18 or 2) under age 22 and regularly enrolled as a full-time student in an accredited school.

**Non-Service Connected Disability (NSCD):** A type of disability retirement awarded if you are found permanently incapacitated from performing your usual Duties from a cause unrelated to your employment. You must have completed five (5) years of service and must not have waived retirement in respect to your particular incapacity or aggravation.



**Notice of Hearing Officer:** Communication used to state the next assigned Hearing Officer (H.O.) assigned to your case; H.O.s are assigned on a rotating basis.

**Notice of Original Hearing Date :** Communication used to state the time and place of your Hearing.

**Participating Employers :** Employers with staff who are ACERA Members: Alameda County, Alameda County Children and Families, Alameda County Housing Authority, Alameda County Medical Center, Alameda County Office of Education, Livermore Area Parks and Recreation, and Superior Court of California.

**Party :** The Member who is the subject of the Application, the person preparing and submitting the Application (Applicant, and the Employer).

**Prehearing Statement form :** You must complete and serve this form on the H.O. and all other Parties. It must contain 1. A statement of contested issues and party position, 2. Witness information and their testimony, and 3. Documentary evidence not included in the Disability Packet.

**Proposed Findings of Fact and Recommended decisions :** The Hearing Officer's report on your disability Application summarizing the evidence, findings of fact, and making a recommendation to the Board

**Reciprocal Systems :** Retirement systems that have established reciprocity with ACERA for providing retirement benefits. Reciprocal Systems are the CERL '37 Counties, the Public Employees' Retirement Systems ("PERS"), the State Teachers' Retirement System, the Judges' Retirement System, and retirement systems of any other public agency of the State of California that have established reciprocity with PERS by meeting all necessary statutory requirements.

**Report and Recommendation :** M.A. written analysis recommending the granting or denial your Application.

**Request for Hearing Form :** Signed by you and or the Employer to request a Hearing before a Hearing Officer.

**Service Connected Disability (SCD) :** A type of disability retirement awarded if you are found permanently incapacitated from performing your usual Duties. The incapacity must result from an injury/illness arising out of and in the course of your employment, and such employment must have contributed substantially to your incapacity.

**Supplemental Disability Allowance :** A monthly allowance paid in lieu of a full disability allowance, if you have been granted a disability benefit and have accepted alternative County or ACERA Participating Employer work with lower pay. The Supplemental Disability Allowance is equal to the difference between your salary in the former position, for which you were found disabled, and the salary of the new position. The Supplemental Disability Allowance will not exceed the amount of the full disability benefit.

**Uncontested :** A decision and/or recommendation that is not objected to or opposed. Uncontested does not necessarily mean all Parties are in agreement with the decision and/or recommendation. The Board retains the discretion to grant or deny an uncontested recommendation.

**Withdrawal with Prejudice :** Precludes you from filing a future Application based on the same disability or injury/illness. An application withdrawn after an H.O. is assigned is deemed withdrawn with prejudice.

**Withdrawal without Prejudice :** An application withdrawn at any time prior to an assignment of an H.O. is treated as though it was never submitted. A subsequent Application, including resubmission of the withdrawn Application, is considered a new Application and must meet all requirements, including timely filing requirements.

---

# Internal Resources

## Location

### ACERA Benefits Department Disability Unit

475 14th Street, Suite 1000  
Oakland, CA 94612-1900

Hours: Monday through Friday, 8:30 a.m. To 5:00 p.m. [www.acera.org](http://www.acera.org)

## Staff

Jenni Mimi-Hui, Assistant Benefits Manager (510) 628-3007

Amy Kanzaki, Retirement Specialist (510) 628-3026

Mai Cao, Retirement Specialist (510) 628-3009

Marcia Anderson, Retirement Specialist (510) 628-3048

## Planning Workshops

Pre-retirement Planning and Mid-career Planning Seminars are held throughout the year. To attend, please call to reserve your seat. Space is limited. (510) 628-3000 or (800) 838-1932

## ACERA Active and Deferred Member Handbook

This Handbook is available to all members and summarizes all benefits provided by ACERA.



# External Resources

These resources may be helpful in pursuing your claim outside of or simultaneous with ACERA's disability Application process.

**County of Alameda  
Office of County Counsel**

1221 Oak Street, Room 450  
Oakland, CA 94612  
(510) 272-6700

**Maria Songo Daluz  
Workers' Compensation Administrator  
County Administrators Office  
Risk Management Unit Alameda County Workers' Compensation Program**

125 - 12th Street, 3rd Floor  
Oakland, CA 94607  
(510) 272-6045 voice  
(510) 272-6815 fax

**Employment Development Department**

800 Capitol mall, Mic 83  
Sacramento, CA 95814  
1 (800) 480-3287

**Social Security Administration**

1 (800) 772-1213

**State Disability Insurance**

1 (800) 480-3287

**State of California  
Department of Industrial Relations  
Division of Workers' Compensation**

1 (800) 736-7401

We hope this material has been helpful.

ACERA is governed by the County Employees Retirement Law of 1937 (Government Code Section 31450 et. Seq.) As adopted and implemented by the ACERA Board of Retirement. Disability and retirement laws are complex. No statement in this Handbook is a legally binding interpretation, enlargement, or amendment of the provisions in the CERL or ACERA's policies. If conflict arises between these procedures and the CERL, the decision will be based on the CERL and other governing law.