

FIRE & POLICE PENSION PLAN
TIER 5
(Administrative Code, Division 4, Chapter 20 et seq.)

DISABILITY RETIREMENT

GENERAL INFORMATION:

Application - Processing - Options

CITY OF LOS ANGELES
Fire and Police Pension System

Department of Fire and Police Pensions
360 East Second Street, Suite 400
Los Angeles, California 90012

Revised January 2, 2002

**EVERY EFFORT HAS BEEN MADE TO PROVIDE
ACCURATE INFORMATION IN THIS BOOKLET.
IF THERE IS A DIFFERENCE BETWEEN THE CONTENTS
OF THIS BOOKLET AND ADMINISTRATIVE CODE,
THE PROVISIONS OF THE ADMINISTRATIVE
CODE SHALL APPLY.**

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DISABILITY RETIREMENT

TYPES OF DISABILITY PENSIONS

Pensions are granted for disabling impairments resulting from injuries or illnesses that are

WORK RELATED - Service Connected Disability Pension

NOT WORK RELATED - Non-Service Connected Disability Pension

If you believe you are incapable of performing the duties of a sworn employee of the Fire or Police Department, including light or restricted duties, you may be eligible for disability pension benefits. Members who believe they are eligible for disability retirement should file an application with the Department of Fire and Police Pensions.

ELIGIBILITY FOR DISABILITY RETIREMENT

It is important to understand that the existence of impairment or a Workers' Compensation award does not guarantee a disability pension. You may have impairment(s) but not be disabled from performing the duties of a police officer or firefighter if your department can accommodate your work restrictions.

SERVICE CONNECTED : For impairments that are determined by the Board of Fire and Police Pension Commissioners (Board) to be disabling and work related, Tier 5 members are eligible from the date they graduate from basic training. For an impairment to be considered work related, there must be clear and convincing evidence that the discharge of duties is the predominant cause.

The exact amount of a service connected disability pension depends on the percentage of disability determined by a rating schedule adopted and used by the Board. The range for service connected disability pensions in Tier 5 is 30% - 90% of your final average salary, but never less than 2% for each year of service.

In order for injuries received during basic training to be eligible for consideration as work related, you must purchase your recruit training time. See LENGTH OF SERVICE on following page.

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NON-SERVICE CONNECTED : For impairments that are determined by the Board to be disabling and non-work related, Tier 5 members are eligible following completion of five years of service. The amount of a non-service connected disability pension is 30% - 50% of your final average salary, based on a rating schedule adopted and used by the Board.

Tier 5 plan members who elect to receive a refund of contributions forfeit any right to future benefits including disability benefits.

LENGTH OF SERVICE

Length of service credit for service connected disability pensions is calculated differently than length of service credit for service pensions. Credit for service retirement is calculated at 50% at 20 years of service and 3% per year for each additional year after 20 years except on the thirtieth year of service for which 4% shall be provided. The maximum percentage of Final Average Salary shall be 90%. Credit for disability retirement is calculated at 2% per year with no additional percentage credit for service beyond 20 years up to a maximum of 90%.

As a Tier 5 member you have the option to increase your total qualifying service time by purchasing service credit for the time spent in recruit training, prior sworn City service, time off on non-service connected disability pension, time off on Workers' Compensation state rate and training time prior to paramedic certification. This purchase may have an impact on the minimum level of disability benefits you can receive, especially for members who have service credit that is near, equal to or in excess of 15 years. To exercise this option you must:

Apply before or at the time of filing for retirement
Complete the purchase before your retirement becomes effective

You must pay the Department of Fire and Police Pensions an amount equivalent to your retirement contributions calculated at 8% of your base salary multiplied by the number of days to be purchased. In addition, you must pay any

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interest which would have been credited to your account had you made the contributions during the time you are purchasing.

If you are interested in pursuing this option notify your Pension Claims Analyst as early in the application process as possible and you will be referred to staff responsible for coordinating service time purchases.

WHEN TO APPLY

It takes 6 months or longer to process a disability application. Some applications may take longer as a result of circumstances or complications specific to your claim. The decision of when to file is yours.

Filing after using at least 6 months of your IOD time will most likely result in you spending some time on "state rate". It is important that you plan ahead in order to avoid or prepare for the reduced level of monthly income.

SERVICE PENSION CONVERSION

Tier 5 members applying for a disability pension must sign a service retirement waiver prior to the disability hearing because once a disability pension is awarded it cannot be converted to a service retirement at a later date.

Tier 5 members retired on a service pension have one year from the date a service pension becomes effective to apply for a disability pension. If you have a pending/unresolved Workers' Compensation claim that was filed before or within one year of the effective date of your service pension, you have one year from the date the Workers' Compensation claim is resolved to file for disability benefits.

