

Disability Retirement Resource Guide



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This resource guide is designed to help you understand the CalPERS disability retirement application process. The guide covers requirements and responsibilities for both employers and employees regarding disability retirement and reinstatement.

For additional information, view our other [Reference Guides](#).

If you have comments or suggestions for future editions of this guide, [contact us](#).

Overview of Disability Retirement

CalPERS is a defined benefit plan. We provide monthly benefits based upon a member's years of service, age, and highest compensation.

Disability retirement is a monthly retirement allowance payable to the member for life, or until recovery from the disabling injury or illness.

The disability does not have to be permanent, however, it must last at least 12 consecutive months. A member can reinstate or return to employment at a later date, if a doctor certifies they have recovered from the disabling illness or injury.

Types of Disability Retirement

The type of benefit a member receives depends upon their category of membership and how the employer has contracted for benefits.

Disability Retirement (also referred to as DR) is the inability to perform the usual job duties, due to an injury or illness regardless of how the disability originated.

Industrial Disability Retirement (also referred to as IDR) is the inability to perform the usual job duties due to a work-related injury or illness. This classification is for safety members and agencies that specifically contract for this benefit.

Eligibility to Apply for DR/IDR

Disability Retirement

Membership Category	Vesting Requirements	Age Requirement
State Miscellaneous	Tier 1: Must have 5 years credited service Tier 2: Must have 10 years credited service, unless the member has 5 years of credited service under Tier 1 prior to 1/1/85	None
School Employees	Must have 5 years credited service	None
Local Miscellaneous	Must have 5 years credited service	None
Local Safety	Must have 5 years credited service	None

Industrial Disability Retirement

Membership Category	Vesting Requirements	Age Requirement
State Safety	None	None
State Industrial ¹	None	None
State Miscellaneous ²	None	None
School Safety	None	None
Local Safety	None	None
Local Miscellaneous (if contracted for this benefit)	None	None

¹ Injury must be caused by a violent attack from an inmate

² Injury must be caused by a violent attack from a patient or client

Basis to Grant DR/IDR

CalPERS is governed by specific laws and regulations contained in the California Public Employees' Retirement Law.

Government Code section 20026 defines "disability" and "incapacity for the performance of duty".

"Disability" and "incapacity for performance of duty" as a basis of retirement, mean disability of permanent or extended duration, which is expected to last at least 12 consecutive months or will result in death, as determined by the board, or in the case of a local safety member by the governing body of the contracting agency employing the member, on the basis of competent medical opinion.

When to Apply for Disability Retirement

The member should immediately apply for disability retirement if they are unable to perform the usual duties of their position, due to a physical or mental condition, and if their condition is expected to be permanent or last longer than 12 months.

If a workers' compensation claim has been filed, the condition does not have to be permanent and stationary.

In any case, the member should apply as soon as they know they cannot perform the essential functions of their job and the incapacity is expected to be permanent or last longer than 12 months.

If a member has a severe or life-threatening medical condition, the member or the member's family should be advised to contact CalPERS to request **Emergency Retirement Counseling**. Even if the member is not ready to submit a retirement application, the member should contact CalPERS for important information regarding the member's retirement and survivor benefits.

Application Requirements

Under Government Code section 21154, an application for disability retirement must be made (a) While the member is in active service; (b) While the member, for whom contributions will be made under Section 20997, is absent on military service; (c) Within four months after the discontinuance of the service, or while on an approved leave of absence (this is the most common scenario under which a member applies); or (d) While the member is physically or mentally incapacitated to perform duties from the date of discontinuance of service to the time of application.

If a member applies for disability greater than four months following last day on pay, then the medical records must reflect “continuous disability.” This means the member’s medical records must reflect documented evidence of continuous disability from last day on pay through the date of the application and ongoing.

If a member waits too long to apply, it may be outside of our guidelines covered by the law. It’s best to apply immediately.

Who Can Apply

In most cases it will be the member who applies for disability retirement; however, an employer, or someone other than the employer, can also apply on the member’s behalf. For example, a spouse or relative, Conservator, or Power of Attorney can apply for the member.

A spouse or relative can apply on the member’s behalf, but cannot choose an option or beneficiary unless they have a Power of Attorney.

Service Pending DR/IDR Applications

If a member meets the vesting and age requirements for service retirement, then they can apply for Service pending DR/IDR.

This will allow them to receive a service retirement allowance while the disability retirement is being determined.

The minimum age for Service Retirement is 50 for classic employees (hired prior to 1/1/13) and 52 for Public Employees’ Pension Reform Act (PEPRA) miscellaneous employees (hired on or after 1/1/13). The minimum age for PEPRA safety members is age 50. For state Tier II employees, the minimum age is 55.

