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Special:

Circular Letter

TO: PUBLIC AGENCIES, COUNTY SUPERINTENDENT OF SCHOOLS,
INDIVIDUAL SCHOOL DISTRICTS

SUBJECT: PUBLIC AGENCY DETERMINATIONS OF DISABILITY FOR LOCAL
SAFETY MEMBERS; CHANGE OF REQUIREMENTS FOR
RESOLUTIONS.

Due to a recent California Supreme Court decision, *Steven W. Nolan v. City of Anaheim* (2004) 33 Cal.4th 335, public agencies are now required to include in their Resolutions additional information indicating that the Court's decision has been considered and applied when making disability retirement determinations for Local Safety employees.

The Court's decision became effective September 1, 2004, and concluded that a disability retirement applicant, in addition to establishing substantial incapacity from performing the usual duties of the position for their current employer, must now also establish substantial incapacity from performing the usual duties of the position for other California public agencies in CalPERS. If it is determined that a member, who is incapacitated from his/her current position, can still perform the usual duties of his/her position for other California public agencies in CalPERS, *and* that similar positions with reasonably comparable pay, benefits, and promotional opportunities are available to the member, the member would not qualify for disability retirement.

CalPERS has amended the instructions and sample Resolutions found in the Local Agency Determination Procedures, Section 4.62, of the CalPERS Procedures Manual. Copies are attached for your convenience. Effective May 1, 2005, CalPERS will require all Disability Retirement/Industrial Disability Retirement Determination Resolutions submitted to comply with these changes.

If you have any questions, please call the Employer Contact Center at **888 CalPERS** (or **888-225-7377**).

Lori McGartland, Acting Chief
Actuarial and Employer Services Division

Attachment