Orange County Employees Retirement System

DISABILITY RETIREMENT FACT SHEET & FREQUENTLY ASKED QUESTIONS

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Disability Retirement

Definitions

Applicant: A member of OCERS, or a person or other entity filing on behalf of a member of OCERS (e.g., member's surviving spouse), or any person who claims an interest in the pension or allowance of an OCERS member who files an Application.

Disability Committee: A chartered committee of the Board of Retirement to review applications for disability retirement and make recommendations to the Board with respect to disability determinations.

Eligible Child(ren): An unmarried natural or adopted child(ren) under the age of 18; or unmarried, under the age of 22, and a full-time student enrolled in an accredited school as determined by the Board.

Eligible Spouse; Eligible Domestic Partner: A spouse who has been married to, or in a registered domestic partnership with, a member at least one (1) year prior to the date of the member's retirement, or has been married to, or in a registered domestic partnership with, a member at least two (2) years prior to the date of the member's death *and* that spouse or domestic partner has reached the age of 55.

Employee Statement of Disability: A form completed by the member applying for disability retirement in which they describe the nature of their disabling condition(s), relevant medical history, employment history, and work restrictions.

Employer Statement of Disability: A form that describes an employee's job duties and how a disability impacts their ability to perform those duties.

Independent Medical Examination (IME): A medical evaluation by a doctor who is not involved in the patient's treatment.

Medical Evidence: Information that documents a person's health, including test results, medical records, and professional opinions that may be used to help diagnose conditions, determine treatment plans, and assess injuries.

Non-Service Connected Disability: For members with at least five years of service credit (including reciprocal service), an injury or illness that is permanently incapacitating and not related to employment.

Physician's Statement of Disability: A form to be completed by a physician that evaluates a member's disability.

Service-Connected Disability: Injury or illness that is permanently incapacitating and caused by or contributed to by employment.

Supervisor's Statement of Disability: A document that provides a supervisor's knowledge and information regarding a member's disability and job performance.

Usual and Customary Job Duties: The tasks and responsibilities that an employee is expected to perform regularly based on their position.

Work Restrictions: Limitations prescribed by a physician on an employee's job duties due to injury or illness.

Purpose

As an OCERS member, you may be eligible for disability retirement if you have an illness or injury that permanently prevents you from performing the usual and customary duties of your job. These disability retirement FAQs are intended to provide you with general information regarding disability retirement.

This document does not constitute legal advice and OCERS will not provide legal advice to members, spouses of members, former spouses of members, domestic partners, or beneficiaries.

If any information in this document conflicts with statute or authoritative case law, the statute or case law will control.

When to Apply for Disability Retirement

When a member has medical evidence that shows they are no longer able to perform their usual and customary job duties, they should contact OCERS and speak with a Disability Investigator who will provide an overview of the application process and explain what medical evidence the member is required to submit with their application.

A member may apply for disability retirement:

- While they are still in service (i.e., while the member is being compensated for employment, and deductions are made for their retirement contributions[1]);
- Within four (4) months after discontinuance of service;
- Within four (4) months after the expiration of a disability presumption; OR
- Any time after discontinuance of service if the medical evidence shows the member has been continuously unable to perform their duties from the date that service discontinued up to the time an application is filed.

The Application Process

Disability application packets can be obtained at OCERS' office or mailed directly to the member. The application packet consists of five (5) forms that must be completed for an application to be processed:

- Application for Disability Retirement
- Authorization for Use and Disclosure of Protected Health Information (Records Release Form)
- Physician's Statement of Disability
- Employee's Statement of Disability
- Attorney Designation Form (if applicable)

Incomplete applications will not be accepted and will be returned to the member (e.g., when the Physician's Statement of Disability is missing or incomplete).

Once the completed application packet has been received, OCERS will obtain additional evidence, and the member will be scheduled for an Independent Medical Evaluation (IME) at OCERS expense.

The application process may take approximately six (6) months to one (1) year from the time the member submits their completed application along with required medical evidence for the Board of Retirement to make its decision to grant or deny the application.