A Service pending DR/ IDR application cannot be submitted more than 120 days before the requested retirement date.

If the date the application is submitted is more than 120 days from the requested retirement date, then the Service Retirement portion of the application will be rejected.

If this occurs, we will proceed with the DR/IDR portion of the application. The member can resubmit the service retirement application at a later date when the retirement date is within 120 days.

Member Originated Application

The first thing that should be either provided to the member or requested by the member is our booklet titled **[A Guide to Completing Your CalPERS Disability Retirement Application \(PDF\)](#)**.

We highly suggest the member complete the CalPERS [Retirement Allowance Estimate Request Form \(PDF\)](#) before submitting their DR application. This will determine if disability retirement is beneficial.

In some cases, depending on age, years of service and final compensation, service retirement will be more beneficial.

Estimates take approximately 45-days to complete.

Required Forms and Documents

When a DR/IDR application is received, the review process does not begin until the package is complete. The following forms and documents are required to start the application review process:

Disability Retirement	Industrial Disability Retirement ¹
Disability Retirement Election Application (PDF)	
Job Duty Statement / Job Description	
Physical Requirements of the Position (PDF)	
Physician's Report on Disability Form (PDF)	
Medical Records	
	Workers' Compensation Carrier Request Form (PDF)

¹ Industrial Disability Retirement requires the same forms as Disability Retirement, with the addition of the **Workers' Compensation Carrier Request Form**.

Disability Review Process

Once CalPERS receives a complete application package, we will review all medical evidence, as well as employer and workers' compensation information. If there are inconsistencies or lack of information we will obtain clarifying information. We will resolve any conflicts in the information, which may include medical or non-medical issues. If necessary, an Independent Medical Examination (IME) will be ordered to resolve the conflict.

Note: Government Code section 21155 allows CalPERS to reimburse a member for their expenses of transportation, and meals and lodging if he or she is required to travel more than 50 miles one way for an IME.

Once all the necessary information has been received, we will apply CalPERS criteria to determine the member's medical qualifications for disability retirement. The disability retirement process can take up to 4-6 months.

Completing the Disability Retirement Election Application ^(PDF)

It is very important for a member to be as thorough as possible when completing the application. If the application is incomplete, this will delay the process.

In **Section 2** the member does not need to designate a retirement date to begin the process unless they are requesting service pending disability retirement.

In **Sections 3-4** the member provides information regarding their disability.

In **Section 5** the member must select a retirement payment option.

In **Section 6** the member must name a beneficiary.

In **Sections 7-8** the member provides information regarding the lumpsum death beneficiary and survivors.

Section 9 should be completed if the member has filed a workers' compensation claim.

Section 13 must be completed if the member is married or in a registered domestic partnership and names someone other than their spouse or domestic partner as a beneficiary.

In **Section 14** the member's signature must be witnessed by a CalPERS representative or public notary.

Physical Requirements of Position/Occupational Title Form ^(PDF)

This form provides both CalPERS and the member's attending physician a detailed listing of the physical requirements of the member's position. It should not be substituted with other forms the employer may have (for example, a Job Analysis).

The employer completes this form and it is signed by both the employer and the member. The employer should provide a copy to the member and send the original to CalPERS.

Job Duty Statement/Job Description

The job duty statement or job description must be provided to the member by the employer. The job duty statement or job description must reflect the member's last position, and it must include the position title and describe the actual job duties in detail. Job specifications or generic descriptions of a position are not sufficient.

Physician's Report on Disability Form ^(PDF)

This form must be completed by the treating medical specialist for the member's alleged disabling condition(s).

The member must submit this form directly to their treating physician(s), along with the Physical Requirements of the Position/Occupational Title form and the job duty statement.

The Physician's Report on Disability form asks for medical information on the member's disabling condition. It also requests copies of the member's treatment records be submitted with the report.

Section 4 requests the Diagnosis and Objective findings of the member's condition.

Section 5 requests information regarding the duration of the member's incapacity. The treating specialist must indicate they have reviewed the job duty statement and physical requirements of the position forms and provide specific duties the member is unable to perform.

Section 6 must be signed and dated by the treating physician completing the form. This form must be completed by a medical doctor.

The treating physician should complete the form and return it to CalPERS. It is very important that all sections of the form are completed. If the form is incomplete, the application process will be delayed.

Workers' Compensation Carrier Request Form ^(PDF)

If the member has a workers' compensation claim, this form must be completed.

The member completes page 1, signs the form, and then submits it directly to the workers' compensation carrier. The workers' compensation adjuster completes page 2 and submits the form to CalPERS.

Employer Originated Applications

Government Code section 21153 obligates the employer to file on behalf of the member if you have reason to believe they may be disabled and the member has not applied on their own behalf.

