

service connected vs. non-service connected disability retirement

The Retirement Plan has provisions to grant two types of disability retirement: service connected and non-service connected.

Regardless of your length of service, you may be eligible for a service-connected disability if you can prove a real and measurable relationship between your disability and your employment. Documentation establishing that you are permanently disabled and that the disability prevents you from performing a substantial portion of your duties, and documentation proving that there is substantial evidence of a real and measurable relationship between your disability and your employment, must be submitted along with your application.

To be eligible for a non-service connected disability retirement, you must be credited with at least 5 years of service. Documentation establishing that you are permanently disabled and that the disability prevents you from performing a substantial portion of your duties should be submitted along with your application.

service connected

No minimum age or service credit.

Must provide evidence that your condition is stationary, that you are permanently disabled from performing your job duties, and that your disability is a result of injury or disease arising out of the course of your employment.

Benefit is generally 50% of your final average compensation.

Generally, 50% of your final average compensation is excluded from taxable income.

Enhanced continuance of 100% to a qualified beneficiary with the Unmodified payment option.

ELIGIBILITY REQUIREMENTS

EVIDENTIARY REQUIREMENTS

BENEFIT

TAXES

CONTINUANCE

non-service connected

Must have 5 years of creditable service (includes reciprocal). No minimum age.

Must provide evidence that your condition is stationary and that you are permanently disabled from performing your job duties.

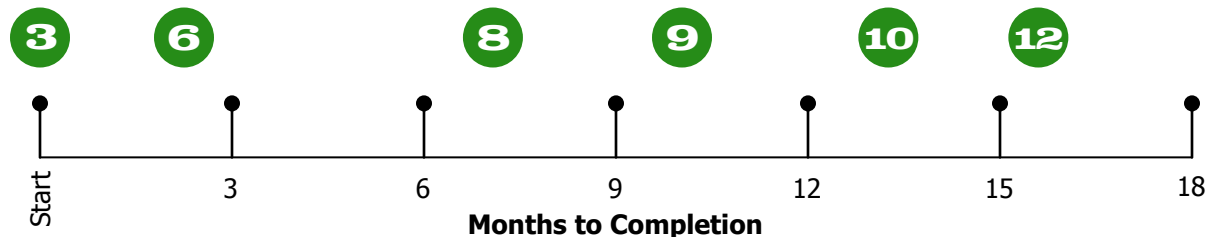
Benefit is generally, but not always, one-third of your final average compensation.

No tax benefit.

No continuance enhancement.

disability retirement estimated timeline

Steps in the Process
(refer to the inside of this brochure)



important note

The information contained in this brochure is not intended to be all-inclusive. The information is general in nature and written to be as understandable as possible while remaining accurate. MCERA is governed by the County Employees' Retirement Law of 1937 (37 Act) and MCERA's bylaws. If any conflicts arise between the information presented and the 37 Act or MCERA's bylaws, the law will supercede.

contact MCERA

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DISABILITY RETIREMENT

a brief guide for MCERA members

June 2010

disability faqs

When can I apply for disability retirement?

Your application must be submitted while you are in service or within four months of your discontinuance of service. You may submit an application at a later date if you can demonstrate that you were permanently and continuously disabled from the time of separation.

Does Workers' Compensation have any bearing on my disability retirement?

No. Workers' Compensation is a separate process from that of disability retirement. Receipt of a Workers' Compensation award does not guarantee eligibility to receive a disability retirement.

Can I apply for service retirement while my disability application is being processed?

Yes, if you are eligible for service retirement based on your age and years of service, and are considering whether to apply for disability retirement, you may wish to file for service retirement while your disability application is being processed. Please note, however, that the decision to begin receiving a service retirement will prevent you from returning to work while continuing to receive a retirement benefit should the Retirement Board deny your application.

How much will my disability retirement be if it is granted?

For a service connected disability, the benefit is generally 50% of your final average compensation. For a non-service connected disability, the benefit is generally, but not always, one-third of your final average compensation. In either case, your disability benefit will always be compared to your service retirement calculations, and you will receive whichever is greater.

Are there any tax benefits to disability retirement?

If you are granted a service connected disability retirement, 50% of your final average compensation is generally excluded from taxable income. If you are granted a non-service connected disability retirement, there are no tax benefits.

the disability retirement process

from submittal of your original application to the Board's final decision

1 Injury or Illness

If you have been injured, become ill, or are placed on disability status through your employer, you can apply for disability retirement. You may also apply while receiving Workers' Compensation or 4850 benefits.