A member's employer may file a disability retirement application on their behalf, but the member *must* participate in the application process.

[1] In limited instances, such as when a Legacy safety member no longer pays contributions following 30 years of continuous service, the member is considered still *in service* while they are employed and continue to earn service credit even if contributions are no longer deducted from their compensation.

It is important that the member be responsive to OCERS' request for information and maintain their scheduled IME appointments. Doing so will ensure the application process runs as efficiently as possible to avoid any significant delay.

Disability Determination Process

Disability staff will investigate all disability retirement Applications to determine:

- Whether the Applicant is permanently incapacitated from the performance of their usual duties.
- Whether the incapacity is service-connected.
- The effective date of any disability retirement.
- Whether the Application is timely.
- Whether the Applicant is not eligible due to termination for cause.

Staff will have the discretion to require medical examination(s) of the Applicant and obtain expert medical advice to aid its investigation. If the Staff's recommendation is to grant the disability retirement Application in full or deny it without prejudice because the member has opted not to join an employer-filed application, Staff will forward the recommendation to the CEO.

If the Staff's recommendation is to deny (or grant only in part) the disability retirement Application, the recommendation will be presented to the OCERS Disability Committee.

When Staff recommends that disability retirement be granted in full, the recommendation will be reviewed by the CEO, and if they concur with Staff's recommendation, the Application will be placed on the consent agenda of the next regularly scheduled Board meeting, bypassing the Disability Committee.

Am I still eligible for disability retirement if I've withdrawn my contributions with OCERS?

No. Members are not eligible for disability retirement if they have withdrawn their contributions and terminated their membership with OCERS.

I was found to be eligible for Workers' Compensation benefits, do I still have to go through the disability retirement process?

Yes. OCERS *is not* bound by a Workers' Compensation determination. A permanent disability finding or award in Workers' Compensation does not automatically entitle you to disability retirement.

I've been granted disability retirement; can I get a job with an employer who doesn't participate in OCERS?

Yes. A member who has been granted disability retirement may obtain full or part-time employment in another occupation with a non-OCERS employer when the duties of their new employment are consistent with medical restrictions related to their disability retirement. Such employment will not disrupt OCERS' payment of disability retirement benefits to the member.

How will disability retirement affect my survivorship benefits?

When a member retires, they have several benefit payment options to choose from that determine whether a survivor will receive a continuing benefit upon the member's death. The Unmodified Option is the most commonly chosen option because it provides the greatest monthly benefit for the member's lifetime and provides a continuing benefit for the member's eligible spouse or registered domestic partner.

If a member receives a service-connected disability retirement, the Unmodified Option provides that their spouse or domestic partner will receive a 100% continuance for their lifetime. Meaning, that benefit will cease upon their death and will not be paid to their designated beneficiaries or estate.

If a member receives a non-service connected disability retirement, the member's eligible spouse or domestic partner will receive a 60% continuance for their lifetime. That benefit will cease upon their death and will not be paid to their designated beneficiaries or estate.

If a member is neither married to an eligible spouse nor in a registered domestic partnership when they pass away, their monthly benefit may be paid to their eligible child(ren).

If a member is neither married to an eligible spouse nor in a registered domestic partnership, or has no eligible children at the time they pass away, their designated beneficiary may receive a refund of their remaining contributions.

Additional information on retirement payment options can be found on OCERS' website: https://www.ocers.org/retirement-benefit-payment-options

Can I appeal the Disability Committees' determination on my disability retirement application?

Yes. When the Committee recommends the Application be denied in full or in part, the member has ninety (90) days from the date of action by the Disability Committee to file a Request for Administrative Hearing with the Clerk of the Hearing Officers, as set forth in OCERS Administrative Review and Hearing Policy. Thie Policy provides details regarding the appeals process.

If the member does not file a Request for Administrative Hearing within 90 days of the above-mentioned meeting, the Committee's recommendation will be placed on the consent agenda of the next regularly scheduled Board meeting. The Board's decision will be final.