If you file your application for disability benefits and then take a service retirement before the disability application process is completed, or, if you are on service retirement and apply for disability benefits, Tier 5 requires that you demonstrate to the Board that the disabling condition(s) were present on the day of your service

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retirement and has been continuous to the day of the disability pension hearing. If you cannot, your application will be denied.

Impairments occurring after service retirement cannot be used to support a claim for disability pension benefits.

RESIGNED MEMBER ELIGIBILITY

Under Tier 5, a resigned member is a former plan member who terminates employment for any reason except for death or disability, having completed 20 or more years of service and elects to leave their contributions in the fund in order to receive a service retirement upon reaching 50 years of age.

Resigned members have one year from the effective date of resignation to apply for a disability pension. If you have a pending/unresolved Workers' Compensation claim that was filed before or within one year of the effective date of resignation, you have one year from the date the Workers' Compensation claim is resolved to file for disability benefits.

If you file your application for disability benefits and then resign before the disability application process is completed, or if you resign and then apply for disability benefits, Tier 5 requires that you demonstrate to the Board that the disabling condition(s) were present on the date of your resignation and has been continuous to the day of the disability pension hearing. If you cannot, your application will be denied.

Impairments occurring after resignation cannot be used to support a claim for disability pension benefits.

A resigned member applying for a disability pension must sign an Acknowledgment and Waiver form prior to the disability hearing because once a disability pension is awarded it cannot be converted to a service retirement at a later date.

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THE DISABILITY APPLICATION PROCESS

MEDICAL DOCUMENTATION

You will be required to furnish the names and addresses of doctors, clinics and hospitals previously examining or treating you. Processing time depends on the accuracy and completeness of this information. Prior reports and test results may become part of yourfile as well as any relevant documents from your Workers' Compensation file.

THE ADMINISTRATIVE FILE

Your claim file, known as the Administrative File, will be compiled by your Pension Claims Analyst. The Administrative File is the official record of your disability application and the Board will review its contents before making a decision on your application. The Administrative File may contain:

- Medical examination reports
- Medical test results
- Reports of X-rays or other diagnostic procedures
- Workers' Compensation records
- Documents from your department
- Other related information or documents determined to be relevant by Pension staff

The following individuals will have access to the Administrative File:

- The applicant
- Department of Fire and Police Pensions claims processing staff
- Your attorney or representative
- Your department's Medical Liaison
- The City Attorney
- The Board of Fire and Police Pension Commissioners

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MEDICAL EXAMINATIONS

The Administrative Code requires that a disability applicant be examined by at least three doctors selected and paid for by the Department of Fire and Police Pensions. Additional specialists may be required for multiple impairment claims. The Department of Fire and Police Pensions maintains an independent list of physicians separate from the Workers' Compensation process as much as possible. The doctors are monitored and evaluated to ensure an unbiased, accurate evaluation and report. Be advised that:

Pension doctor evaluations will be conducted in the Southern California region. You are responsible for all travel costs to your appointments.

If you miss a scheduled appointment, processing of your application will be suspended until you pay the cost of the missed appointment and any costs related to the rescheduling of that appointment.

If you refuse to be examined, processing of your application will be suspended.

The Department of Fire and Police Pensions will not pay for any tests, examinations or reports that you or your representative request.

Do not submit any documents to the pension doctors, or attempt to contact them (except to confirm your appointment) unless you've been specifically directed to do so by your Pension Claims Analyst.

BEFORE THE HEARING

After the disability examination reports and other relevant information required to complete the Administrative File are received, your Pension Claims Analyst will formulate a recommendation regarding resolution of your application. This recommendation will be submitted to the Board along with your Administrative File. The recommendation will consist of 4 elements:

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- Do the impairments constitute disability?
- Is the disability service or non-service connected?
- Pension percentage rate
- Scheduling of future review

You or your representative will be informed of the recommendation and requested to return a form stating agreement or disagreement with the recommendation.

Your Pension Claims Analyst will schedule a date for the Board hearing with you or your attorney/representative. You will be notified of the date, time and location several weeks in advance. Your Administrative File will be available for your review during normal business hours for at least one week prior to the hearing.

THE DISABILITY HEARING

THE BOARD OF FIRE AND POLICE PENSION COMMISSIONERS

The Board is composed of nine Commissioners. Five are appointed by the Mayor, two are elected employee representatives, one each from the Fire and Police Departments, and two are elected retired members, one each having retired from the Fire and Police Departments. Five Commissioners need to be present to establish a quorum for disability hearings. A minimum of five affirmative votes is required to grant or deny an application for disability pension.

A copy of your Administrative File will be given to each Commissioner for study one week prior to your hearing.

