

<b>COUNTY OF SHASTA</b>		Number
<b>ADMINISTRATIVE MANUAL</b>		7-145
SECTION:	Employment	Disability Retirement Procedures for Employees Who Are Not Safety Members
INITIAL ISSUE DATE:	September 16, 2003	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 1 of 5	

**PURPOSE**

The retirement system for employees of Shasta County is maintained by contract between the Board of Supervisors of Shasta County and the Board of Administration of the California Public Employees' Retirement System (CalPERS). One type of benefit provided by CalPERS is a disability retirement benefit.

Under the CalPERS system (Government Code §21152), a disability retirement application for a Shasta County employee may be made to CalPERS by either the employee or any person acting in his or her behalf, or by the Board of Supervisors of Shasta County or an official designated by the Board of Supervisors. An employee granted a disability retirement is separated from County service.

By adopting this policy, the Board of Supervisors of Shasta County authorizes the Director of Support Services, or the Director's designee, to make disability retirement applications to CalPERS for Shasta County employees.

This policy sets forth the circumstances under which the Director of Support Services, or the Director's designee, may make disability retirement applications to CalPERS for Shasta County employees. This policy does not apply to applications for disability retirement and/or industrial disability retirement for employees classified as local safety members under the CalPERS system as they are covered under Administrative Policy [7-140](#), *Procedures for the Conduct of Safety Member Disability Retirement Hearings*.

Nothing in this policy prohibits an employee or an employee's representative from making an application to CalPERS for a disability retirement on the employee's behalf at any time.

**PROCEDURE**

In those circumstances where a Shasta County employee or a person acting on the employee's behalf does not apply to CalPERS for a disability retirement, the Director of Support Services, or the Director's designee, will make a disability retirement application to CalPERS for the employee if the following requirements are met.

1. The employee is a member of the CalPERS system and has been credited with five years of service in that system; and

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LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 2 of 5	

2. The Director of Support Services, or the Director’s designee, reasonably believes the employee is incapacitated from the performance of his or her duties due to a disability, as defined under the CalPERS law and court decisions interpreting the CalPERS law.

The following procedure will be used in making a disability retirement application to CalPERS for a Shasta County employee who is not a local safety member under the CalPERS law.

1. Initial Recommendation by a designee (“Designee”) of the Director of Support Services

A Designee of the Director of Support Services will make the initial recommendation as to whether Shasta County will make a disability retirement application to CalPERS for an employee. The Designee may consult with the employee, the employee’s department head or other department manager, Risk Management, County Counsel, and/or others in making this recommendation. The Designee for the Initial Recommendation shall not serve as the Director of Support Service’s designee for making a final determination as stated in Item # 3 below.

Prior to making this recommendation, the Designee will first consider whether the employee has exhausted all FMLA/CFRA leave and/or any other statutory leaves, if the employee is qualified to receive such leaves.

Prior to making this recommendation, the Designee will also consider whether any reasonable accommodations exist, pursuant to the County’s Disabilities Nondiscrimination and Accommodation Policy, and/or if the employee has a disability as defined under the Americans with Disabilities Act, the California Fair Employment and Housing Act, or other governing law.

In making this recommendation, the Designee may request that the employee authorize his or her physician, or other physicians to provide information concerning the employee’s work limitations and potential accommodations that would reasonably address these limitations in the workplace. The Designee may also require the employee to report for a fitness-for-duty examination by a physician of the County’s choice at County’s expense, in accordance with all applicable laws pertaining to fitness-for-duty examinations.