You cannot separate the employee without first filing on their behalf.

It only takes a few forms to get the process started. CalPERS will then contact and follow up with the member.

Prior to applying for disability retirement on a member's behalf, issues of modified work and reasonable accommodations should have been considered and exhausted.

We like to remind employers that disability retirement is not a means of handling personnel issues.

Who is Authorized to Apply

Government Code section 21152 states an Employer Originated application for a member who is an employee of a contracting agency can be submitted by the governing body, or an official designated by the governing body of the contracting agency.

Government Code section 21173 states the governing body of a contracting agency may delegate any authority or duty conferred or imposed under this article to a subordinate officer subject to conditions it may impose.

If you are unsure of who is authorized to apply and sign for your agency, contact CalPERS. CalPERS staff will verify that the appropriate person has signed the application.

Completing the Employer-Originated Disability Retirement Application (PDF)

Under **Application Type**, check the box indicating whether this is a disability retirement or industrial disability retirement application.

Section 1 asks for information about the member.

Section 2 asks for information about the member's spouse or registered domestic partner.

Section 3 asks for information regarding the member's employment.

Section 4 asks for information about the member's disability.

Section 5 asks for information about any workers' compensation claims the member has filed.

Section 6 must be completed and signed by the authorized employer representative.

Employer Information for Disability Retirement ^(PDF)

This form provides authorization by the member for the employer to release medical or personnel information to CalPERS.

The member must complete, sign, and date the form and then send it to their employer.

The employer should use the form as a cover sheet when sending the member's job description and other documents to CalPERS.

Employer Requirements and Responsibilities

To begin the application process, the employer must submit the following to CalPERS:

- Disability Retirement Election Application (Sections 1, 2, 3, 4, 9, and 14)
- Employer Information for Disability Retirement form
- Job Duty Statement
- Physical Requirements of Position/Occupational Title form

If you have a signed Employer Information for Disability Retirement form, you should also include the following:

- Personnel Records, such as adverse actions, State Personnel Board decisions, and investigative reports. See [Haywood, Vandergoot, and Smith Case Law](#) in this guide for more information.
- Medical Information to support the application, such as Fitness for Duty reports, doctor's notes, and accident reports.

Time Frames and Process for Employer Originated Applications

Once the employer's application is received, we will notify the member and send them an application. The member is given 21 days to submit the completed application, medical information, and signed medical release form.

If the member does not provide the requested information within 21 days, we will send them a letter explaining their options.

If the member does not reply to the options letter, the application will be cancelled.

Note: If the member wishes to reapply, they will need to resubmit a new application with all required documents. We highly recommend the member respond within the required time frames to avoid any delays.

If the member cooperates with the application, but cannot secure information from a physician, then an Independent Medical Examination (IME) may be considered.

If the member fails to attend the IME, we will reschedule it one time with the assurance of cooperation. Otherwise, we will make a determination based on the medical information in file or cancel the application if the information is insufficient.

The employer should not separate the employee until notification of an approval, denial, or cancellation is received from CalPERS.

Once we make the determination, the employer has satisfied their requirements, under the law, by filing an application for disability retirement on behalf of the member.

Temporary Disability Allowance (State and California State University Employees)

Temporary Disability Allowance (TDA) is a program administered by CalHR.

When there is medical or other pertinent information that indicates an employee is unable to perform the essential functions of their current position or any other position, the employer may file an application for disability retirement on the employee's behalf.

The employer must give the employee 15 days written notice of its intention to file a disability retirement application.

Senate Bill 1073 allows the employer to remove the employee from their job and place them on involuntary leave (IL) when they file an application for disability retirement.

It provides for a temporary disability allowance for employees who exhaust their leave credits and programs while on involuntary leave.

CalPERS will reimburse the temporary disability allowance to the employer, if the application for disability retirement is approved.

When an Employer must pay Temporary Disability Allowance

An employer is responsible for paying TDA when **all** of the following conditions have been met:

- The employee is placed on an involuntary leave status
- The employee has exhausted their leave credits or elected to use available leave credits and participate in current programs, such as Industrial Disability Leave (IDL) with supplementation or Non-industrial Disability Insurance (NDI)
- The employer is applying for disability retirement on the employee's behalf

Temporary Disability Allowance Process

When you are filing for disability retirement on the member's behalf, there are certain actions for you to take.

You must first complete an **Employer Originated Disability Allowance Estimate Request Form (PDF)** to determine how much Temporary Disability Allowance you should pay.

Then, you will need to submit a disability retirement application to CalPERS for the employee.

You will need to provide documentation of TDA payment. This includes the date when you began the TDA payments, the amount of the payment, and the frequency of the payment (i.e., monthly, semi-monthly, bi-weekly). You will also need to provide the address where you want the reimbursement sent (if the application is approved).