REPRESENTATION

You may have legal counsel appear before the Board on your behalf. However, it is not necessary that you be represented by an attorney. If you choose to represent yourself or be represented by someone other than legal counsel, you may suspend the proceedings at any time during the hearing, without prejudice to your

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claim, OR within ninety days of the Board's decision, request a rehearing specifically to obtain legal representation.

ADDITIONAL DOCUMENTS & WITNESSES

If you have additional documents to submit for the Board to consider, or if you have witnesses you wish to appear on your behalf, the documents and/or a list of witnesses must be submitted to your Pension Claims Analyst no later than ten working days prior to the hearing. You must pay any witness fees for witnesses you have called.

TYPE OF HEARING

If you agree with the staff recommendation, the Board will conduct an abbreviated hearing which the applicant and/or the applicant's representative are not required to attend. Attendance is optional.

If the Board does not accept one or more of the previously agreed to elements of the recommendation, resolution of your application will be deferred. Your Pension Claims Analyst will reschedule your hearing so you and/or your representative may be present.

If you do not accept the recommendation, the Board will conduct a regular hearing as described below.

AT THE HEARING

- You will be sworn in.
- Your hearing will be conducted by the Commissioner who has been assigned lead responsibility for your application.
- You will be asked to accept the Administrative File into evidence and if you have any objections to the contents of the file.

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- You or your representative will be invited to present your case, which usually begins in a question/answer format.
- Witnesses will be sworn in and given the opportunity to testify regarding your application.
- You and the witnesses may also be questioned by any of the Board members.
- The medical liaison representative from your department will be sworn in and will provide testimony concerning the availability of a job which can accommodate your impairment or restrictions as reported by the pension doctors.
- You will be given an opportunity to speak on your own behalf.
- At the conclusion of testimony, you will be thanked and excused from the hearing room unless you are unrepresented and choose to remain.
- The Board will deliberate and render its decision.

NOTIFICATION OF DECISION

At the conclusion of your hearing, you will be informed of the Board's decision by your attorney, representative or Pension Claims Analyst. You will receive official written notification, via U.S. Mail, of the Board's action a few days after the hearing.

PENSION EFFECTIVE DATE

You will be provided with a form to designate the 12 month period to establish your Final Average Salary and your pension effective date. The effective date shall be no earlier than the latest of:

The first day following the last day on payroll (i.e., salary/vacation/sick) or

The first day following the last day on IOD or State Rate time, but

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Not later than the date of the Board hearing first granting a pension based on length of service or disability.

Reinstatement to payroll for any purpose permanently changes the earliest possible effective date of your pension. If you use your accrued/accumulated overtime/vacation/sick time because it provides more income than State Rate payments, your pension effective date shifts forward. You will not be eligible to receive retroactive pension benefits for any time prior to the new earliest date.

The designation form must be completed and returned before your hearing. Failure to do so could delay issuance of your first pension check by 1 - 2 months.

REHEARINGS

If your application is denied, or if you disagree with the percentage you were awarded:

WITHIN NINETY (90) DAYS FROM THE DATE OF YOUR HEARING (Adoption of Findings of Fact)

IF YOU WERE NOT REPRESENTED BY LEGAL COUNSEL: (does not include Union representation)

You may request a rehearing on the basis of having retained legal representation. You will be required to submit a completed ATTORNEY AUTHORIZATION form to support your request.

If you represented yourself and choose to represent yourself again at the rehearing, your rehearing can only be requested based on and supported by new or different evidence which, in the exercise of due diligence, could not have been made available by the applicant to the Board at the time of the original hearing. This new or different evidence, submitted with your request, will be reviewed by your Pension Claims Analyst and the City

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Attorney before it is forwarded with a staff recommendation to the Board for decision. The actual rehearing to consider the new or different evidence may take place immediately or be scheduled on a future agenda.

IF YOU WERE REPRESENTED BY LEGAL COUNSEL

You can only request a rehearing based on and supported by the new or different evidence requirement stated above.

NEW APPLICATION OR REAPPLICATION

You may file a new application after ninety (90) days from the date of your hearing only if you are reinjured or a previously denied condition becomes worse or you sustain a new injury. You must submit medical proof of the above along with your new application.

DISABILITY PENSION REVIEWS

A disability pension is granted based on the existence of a physical or psychological impairment. Disability pensions are not "life-time" pensions. Under the Administrative Code, the Board retains the right to review your disability pension at any time.

You also retain the right to request a review of your disability pension if you believe that the medical condition for which you were originally granted a disability pension has deteriorated.