2. Notice of Recommendation to Apply for Disability Retirement and Opportunity to Appeal to the Director of Support Services

When the Designee decides to recommend that Shasta County make a disability retirement application to CalPERS for an employee, the Designee will prepare a written notice to the

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INITIAL ISSUE DATE:	September 16, 2003	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 3 of 5	

employee of the proposed action. The notice will include:

- a. A statement that Shasta County intends to make a disability retirement application to CalPERS for the employee and, if CalPERS grants the employee a disability retirement, the employee will be separated from County service.
- b. A statement of the grounds and supporting facts for the proposed action.
- c. A copy of the materials, if any, upon which the proposed action is based.
- d. A statement that the employee has the opportunity to respond orally (referred to as a hearing) or in writing to the Director of Support Services, or the Director's designee, within five calendar days of receipt of the letter, or such later date as the letter may state, and the right to be accompanied by a personal representative of the employee's choice during any oral response.
- e. A statement that a decision on the matter will be made by the Director of Support Services, or the Director's designee, after the close of the response period if no request to make an oral response has been received.
- f. A statement that the final decision whether to grant a disability retirement will be made by CalPERS, not by the County, and that any appeal of the decision made by CalPERS will be governed by CalPERS law.

The notice will be served personally upon the employee during business hours. In the alternative, the notice may also be sent by certified mail to the employee's last known address. If delivery is refused, the letter must then be sent by first class mail and will be deemed received three working days after mailing. A copy of the notice will be sent to the Director of Support Services, or the Director's designee, and to the employee's department head.

3. Determination by the Director of Support Services

If no request for a hearing is received by the Director of Support Services, or the Director's designee, from the employee or the employee's personal representative within the response period set forth in the notice, the Director, or designee, will determine whether the County should make an application for a disability retirement to CalPERS for the employee based on the evidence then before the Director, or designee, including any written response submitted by the

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INITIAL ISSUE DATE:	September 16, 2003	
LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 4 of 5	

employee. If a hearing has been requested, the Director, or designee, will set a date for the hearing within a reasonable period of time.

During any hearing, the Director of Support Services, or the Director's designee, will explain any allegation if so requested by the employee, and the employee or the employee's representative may offer evidence in response to the proposed action. Formal rules of evidence or procedure will not apply in any hearing held under this section.

After the close of the hearing, the Director of Support Services, or the Director's designee, will make a determination based on all the evidence and will advise the employee by letter of that determination. The Director, or designee, may request that additional evidence be provided prior to making a final determination.

If the Director, or designee, determines that the County will make an application for a disability retirement to CalPERS for the employee, the Director, or designee, will advise the employee that the final disposition of the application and decision to award or deny disability retirement benefits lies solely with CalPERS, the County has no involvement in that decision, and any appeal of the decision made by CalPERS is governed by CalPERS law.

Upon making the application for a disability retirement to CalPERS for the employee, the Director, or designee, will provide a copy of that application to the employee within a reasonable time period after submitting the application.

The notice of the Director's, or designee's, determination and any subsequent disability retirement application will be served personally upon the employee during business hours. In the alternative, the notice will be sent by certified mail to the employee's last known address. If delivery is refused, the letter must then be sent by first class mail and will be deemed received three working days after mailing.

The final determination as to whether an employee (who is not a local safety member under the CalPERS law) is entitled to a disability retirement will be made by CalPERS and not by the County. Any appeal from the determination by CalPERS will be governed by CalPERS law.

4. Impact of Decision Made by CalPERS Concerning Application for Disability Retirement

Upon receipt of notice by the County that the employee has been added to the CalPERS retirement roll, the department will separate the employee from County service by completing the appropriate paperwork and submitting it to Personnel.

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LATEST REVISION DATE:	July 13, 2012	
PAGE NO:	Page 5 of 5	

Should the County receive notice that the employee is not granted a disability retirement by CalPERS, the County will give additional consideration as to whether reasonable accommodations could be made that would enable the employee to perform the essential functions of his or her job, or another vacant position within the County for which the employee qualifies as appropriate. This would typically be done by the County's ADA Coordinator, or designee, after interacting with the employee, employee representative (if applicable), and department management. If no reasonable accommodations are found that would enable the employee to continue working for the County at this point, the department will take appropriate actions to separate the employee from County service when authorized by law.

**RESPONSIBLE DEPARTMENTS**

Support Services--Personnel

**REFERENCES**

Administrative Update--07/13/2012  
 BOS Policy Resolution No. 2011-08--9/13/11  
 BOS Policy Resolution No. 2008-02--3/4/08 (Renumbered to 7-145 from 8-130; amended)  
 BOS Policy Resolution No. 2003-2--9/16/03