



# Retirement Board Regular Meeting

## Sacramento County Employees' Retirement System

### Agenda Item 16

**MEETING DATE:** September 20, 2017

**SUBJECT:** Annual Report on Disability Retirement Application Processing

**SUBMITTED FOR:** \_\_\_ Consent      \_\_\_ Deliberation and Action      \_\_\_ Receive and File  
**X**

#### **RECOMMENDATION**

Staff recommends that the Retirement Board receive and file this annual report for the fiscal year ended June 30, 2017.

#### **BACKGROUND**

In October 2007, the Retirement Board established new procedures for the processing of disability retirement applications. These procedures were codified in Chapter 5 of the SCERS Bylaws and implemented following approval by the Board of Supervisors in February 2008.

Because the referenced procedures require the annual evaluation of disability retirement processes and activities, General Counsel and the Chief Benefits Officer compile certain statistics every fiscal year and prepare a corresponding report to the Retirement Board. General Counsel and the Chief Benefits Officer also discuss disability retirement activity throughout the year and regularly review administrative issues that appear to increase the time and/or expense required to resolve Disability Retirement Applications.

#### **DISCUSSION**

As with prior reporting, Staff has considered the Disability Retirement Applications that concluded during the fiscal year ended June 30, 2017 and reviewed the corresponding processing times and outcomes. For comparison, Staff has also categorized each application to reflect the method of resolution:

#### **Annual Period Ended 6/30/2017**

- 56 Applications Concluded (18 NSCDR and 38 SCDR):**
- 30 Staff Recommendations for Approval\*
- 0 Proposed Administrative Hearing Decision for Approval
- 17 Proposed Administrative Hearing Decisions for Denial\*
- 9 Withdrawn Applications

**Average Processing Time: 1 Year, 9 Months**

\* Includes one Application for Survivor's Service-Connected Death Benefits.

Relative to data reported for the preceding fiscal years, the current year activity shows a slight increase in overall conclusions and a similar improvement in processing:

**Annual Period Ended 6/30/2016**

**50 Applications Concluded (16 NSCDR and 34 SCDR):**

- 21 Staff Recommendations for Approval
  - 2 Proposed Administrative Hearing Decisions for Approval
- 23 Proposed Administrative Hearing Decisions for Denial\*
- 4 Withdrawn Applications

**Average Processing Time: 2 Years, 0 Months**

**Annual Period Ended 6/30/2015**

**53 Applications Concluded (19 NSCDR and 34 SCDR):**

- 34 Staff Recommendations for Approval
  - 1 Proposed Administrative Hearing Decision for Approval
- 10 Proposed Administrative Hearing Decisions for Denial
- 8 Withdrawn Applications

**Average Processing Time: 1 Year, 8 Months**

For reference, some degree of improvement in average processing times is expected when there is a year-over-year increase in staff recommendations and a decrease in proposed administrative hearing decisions. This is because applications that are referred to hearing tend to require more time to resolve than applications that are not.

**OBSERVATIONS**

The number of applications resolved by staff recommendations (which, under Bylaws in effect for the past 30 years, are limited to recommendations for the approval of benefits) increased overall and showed a noticeable shift away from the Chief Benefits Officer toward subordinate staff:

**Applications Submitted with Staff Recommendations for Approval during Fiscal Year Ended June 30, 2017**

- 6 Staff Recommendations by Chief Benefits Officer  
*Average Processing Time: 1 Year, 6 Months*
- 11 Staff Recommendation by Disability Specialist "A"  
*Avg. Processing Time: 1 Year, 1 Month*
- 13 Staff Recommendation by Disability Specialist "B"  
*Avg. Processing Time: 1 Year, 5 Months*

From a numeric standpoint, one can argue that the increase in staff recommendations is more impressive than reported, since the totals do not include the recommendations submitted for granting an NSCDR, with the issue of causation remaining to be adjudicated if the applicant wishes to pursue the SCDR portion of the application. As the Retirement Board is aware, this situation arises when an application for both NSCDR and SCDR is submitted, and the applicant has met his or her burden of proof on the issues of incapacity and permanency, but has not met the burden on the issue of causation or service-connection. During the current fiscal year, staff

submitted four recommendations to grant NSCDR, with the issue of service connection remaining to be adjudicated. The Board approved these recommendations. To date, one applicant has withdrawn the SCDR application, and the three other cases are pending the scheduling of an administrative hearing on the issue of service connection.

While staff's contribution toward this positive development cannot be overlooked, the correlation with last year's decision to retain an external Medical Advisor is undeniable. Now that a dedicated Medical Advisor is charged with completing the initial review of records gathered by staff and preparing a written report for discussion by the Disability Review Committee, it stands to reason that staff will be able to submit more applications to the Retirement Board each year and require less processing time from start-to-finish. Provided this trend continues, it also stands to reason that individual backlogs will continue to decline and that some of the administrative tasks outsourced in recent years -- like preparing administrative records for applicants who choose to appeal Retirement Board decisions -- may revert to internal staff.

With regard to applications that could not be resolved on the medical record alone and required referral to hearing, we experienced a decline in the number of proposed decisions delivered by the internal and external legal resources that we utilize to address applications in dispute:

Applications Adjudicated & Resolved by Proposed Decision during Fiscal Year

11 Proposed Decisions Procured by County Counsel (0 Approvals, 11 Denials)

*Average Processing Time: 2 Year, 9 Months*

6 Proposed Decisions Procured by Outside Counsel "A" (0 Approvals, 6 Denials)

*Average Processing Time: 2 Years, 6 Months*

Although there are cases in which the timeframe required for hearing can be affected by factors beyond the control of counsel, SCERS continues to monitor adjudication times as part of a broader review of legal resources. For reference, this review includes other factors that can affect the timing and cost of individual hearings, including decisions about whether or not to press for record-based decisions as an alternative to live proceedings and decisions about whether or not to advocate for expert medical testimony at hearing.

**PENDING CHANGES**

As the Retirement Board is aware from this annual report over the last four years, staff has identified certain administrative barriers to resolving insufficient Disability Retirement Applications more quickly -- including the current requirement that disputed applications must be considered by an independent referee before they can be rejected or denied. In order to remedy some of these problems and improve processing for all stakeholders -- applicants, employers and staff -- General Counsel submitted new Disability Retirement Procedures ("DRPs") to the Retirement Board at the January 20, 2016, meeting and subsequently obtained approval to submit these procedures to the County Board of Supervisors for final adoption. However, because County Administration has expressed a strong preference to keep the disability retirement processes codified within the SCERS Bylaws, rather than the administrative manual

proposed for the DRPs, General Counsel will be re-submitting the referenced changes to the Retirement Board next month within the content of SCERS Bylaws. Moving forward, these new Bylaws, as well as any future ministerial changes involving the processing of Disability Retirement Applications, will require approval by the Board of Supervisors before they go into effect for the Sacramento County Employees' Retirement System.

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