If the disability retirement application is approved, CalPERS will reimburse the employer the amount of TDA that was paid to the member from the retroactive portion of the disability retirement allowance.

If the amount of TDA exceeds the retroactive amount, the balance due to the employer will be reimbursed from the member's monthly retirement allowance at a rate of 10% until the reimbursement is paid in full.

If the disability retirement application is denied, the employer is responsible for reinstating the employee to their position with back salary and benefits, less any TDA paid. The employer must also restore any leave credits the member used while on the involuntary leave.

For more information regarding temporary disability allowance, visit CalHR's [website](#).

Injury Caused by a Third Party (Subrogation)

Under Government Code section 20250, if someone other than the employer caused an injury that results in CalPERS' disability retirement benefits being paid, CalPERS has the right to recover up to one-half of the total retirement benefit costs from the responsible party. This is known as the "right of subrogation."

Subrogation exists when the member's injury is caused by a third party. For example, the member becomes disabled after being hit by a car. The driver of the car is the third party who caused the member's injury.

If the member is injured by a third party, this should be indicated in **Section 3** of the Disability Retirement Application.

If the member is at retirement formula age at the time we receive the application, CalPERS will not pursue subrogation.

Inform CalPERS

The member must inform CalPERS if they pursue a claim against any person for the same injuries that also entitle them to a disability retirement, other than a workers' compensation claim or an uninsured motorist claim.

The member must inform CalPERS even if the claim has not yet resulted in a court action.

CalPERS has the right to participate in the claim by filing its own action against the responsible party, intervening in the member's claim and filing a lien against any judgment the member may recover.

If the member settles such a claim without notifying CalPERS, we may also be entitled to file a lawsuit against the member for recovery under our right of subrogation.

When CalPERS has knowledge of a possible third-party liability, CalPERS must notify the member prior to settlement of our right to subrogation.

An Accident Report form will be sent to the member for completion.

Haywood, Vandergoot, and Smith Cases

Case law impacts a member's eligibility to apply for and qualify for disability retirement. The Haywood, Vandergoot, and Smith cases provide clarification regarding the member's eligibility for disability retirement.

Haywood v. American River Fire Protection District (1998) 67 Cal.App.4th 1292, 79 Cal. Rptr.2d 749 holds that when an employee is terminated for cause and the discharge is not the ultimate result of a disabling medical condition, the termination renders the employee ineligible for disability retirement.

In the **Matter of the Application for Industrial Disability Retirement of Robert Vandergoot and California Dept. of Forestry and Fire Protection, Respondents, dated February 19, 2013 (PDF)** holds that when an employee resigns in lieu of termination and the employment relationship is severed as a result of the pending disciplinary action, then the resignation renders the employee ineligible for disability retirement.

Smith v. City of Napa (2004) 120 Cal. App. 4th 194 holds that if a member's disability matured before the member was terminated, or under principles of equity, the claims was delayed through no fault of the terminated employee, then the member is eligible to apply for disability retirement.

Corrections of Errors and Omissions

There are times when the member will ask CalPERS to accept a DR/IDR application outside of the time requirements defined by law or request a retirement date outside the guidelines set by law.

These may be considered mistakes or omissions made by the member, employer, or CalPERS.

Under certain circumstances, a "correction of an error or omission" can be remedied.

Criteria for Correction

To determine if a correctable mistake has been made, CalPERS will send a letter to the member and employer requesting information to determine if the member meets the criteria for correction under Government Code section 20160.

We will look to see if the member made a request to correct the error or omission within a reasonable time frame (six months) after the discovery of the right to make the correction.

The error or omission must be the result of mistake, inadvertence, surprise, or excusable neglect.

How the Employer Can Help

The employer can help minimize errors and omissions made by the member. If the employer is aware of medical conditions or workers' compensation claim(s) at the time of an employee's separation, they should counsel their employee and provide information on disability retirement.

The employer should discuss with the member all their options, including disability retirement and provide the member with a **Disability Retirement Application Publication (PDF)**.

It is important for the employer to document conversations and materials provided to the member and respond to CalPERS correspondence with documentation, so CalPERS can determine if the member made a correctable mistake.

Reevaluation

Under Government Code section 21192, CalPERS has the authority to reevaluate a disability retiree to ensure they continue to be substantially incapacitated and eligible to receive disability benefits.

CalPERS may require a disability retiree under the minimum age for service retirement to undergo a medical examination to determine if they are no longer disabled.

If it is determined the retiree is no longer disabled, they may be reinstated to employment.

Under Government Code section 21175, if the disability retiree refuses to submit to a medical examination, the pension portion of their allowance may be discontinued until their withdrawal of refusal. If the refusal continues for one year, the disability retirement allowance may be cancelled.

