

Disability Retirement Application Procedure and Criteria for Disability Retirement

I. Disability Retirement: Eligibility and Benefits (TMC 1.30.630 and TMC 1.30.640):

- A. To be eligible to apply for a disability retirement, a member must have at least five years credited service, unless the disability was caused by an on-the-job-injury, in which case there is no minimum service requirement.
- B. TMC 1.30.630 authorizes a disability retirement if the Board appointed physician makes a written finding that the member is “permanently and totally incapacitated, either physically or mentally, for the performance of duty.”
- C. A disability retirement benefit is equal to 1.5% of final average pay multiplied by the number of credited years. If this formula results in an amount less than one third of final average pay, the member may be credited additional (up to 22) years, depending on the member age.

II. TERS Criteria for Determining Entitlement to a Disability Retirement:

- A. TMC 1.30.275 defines “disability” as a member’s total and permanent, physical or mental incapacity to perform his or her present job classification or any other job classification for which the member is qualified within the employing agency.
- B. TMC 1.30.630 states that a member who a Board appointed physician finds “permanently and totally incapacitated either physically or mentally, for the performance of duty” is entitled to disability retirement.
- C. When considering whether an application for disability retirement satisfies the criteria in TMC 1.30.275 and 1.30 630 the Disability Committee will apply the following test:

A member should be considered “permanently and totally incapacitated” and entitled to a disability retirement if the written opinion of the Board appointed Independent Medical Examiner (IME) establishes **all** of the following:

- As a result of any one (or the combination of more than one) physical or mental impairment the member is totally unable to continue to perform the duties (or modified duties if modifications have been offered) of his or her present job classification.
- As a result of any one (or the combination of more than one) physical or mental impairment the member is totally unable to perform the duties of any other position for the member’s employer for which the member is qualified to perform by training or experience, if any alternative job classifications were considered.
- The impairment is permanent, in that it is reasonably certain to continue for the foreseeable future.

III. Disability Retirement Application Procedures:

- A. Member requests a *Disability Retirement Estimate*. Retirement staff prepares this estimate, as well as a regular estimate (if they are eligible for service retirement) so that the member can see how a disability retirement benefit compares to a regular or early retirement benefit.
- B. If the member wishes to proceed, the member should submit an *Application for Disability Retirement* which consists of a 3 Part process. Part 1 of the application requests the member to describe the physical and/or mental condition or conditions the member asserts to be disabling and to sign a release authorizing Retirement staff to access and release any medical information necessary to process the disability retirement application.
- C. Upon receipt of Part 1 of the application, Retirement staff will notify the Director of Risk Management that the member has applied for disability retirement, and request any relevant information about the member's job classification and whether alternative job classifications have been considered and what accommodations or modifications to the present job classification have been made. The Retirement staff may notify the member's Department Head that the member has applied for disability retirement and request from the department any additional relevant information that has not already been supplied to Human Resources/Risk Management.
- D. Part 2 of the application is a form that the member must submit to his/her treating doctor(s) requesting the doctor provide answers to certain questions, including whether the member is totally and permanently incapacitated under the TERS criteria for entitlement to disability retirement noted in Section II C above. Part 2 of the application also requests the treating doctor(s) complete a physical capacities evaluation of the member's ability to perform the duties of the member's present job classification (or modified duties if modifications have been offered) or any other job classification for which the member is qualified by training and experience if alternative job classifications have been considered. Retirement staff will assist the member in obtaining descriptions of the relevant job classifications for the member to submit to the treating doctors.
- E. The member is responsible for obtaining his or her relevant medical records from the treating doctors. Part 2 of the application (which the member submits to the treating doctors) requests the treating doctors to transmit the relevant records to the Retirement Office so that the Retirement Office can submit the records to an independent medical examiner (IME). The member will bear any costs associated with obtaining his or her relevant medical records and transmitting the records to the Retirement Office.
- F. After the member's treating doctor(s) returns the fully completed Part 2 of the application to the Retirement Office (including any relevant medical records that the member requested the treating doctor(s) to transmit to the Retirement Office), the Retirement Office will set up an appointment for the member with an Independent Medical Examiner (IME) or with an IME panel of multiple physicians in the specialties appropriate to the member's specific disability

- G. The IME will be provided with Part 1 and Part 2 of the disability retirement application, including any job classification descriptions reviewed by the treating doctors and including any of the member's medical records the treating doctor(s) provided to the Retirement Office. The Retirement Office will also provide the IME with any other information relevant to the IME evaluation of whether the member is entitled to a disability retirement under the TERS criteria contained in II C above. The IME will be instructed to answer a series of questions and to provide a written report to the Retirement Office for the purpose of establishing whether or not the member meets the TERS criteria for disability retirement.
- H. If the IME report fails to provide a medical opinion that the member is disabled under the TERS criteria, the Retirement Director will deny the disability retirement application. The Director's denial will be in writing and will inform the member that the member may, within 30 days of the date of the Director's denial of the disability retirement application, request the Disability Committee of the Board to review the denial.

IV. Disability Committee Review:

- A. Once the Retirement Office receives the final written IME report, the Retirement Director will schedule a Disability Committee meeting. The Disability Committee members will be provided with:
 - 1. The disability retirement application (Parts 1 and 2)
 - 2. Dates of employment
 - 3. Description of member's present (or modified) job classification and descriptions of any other job classifications considered
 - 4. IME Reports
 - 5. Any other relevant information
- B. The Disability Committee will meet, in a closed adjudicative session, to review the materials and determine if the TERS definition of disability (see II C above) is satisfied and the disability retirement should be granted.
- C. The Disability Committee will make its recommendation to the Retirement Director, who is authorized to process the Disability Retirement, if approved. The Disability Committee may choose to include a required follow up exam at some specific future date as part of its recommendation.
- D. At any time, or after the applicant requests a full Board review (consistent with V. B. below), the full Board may meet in a closed adjudicative session to review the materials considered by the Disability Committee or discuss in detail the Disability Committee's recommendation.
- E. The member's Disability Retirement will be listed along with other retirements and withdrawals in the "Retirement Transactions Report" provided in the Board packet.

V. Written Communication of Decision to Member and Annual Follow Up:

- A. The Retirement Office will provide a letter to the member with the Disability Committee's decision in response to the disability retirement application.
- B. If the Disability Committee recommends denial of the disability retirement application, the member will be advised that he/she may: a) request a full Board review of the application within 30 days or b) reapply within six months under the authority of TMC 1.30.630B, provided the member provides new medical records or diagnosis justifying the Retirement Office to order an updated IME.
- C. If the Disability Committee recommends approval of the disability retirement, the Retirement Director is then authorized to process the request. The Retirement Office will then contact the member to schedule a conference via in person or by teleconference to complete Part 3 of the disability retirement application.
- D. On an annual basis, the Retirement Office will contact the member, asking the member to confirm in writing that he or she is not employed, and remains disabled under the TERS criteria.
- E. Consistent with TMC 1.30.650, the Board may require any member under age 60 who is receiving a disability pension undergo a medical exam by a Board appointed IME.

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