Only claimed impairments that were found to be disabling by the Board at your original hearing will be considered in the review process. Therefore, any adjustment to your percentage amount will be based only on improvement or deterioration of the original impairments. There are four possible outcomes of a review:

If the disability is found to no longer exist –

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On disability pension for less than 5 years - If there is a job available for you in your original department, your disability pension will be terminated effective the date of your restoration to active duty or, if you fail to report, the date you were ordered to return to duty.

On disability pension for 5 or more years - Your disability pension will be reduced to 30 %. This will occur even if you are entitled to more than 30 % based on your length of service (equal to or greater than 15 years of service at 2 % per year).

If your active status was terminated by reason of resignation or discharge, regardless of your length of service or time on a disability pension, your disability pension will be terminated.

If the disability is still present, but to a lesser degree, the pension percentage could be lowered.

If the disability is still present and has not changed, the pension percentage could remain the same.

If the disability has worsened, the pension percentage could be increased.

Failure to cooperate with the review process may be cause for disability pension benefits to be withheld or terminated.

A disability pensioner returned to work may receive credit toward service retirement for the time spent on a disability pension. After remaining on the job continuously for one year, a returned disability pensioner restores disability time at a day for day conversion rate.

After three years of continuous duty, the entire disability pension time will be restored for purposes of calculating length of service. Pensioners who return from non-service connected disability pension are required to pay pension contributions to

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purchase time spent on disability pension if that time is to be credited toward length of service.

If you return to duty from a disability pension you cannot receive a refund of contributions at a later date for service prior to receiving the disability pension.

WORKERS' COMPENSATION

The Board renders disability retirement decisions independently of Workers' Compensation. Even though you may have a Workers' Compensation award, it does not automatically entitle you to a disability pension, or if the Board finds you disabled, to a service connected disability pension.

AWARD REPAYMENT

If you receive a disability pension, Workers' Compensation awards you received must be paid back to the City. This includes all injuries for which you filed a Workers' Compensation claim and received benefits, not just the one(s) for which you also received your disability pension. Offset against your pension will be cash awards (which includes the amount the Workers' Compensation Appeals Board took out of your award to pay your attorney for representing you), state rate disability payments and costs associated with vocational rehabilitation maintenance allowances.

Such awards shall be paid back either as a lump sum or in the form of a minimum 25 % deduction of and from your total monthly gross disability benefit until the entire amount is repaid.

TAXES

SERVICE - CONNECTED DISABILITY PENSIONS - Service connected disability pensions are not taxed up to the percentage the Board establishes, using the rating schedule, as your disability. If you are granted an additional percentage based upon years of service, this amount is taxable.

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NON-SERVICE CONNECTED DISABILITY PENSIONS - Non-service connected disability pensions are fully taxable.

SPOUSE'S OR QUALIFIED DOMESTIC PARTNER'S ELIGIBILITY FOR SURVIVOR BENEFITS

If you are granted a service connected disability pension you are required to be married to your spouse, or have declared a qualified domestic partner, on the effective date of disability retirement in order for the spouse or domestic partner to be eligible for survivor benefits.

If you are granted a non-service connected disability pension, the date of your marriage, or declaration of domestic partnership, must be at least one year prior to the pension effective date in order for the spouse or qualified domestic partner to be eligible for survivor benefits.

If your eligible spouse or qualified domestic partner dies and you remarry while receiving a pension, your new spouse or domestic partner is not eligible for any survivor benefits.

DIVORCE AND YOUR PENSION

Disability retirements are considered community property by California courts. If you are or were divorced, a photocopy of your property settlement and final decree should be filed with your pension records.

A "Notice of Termination of Domestic Partnership" form must be filed with the Department of Fire and Police Pensions once a partnership has ended.

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SURVIVOR RECORDS & DOCUMENTS

To facilitate the granting of survivor benefits, you are strongly advised to provide the Department of Fire and Police Pensions with copies of your current marriage certificate, Declaration of Domestic Partnership, divorce documents from prior marriages, termination(s) of prior domestic partnership(s), copies of birth certificates of children under age 18, or 22 if the child is still in college, (the ages at which minor's benefits are terminated) or dependent children. A medical report documenting a dependent child's medical condition (i.e., disabled from earning a livelihood) and the onset of that condition is also critical. Photocopies of these documents are sufficient. Send documents to:

DEPARTMENT OF FIRE AND POLICE PENSIONS
360 East Second Street, Suite 400
Los Angeles, California 90012
ATTN: Disability Pension Section
(Name of Your Pension Analyst)

POST-RETIREMENT MEDICAL EXPENSES

The Department of Fire and Police Pensions does not pay medical expenses for any purpose other than Board mandated review examinations after you retire. Contact your Union for any health insurance subsidy you may be entitled to receive, and Workers' Compensation for ongoing treatment of IOD injuries.

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