Disability Appeals

When a DR/IDR application is denied by CalPERS, the member and employer may appeal the determination.

To appeal a determination, you must provide a written request of appeal to CalPERS within 30 days from the date on the determination letter. It must explain the factual basis and legal authority for appeal.

If the appeal is not timely, then the party must be prepared to show good cause as to why the request for an appeal was not submitted timely. An additional 30 days extension may be granted if good cause exists for the delay.

If there is any additional evidence provided with the request for an appeal it will be considered in the determination.

The additional information will be provided to the IME doctor for consideration. The IME doctor will provide a supplemental report of their opinion regarding substantial incapacity after consideration of the additional medical or vocational evidence.

If there is a change in the decision, CalPERS will notify the member and employer of the decision change and take the next action to place the member on disability retirement and the member will begin receiving their disability retirement benefits.

If there is no change in the decision, CalPERS will notify the parties accordingly and forward the request for appeal to CalPERS Legal Office.

The Legal Office will review for a possible Administrative Hearing.

CalPERS is subject to the Administrative Procedures Act (APA) and process for appeal hearings.

Disability Retirement Fraud

CalPERS is responsible for ensuring no fraudulent applications are processed for disability retirement benefits.

To prevent fraud, CalPERS has a Disability Validation Team and a fraud tip line.

The Disability Validation Team consists of disability retirement analysts and our Legal Office.

If the reviewing disability retirement analyst finds indicators that lead them to believe there is potential misrepresentation of disability, the case may be referred to our Legal Office for possible investigation.

If you need to report possible disability fraud, please call our tip line at **888-CalPERS** (1-888-225-7377) and follow the prompts.

Employment After Disability Retirement

Disability retirees may receive their disability retirement allowance and work at the same time if they meet specific criteria under the law. Both a disability retiree and an employer share equal responsibility to ensure the employment complies with the retirement law when hired and during the entire course of the employment.

For more information, refer to our [CalPERS State Reference Guide \(PDF\)](#) and [CalPERS Public Agency & Schools Reference Guide \(PDF\)](#)

Screen for Retirees When Hiring

When interviewing potential employees, the employer should ensure they lawfully hire CalPERS retirees with the following actions:

- Ask if the candidate is a CalPERS retiree and if so, to specify the type of retirement: service, disability, or industrial disability.
- If the candidate is a CalPERS service retiree and the position is not a retired annuitant position, inform the candidate that reinstatement from retirement (i.e., termination of the CalPERS retirement and enrollment as an active employee) is required to be hired into the position.
- If the candidate is a CalPERS disability/industrial disability retiree and the position is a retired annuitant position, ensure the position is not the same position from which the candidate retired or a position which includes duties or activities they were restricted from performing at the time of their disability retirement. If the position is not a retired annuitant position,

inform the candidate that CalPERS' pre-approval must be obtained before being hired.

Retired Annuitant Employment

Disability retirees may be employed in a retired annuitant position with a CalPERS-covered employer without reinstatement from disability retirement. However, disability retirees cannot be employed in the same position from which they retired or in a position which includes duties or activities they were restricted from performing at the time of their disability retirement.

If an employer needs help to determine if the employment is legal, they can send the duty statements and physical requirements to CalPERS for review.

CalPERS-covered employers are required to report all retired annuitant appointments, earnings, and hours to CalPERS.

There are two types of retired annuitant employment: **Extra Help Positions** and **Interim Vacant Positions**.

Extra Help Positions

The retired annuitant employment restrictions for extra help positions are authorized by Government Code sections 7522.56, 21224, 21227, and 21229. The retiree must meet the following restrictions:

1. **Limited duration work** | The retiree has the skills needed to perform work of limited duration or your employment is needed during an emergency to prevent stoppage of public business
2. **Compensation** | The hourly pay rate the retiree receives cannot be less than the minimum or exceed the maximum paid to other employees performing comparable duties
3. **960-hour limit** | The hours the retiree works cannot exceed 960 hours in a fiscal year with all CalPERS employers combined
4. **Unemployment insurance payments** | The retiree cannot be appointed as a retired annuitant if they received unemployment insurance payments for prior retired annuitant work for any CalPERS employer within 12 months prior to their appointment date

Interim Vacant Positions

To be appointed to an interim position by the governing body of an employer, as authorized by Government Code sections 7522.56 and 21221(h), the retiree must meet all the requirements above for an extra help position, as well as:

1. **Active recruitment** | Before the retiree is hired, the employer must have in place an active recruitment for a permanent replacement for the vacant position
2. **Limited duration work** | The retiree can be hired only as an interim or acting appointment during the period of recruitment; they cannot work in a permanent capacity or for an indefinite period of time
3. **Single appointment** | The retiree can be appointed only once to the vacant position
4. **Compensation** | The retiree's hourly pay rate cannot be less than the minimum or exceed the maximum for the vacant position