2 Obtain Written Diagnosis

You must obtain from your treating physician a written diagnosis of your injury or illness and a prognosis that your condition is permanent and stationary. If applying for a service connected disability, you must also provide documentation that your disability arose as a direct result of your employment.

3 Apply for Disability Retirement

Contact MCERA's office to inform us of your injury or illness and request a disability application packet. Your completed application packet must be accompanied by your doctor's diagnosis, prognosis, and all supporting documentation.

4 Disability Retirement Counseling

The Retirement staff is available to discuss with you service vs. non-service connected disability, as well as answer any questions you may have. We will also check to see if you are eligible to receive a service retirement pending the outcome of your disability retirement application.

5 Application Reviewed

Your application, physician's medical evidence, and supporting documentation are reviewed for completeness. You will be sent a letter notifying you that either, a) your application is complete and we will continue the disability retirement process, or b) more information or supporting documentation is required before we can proceed further.

6 Letter to Your Employer

If you are applying for a service-connected disability benefit, we will request specific information from your employer regarding your injury, such as whether or not reasonable accommodation has been attempted.

7 Medical Records Collection

Our staff will request documentation from Workers' Compensation (if applicable), all of your treating physicians, and your personnel files. We value your privacy; all medical records obtained by our office are handled according to applicable HIPAA laws.

8 Initial Medical Review and Scheduling of Examination

Following review of all medical documentation by both the staff and MCERA's medical consultant, an independent medical examination may be scheduled with a Retirement Board-approved physician who specializes in the area of your injury or illness.

9 Independent Medical Examination

You may be required to attend a medical examination with a Board-approved physician who specializes in the area of your injury or illness, following which the physician will prepare a report to be submitted to the Retirement Board.

10 Medical Consultant Review

MCERA's medical consultant will review the examining physician's report and prepare their summary and recommendation to be submitted to the Retirement Board.

11 Board Meeting Preparation

The Retirement staff prepares your disability file for Board review at an upcoming Board meeting. Your application, medical records, supporting documentation, the report(s) of the examining physician, and recommendations from MCERA's medical consultant and counsel are included. The matter will then be presented to the Retirement Board at a regular meeting.

12 Retirement Board Decision

The following actions may be taken by the Retirement Board:

- Grant your application.** The Retirement Board may grant your application if medical evidence and documentation support your claim. It is within the Board's purview to grant a non-service connected disability retirement if you have submitted a service connected application.
- Remand your application to staff.** The Retirement Board may remand the application to MCERA staff to gather additional information.
- Deny your application.** If medical evidence and documentation do not support your application, or if there is conflicting medical evidence, the Retirement Board may deny your application.

You (or your attorney, if you are represented) are notified of the Board's decision in writing within 10 days of the decision being made.

disability hearings

If the Retirement Board denies your disability retirement application, or if you have applied for a service connected disability benefit and you are instead granted a non-service connected disability retirement, you may appeal the Board's decision by providing a written request for a hearing to the Retirement Administrator. This request must be received by MCERA no later than 60 days after the date the notification of denial was mailed. Following completion of the hearing process, the Retirement Board will review your case again.

Here is the process, from appeal to the Retirement Board's second review, in brief:

- **Prepare for hearing.** You (or your attorney) may request a hearing before an Administrative Law Judge (ALJ). We strongly recommend that you retain legal counsel to prepare your case. County Counsel will represent MCERA during the hearing.
- **Scheduling of hearing.** MCERA counsel will work with you (or your attorney) to schedule the date and time of the hearing, and will then notify all attorneys, the court reporter, the applicant, and the ALJ of the time and location of the hearing.
- **Hearing held.** You will present your case to the ALJ. MCERA will be represented through County Counsel.
- **ALJ recommendation.** Within 30 days of the hearing, the ALJ will prepare a full report and submit a recommendation to the Retirement Board to either grant or deny your application.
- **Retirement Board decision.** The Board has the option to adopt the ALJ's recommendation, require a transcript or summary of all evidence received by the hearing officer and take action based on such evidence, send the recommendation back to the ALJ for further proceedings, or rehear the matter themselves. You (or your attorney, if you are represented) are notified of the Board's decision in writing.
- **Objections or responses.** You have 10 days from the date the notification of decision was mailed to file objections with the Retirement Board.
- **Further appeal.** You may also file an appeal in Superior Court within 90 days from the date the notification of decision was mailed.