

SANTA BARBARA COUNTY EMPLOYEES' RETIREMENT SYSTEM

GUIDELINES FOR DISABILITY RETIREMENT EFFECTIVE DATES

1.0 INTRODUCTION. These Guidelines explain how the Board interprets and applies Government Code section 31724, which governs the effective date of disability retirement allowances. The Board delegates to the Administrator the authority to provide additional direction to staff consistent with these Guidelines, and to make preliminary determinations on issues not specifically addressed here. The Board reserves the right to amend these Guidelines at any time, as the Board deems appropriate.

2.0 PROMPT APPLICATION ENCOURAGED. The Board encourages members to apply for disability retirement as soon as they have reason to believe that their disability is likely to prevent them from returning to their current job. When an application for disability retirement is filed promptly, memories of witnesses are fresher and medical evidence is more readily available, which assists the Board in making an informed decision. When an application is delayed, during the delay witnesses may die or move away and relevant medical records may be lost or destroyed, making it difficult or impossible for the member to prove entitlement to a disability retirement, which is the member's burden to prove. A delay in applying may also bar the member from receiving a disability retirement the member would otherwise deserve if the delay is unreasonable and granting the benefit would be unfair to the retirement system membership or the employer.

3.0 DEFINITIONS. For purposes of these Guidelines, the following definitions apply:

3.1 LABOR CODE DIVISION 4 COMPENSATION means any compensation paid for a leave of absence pursuant to Labor Code section 4850.

3.2 APPLICATION DATE means the date an application for disability retirement is filed with the Retirement Board.

3.3 EFFECTIVE DATE means the date from which a disability retirement allowance is payable.

3.4 REGULAR COMPENSATION means compensation of any kind or amount that the employer pays (a) at the member's regular rate of pay, (b) for employment in the member's regular position, and (c) for actually working, or for an absence from work.

4.0 NORMAL EFFECTIVE DATE. Subject to the exceptions in subsection 6 below, the effective date will be the application date.

5.0 LATER EFFECTIVE DATE. Subject to the exceptions in subsection 5.1 below, if the member receives regular compensation or Labor Code Division 4 compensation, or both, for a period after the application date, the effective date will be the day following the last day for which the member received any such compensation.

6.0 APPLICATION DATE DEEMED EARLIER. If the filing of an application is delayed for one of the following reasons, the application date will be deemed to be the day following the day for which the member last received regular compensation, and the effective date will then be determined

according to sections 4 and 5 above, substituting the deemed application date for the actual application date:

6.1 ADMINISTRATIVE OVERSIGHT. Such cases include those where, through administrative error, the application was filed timely, but then lost, or was submitted timely for filing, but was not filed. Such cases may also include those where the member was involved in a civil service proceeding seeking to maintain the right to work over the employer's objection, if filing a disability retirement application would have compromised the member's position in the civil service proceeding.

6.2 INABILITY TO ASCERTAIN THE PERMANENCY OF THE INCAPACITY UNTIL AFTER THE MEMBER LAST RECEIVED REGULAR COMPENSATION. The Board will determine whether, on the day following the last day for which the member received regular compensation, the member knew or should have known that the incapacity was permanent. If not, the Board will generally find that an application filed later was delayed by the inability to ascertain the permanency of the incapacity; however, if the member unreasonably delays applying after the member knew or should have known of the permanency, the Board may conclude that the member has not carried his or her burden of demonstrating that the filing was delayed by inability to ascertain the permanency.

7.0 RATE. In calculating benefits, it is necessary to calculate the member's final compensation pursuant to Government Code section 31462.1 or 31462, or the member's final compensation pursuant to Government Code Section 7522.32 where applicable. Under those statutes, the member may select the highest periods of compensation, while still working, as final compensation for purposes of calculating the amount of retirement benefits received. Where no selection is made by the member, the applicable period (one year or three years) will be the period immediately preceding retirement. When a member is absent from the workplace during the period used for the calculation, the member's compensation for the period of the absence shall be based on the rate of compensation, during the period of the absence, of the position held by the member at the beginning of the absence. Different rules may apply to calculation of compensation during leave of absences for members employed after January 1, 2013 pursuant to Government Code Section 7522.32.

8.0 PROCEDURES. The Board directs that preliminary determinations of effective date be made by staff in consultation with the member and/or the member's counsel, and that staff then inform the employer, the Department of Human Resources, and County Counsel of the preliminary determination. If any party disputes the preliminary determination, the Board will finally adjudicate the matter, and may refer the issue to hearing where appropriate.

9.0 AMENDMENT HISTORY

This policy was adopted by the Retirement Board on January 29, 2009; and revised on April 23, 2014.