Eligibility Requirements for Retired Annuitants

In addition to the requirements for an Extra Help or Interim Vacant position, all retirees must meet both of the following two requirements:

1. Bona fide separation in service requirement
2. 180-day wait period requirement

The retiree cannot be employed as a retired annuitant if they are younger than the "normal retirement age" on their retirement date, unless there was no verbal or written agreement to return to work as a retired annuitant between the retiree and any CalPERS employer before they retired and there is a termination of employment (separation in service) for 60 days between their retirement date and the date their limited duration employment as a retired annuitant will begin.

There must be a 180-day break from employment before returning to work as a retired annuitant. The 180-day wait period begins on the retiree's retirement date. However, the 180-day waiting period may be waived for the following:

1. To fill a critically needed position sooner than 180 days
2. Retiree will participate in the California State University's Faculty Early Retirement Program (FERP)
3. Retiree is a CalSTRS retiree who is subject to sections 24212, 24214.5, or 26812 of the Education Code. For more information, contact CalSTRS

Key Points for Retired Annuitant Employment

CalPERS approval is not required for a Retired Annuitant position.

Retiree is not brought back into CalPERS active service, retirement contributions are not being made, and service credit is not being earned.

An earnings limit does not apply and payroll is reported to CalPERS.

The position must be a temporary or limited term position.

The appointment is limited to 960 hours per fiscal year. If the 960 hours limit is exceeded, this is considered unlawful employment and the retiree is subject to reinstatement from retirement into the position in which the unlawful employment occurred.

Retiree must have State Employer Civil Service Eligibility for employment with a state agency employer.

Retiree cannot receive unemployment benefits for the 12 months preceding their appointment date.

Disability retirees cannot be employed in the same position from which they retired or in a position which includes duties or activities they were restricted from performing at the time of their disability retirement.

Permanent Full-time or Permanent Part-time Employment

Disability retirees may be employed in a permanent position with a CalPERS-covered employer without reinstatement from disability retirement under Government Code section 21232.

The permanent full-time or permanent part-time position must be significantly different from the position from which the retiree retired. The position should not include duties or activities the retiree was previously restricted from performing at the time of their disability retirement.

If an employer needs help to determine if the employment is legal, they can send the duty statements and physical requirements to CalPERS for review.

Eligibility Requirements for Permanent Positions

To be eligible for employment, the retiree must meet the following requirements:

1. 60-day bona fide separation between their retirement date and the date their employment will begin, if the retiree is under the normal retirement age
2. 180-day wait period from their retirement date or an allowable exception
3. No receipt of unemployment insurance payments for previous retired annuitant employment for 12 months before the appointment
4. State Employer Civil Service Eligibility for employment with a state agency employer
5. The position must not be the same position or classification from which the retiree retired or in the same member classification, and the position should not include duties or activities the retiree was previously restricted from performing at the time of their disability retirement

Applying to Work Under Government Code section 21232

The retiree must have CalPERS' written approval before beginning employment.

The retiree is required to submit the following required documents to CalPERS:

- **Request to Work While Receiving Disability / Industrial Disability Retirement Benefits Form (PDF)**
- **Physical Requirements of the Position Form (PDF)**
- Position duty statement
- Current medical report(s)
 - The retiree must schedule an appointment with a specialist for the disabling condition(s) that precluded them from working and provide CalPERS a current medical report from that specialist. If they had more than one disabling condition at the time of retirement, they must provide a medical report from each medical specialist. The specialist must include the following information in their report:
 - Retiree's name and the date of the most recent examination.
 - Confirmation that the specialist reviewed and discussed the position duty statement (by title) and the Physical Requirements of Position/Occupational Title form.
 - Whether the retiree has any limitations or restrictions to performing all tasks involved.
 - Specific details explaining the restrictions, if any.
 - Specialist's signature, printed name, medical specialty, and contact information.

Key Points for Working Under Government Code section 21232

Retiree is not brought back into active membership, no member or employer contributions are made, and no service credit is earned.

Retiree is subject to an earnings limit and payroll is reported to CalPERS.

Without prior approval, the retiree is subject to reinstatement into the position they were illegally hired in and their retirement allowance will stop.

Termination of Retirement Due to Unlawful Employment

Employers and retirees have equal responsibility to ensure any post-retirement employment is lawful. CalPERS service retirees can only be lawfully employed in retired annuitant compliant positions. CalPERS disability retirees can be lawfully

employed in retired annuitant positions or upon CalPERS' pre-approval be employed in permanent positions with certain restrictions.

Employment that violates any of the retired annuitant requirements or the Government Code section 21232 requirements for disability/industrial disability retirees is unlawful employment. Unlawful employment results in reinstatement from retirement for the retiree, i.e., termination of the retiree's monthly retirement allowance and any other post-retirement benefit.

When reinstated for unlawful employment, the retiree is required to reimburse CalPERS for the retirement allowance received during the period of unlawful employment. Upon enrollment into active membership, the employee will pay member contributions plus interest to the employer for the period of unlawful employment. The employer will pay retroactive employer contributions plus interest and submit the member contributions thereby crediting the employee with service credit for the period of unlawful employment.

Reinstatement from Disability Retirement

Reinstatement from disability retirement involves the retiree coming off the DR/IDR retirement roll and reinstating back into CalPERS membership and returning to work.

Voluntary reinstatement is the retiree's choice. Mandatory reinstatement can happen when the retiree violates the rules for working after retirement.

If the retiree decides to reinstate, they must have approval from CalPERS before they can return to active employment for any CalPERS-covered employer.

If the retiree is approved, they will receive regular paychecks, earn service credit, and make contributions to CalPERS. Their retirement allowance stops until they decide to retire again.

For more information, refer to our [Reinstatement from Retirement Publication \(PDF\)](#).

Required Forms and Documents

For CalPERS to begin the reinstatement process, the retiree must submit the following forms and documents:

- [Reinstatement from Disability/Industrial Disability Retirement Application Form \(PDF\)](#)
- [Authorization to Disclose Protected Health Information Form \(PDF\)](#)
- [Physical Requirements of Position/Occupational Title Form \(PDF\)](#)
- Position Duty Statement
- Medical Clearance Report

Reinstatement from Disability/Industrial Disability Retirement Application Form ^(PDF)

If a retiree wants to reinstate, they must complete this form

They need to complete **Sections 1-2**. The employer completes **Section 3**.

The retiree may request a specific reinstatement date, but the effective date of employment cannot be prior to the date of CalPERS' approval.

Medical Clearance Report

The retiree must obtain a current medical report from their specialist and submit it to CalPERS. If they had more than one disabling condition at the time of retirement, they must provide a medical report from each medical specialist. For example, if the member's disabling condition was orthopedic, the specialist's report should be completed by an orthopedist; a heart condition would require a report from a cardiologist; and a psychological condition would require a report from a psychiatrist.

The specialist(s) must include in the medical report the following information:

- Retiree's name and the date of the most recent examination
- Retiree's current diagnosis
- Confirmation that the specialist reviewed and discussed the position duty statement(s) (by title) and the Physical Requirements of Position/Occupational Title form(s)
- A statement as to whether the retiree is presently capable of performing all tasks involved in their new position with or without restrictions or limitations
- If there are restrictions or limitations, include specific details about the restrictions for the new position
- The specialist's signature, printed name, medical specialty, and contact information

Reinstatement Process

The reinstatement process can take three to six months depending on how complete the reinstatement application packet is and whether the retiree will be sent to an independent medical examination (IME).

If the retiree is receiving an industrial disability retirement, CalPERS will request a copy of workers' compensation medical records to ensure there are no conflicting medical opinions regarding the retiree's ability to return to work.

CalPERS may need to order an IME, if the treating doctor's report is inconclusive or there is a conflict between the workers' compensation records and the treating doctor's report.

If the retiree is found no longer disabled, then we will approve the request for reinstatement. The employer then provides CalPERS with a return to work date.

If the retiree is found still disabled, then we will continue them on the retirement roll and both the member and employer will be notified of the decision.

Reinstatement Rights

State and CSU

A retiree has mandatory reinstatement rights to their former position if they were employed by the State of California or California State University (CSU) and CalPERS determines they are no longer disabled from performing the job duties.

A State or CSU retiree has permissive reinstatement rights to a position other than the position they retired from if CalPERS determines they are no longer disabled from performing the job duties.

Permissive reinstatement means the employer can decide whether to hire the employee for the position.

School and Public Agency

A retiree has permissive reinstatement rights to any position, including their former position, if they were employed by a school district or public agency and it is determined by CalPERS they are no longer disabled from performing the job duties.

The employer can decide whether to hire the employee for the position, including their former position.

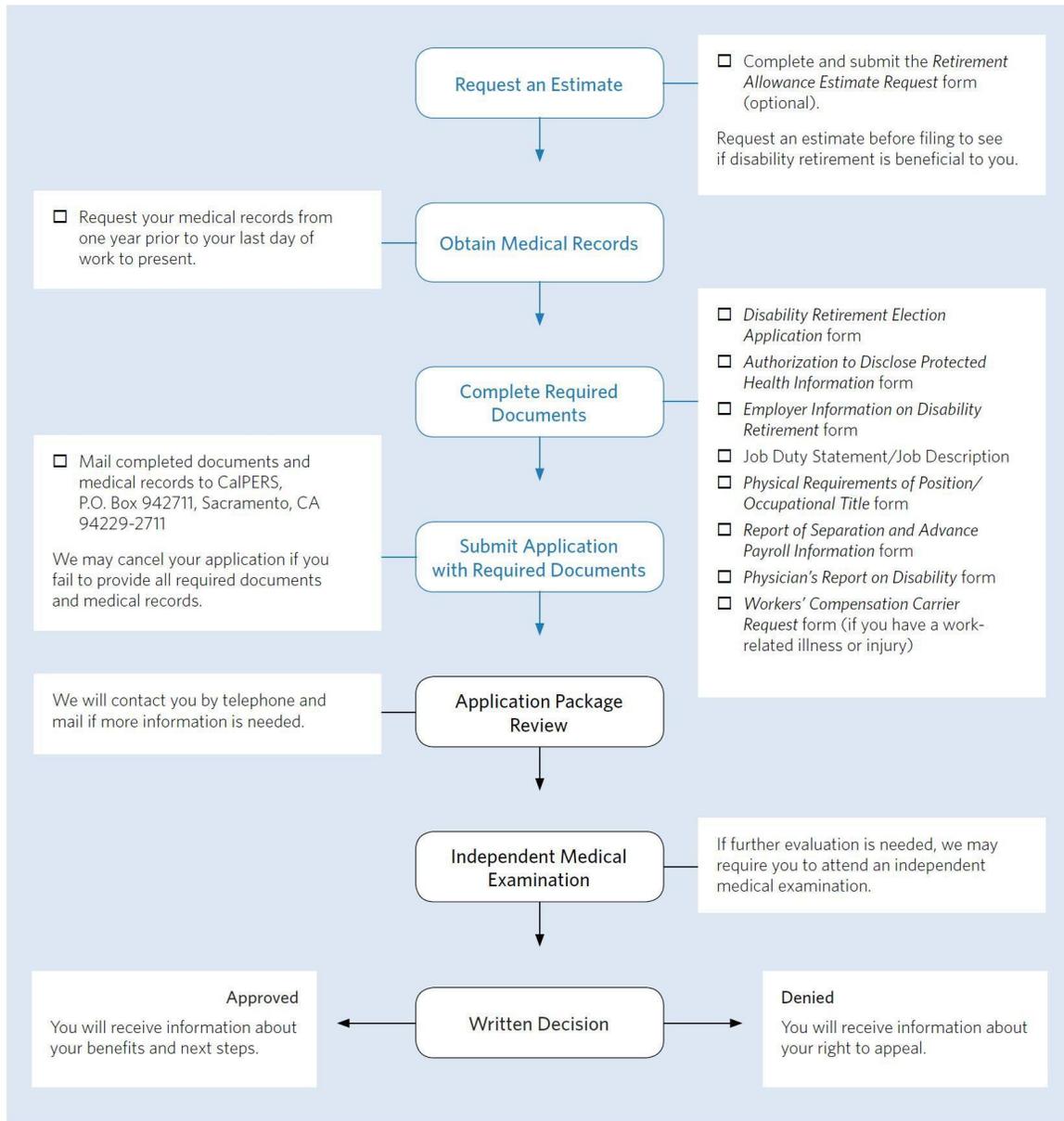
Industrial Disability to Miscellaneous Position

Government Code section 21197 provides an industrial disability retiree the right to reinstate into a miscellaneous position and then re-retire on an industrial disability with no additional medical documentation.

When the member retires again, we will take into consideration their membership type (classic or PEPRA), additional earned service credit, contributions made to CalPERS, and salaries when calculating their future industrial disability retirement.

If the retiree is requesting reinstatement from an industrial disability retirement into a miscellaneous position under Government Code section 21197, they must submit the forms and documents as stated in Required Forms and Documents section above.

Flowchart: Disability Retirement Application Process



Contact and Resource Information

There are several ways you can reach us, through our **Customer Contact Center**, by mail, or by fax.

Reach Us by Phone

Call us toll free

888 CalPERS (or **888-225-7377**)

Monday through Friday

8:00 a.m. to 5:00 p.m.

TTY: (877) 249-7442

Reach Us by Mail or Fax

California Public Employees' Retirement System (CalPERS)

Disability & Survivor Benefits Division

P.O. Box 2796

Sacramento, CA 95812

Fax: (916) 795-1280

Resources

[CalPERS State Reference Guide \(PDF\)](#)

[CalPERS Public Agency & Schools Reference Guide \(PDF\)](#)

Disability Retirement Resource Guide

California Public Employees' Retirement System (CalPERS)

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