



MUNICIPAL POLICE

EMPLOYEES' RETIREMENT SYSTEM

Disability Retirement Laws

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What are the first steps?

- The member should complete a Request for Disability Estimate and Application, which is available on our website.
- Once the member has received his estimate, he must fill out a Disability Retirement Application. No application will be considered until it's fully and correctly completed and submitted with all required documents. Further, all previously refunded contributions from the system must be repaid, including compounded interest at the board-approved actuarial valuation rate.

What are the first steps? (continued)

- R.S. 11:208(A) requires the supervisor of the applicant to submit to the board a report which shall include a brief history of the case and the supervisor's opinion as to the applicant's present ability to perform the normal duties required of him.

What are the legal requirements to receive a disability retirement?

- Required minimum years of service credit
 - None, if disability is solely as the result of injuries sustained in the performance of his official duties.
 - Otherwise, 10 years, provided that the disability was incurred while the member was an active contributing member in active service.
- If application is not filed while in active service, must be proved by clear, competent, and convincing evidence that disability was incurred in active service.

What are the legal requirements to receive a disability retirement? (continued)

- Must be disabled to perform the position held by the member at the time that the disability was incurred **OR** as disabled to perform any other position paying the same salary currently available in the department so long as the disability is not the result of a preexisting condition.
 - The “or” in this statute should be changed to an “and.”
 - Within 30 days, chief must send the job descriptions of all positions currently available in the department paying the same salary, or it shall be presumed that no position is available that pays the same salary.

Examination

R.S. 11:218

- Within six weeks of submitting the completed Disability Retirement Application and required documents, the applicant's disability case history shall be examined by an outside physician designated by the board.
- The physician must conduct a medical examination of the applicant, unless obvious and overwhelming medical evidence of disability exists to his satisfaction.

Examination (continued)

R.S. 11:218

- The cost of the examination, including costs of laboratory tests, X-rays, and other such direct examination procedures shall be borne by MPERS; however, all nondirect costs such as hospital room, board charges, and other such expenses shall be borne by the applicant.
- The board-designated physician must submit an in-depth report which shall include a medical evaluation and his conclusions as to the applicant's claimed disability. The physician determines whether the applicant is totally and permanently disabled, NOT the board of trustees.

Examination (continued)

R.S. 11:218

- An applicant shall be considered certified as having a total disability if, in the in-depth report submitted by the examining physician to the board of trustees, the physician declares the applicant to be totally incapacitated for the further performance of his normal duties and states that such incapacity is likely to be permanent.
- Should the examining physician's final certification decision be contested by either the applicant or the applicant's board of trustees, the contesting party shall have the right to a second medical examination if a written appeal is filed within thirty days of notification of the certification decision.
 - The appeal form is available on our website and will be mailed to the applicant.

Examination (continued)

R.S. 11:218

- If the second examining physician concurs in the findings and recommendations of the first physician, the first physician's original decision on certification shall stand as final and binding and shall not be subject to further appeal other than through the courts.

Examination (continued)

R.S. 11:218

- If the second examining physician disagrees with the findings and recommendations of the first physician, the two physicians shall select a third specialist to conduct another examination and prepare and file a third report in the same manner as provided for above. The majority opinion of the three examining physicians shall be final and binding and not subject to further appeal other than through the courts. The cost of the third medical examination shall be borne by the retirement system of the applicant if he is certified as having a disability, or by the applicant if his disability claim is denied.

Examination (continued)

R.S. 11:218

- The board of trustees must receive a final and binding disability certification from a board designated physician and retire an eligible disability applicant within one hundred and twenty days of the applicant's date of filing for disability retirement.

Notice Requirements

R.S. 42:17(A)(1)

- Under the Louisiana Open Meetings Law, any discussion about “the character, professional competence, or physical or mental health of a person” in executive session requires that such person is notified in writing at least 24 hours, exclusive of Saturdays, Sundays, and legal holidays, before the scheduled time contained in the notice of the meeting at which such executive session is to take place and that such person may require that such discussion be held at an open meeting. This notice should also be sufficient for procedural due process purposes.

What's the benefit amount?

R.S. 11:2223

- Generally, between forty and sixty percent of average final compensation ("AFC"), depending on years of service.
 - Hazardous Duty Subplan
 - Solely as the result of injuries sustained in the performance of his official duties, between thirty-three percent and fifty-five percent of AFC
 - Otherwise, between twenty-five percent and fifty percent of AFC
 - Nonhazardous Duty Subplan
 - At least ten years creditable service, not less than twenty-five percent nor more than fifty percent of AFC

What's the benefit amount? (continued)

R.S. 11:2223

- Special provisions for one hundred percent of AFC:
 - In a coma or paraplegic, when such condition is caused solely as the result of injuries sustained in the performance of his official duties and such condition is certified by the board-designated physician
 - Blinded or lost total use of a limb solely as a result of injuries sustained on or after July 1, 2003, in the performance of his official duties, and whose condition is certified by the board-designated physician
 - Board-designated physician certifies, NOT the board of trustees
 - The loss of use must be total and it must be of a limb (not a hand, etc.).
 - Solely as a result of injuries sustained on or after July 1, 2003
 - Injured sustained before July 1, 2003 and later lose total use of limb = not eligible

When does the retiree start receiving benefits?

R.S. 11:218 & 2223

- Disability benefits shall accrue from the filing date of the application for disability retirement, or from the day following the exhaustion of all sick leave or annual leave claimed by the applicant, whichever is the later.
- Cannot be paid until all employee and employer contributions are received, covering through the date of termination of employment

Annual Earnings Limitation

R.S. 11:221

- If a disability retiree receives compensation through gainful employment, workers comp, or otherwise that causes the retiree to exceed his earnings limit, then his disability benefit is reduced to prevent overpayment. Earnings limit is defined as the difference between retirement allowance and average final compensation, adjusted for inflation.
- By May first of every year, retiree must submit a notarized annual earnings statement detailing his earned income from employment in the previous tax year. Should a beneficiary refuse to submit such an earnings statement by May first, his allowance may be discontinued, without retroactive reimbursement, until the statement is filed. Should his refusal continue for the remainder of the calendar year, all his rights in and to his disability pension may be revoked.

Annual Earnings Limitation (continued)

R.S. 11:221

- Statutory Exceptions:
 - 62 years or older
 - Receiving disability benefits as a result of an injury sustained in the line of duty, who, as a result of his disability, is permanently and completely confined to a wheelchair for movement of person, or is permanently and legally blind as a result of injury suffered in the line of duty.
 - Receiving disability benefits as a result of an injury sustained in the line of duty, who, as a result of his injury, is an amputee to a degree that he would be disqualified from serving as a municipal policeman.

Outside financial benefits or awards

R.S. 11:221

- Benefits will also be reduced if a disability retiree receives the sum of a whole life annuity equivalent of the benefits or financial awards which accrue solely as a result of his disability and the disability pension to which the retiree is entitled exceeds the amount of his average final compensation, in such a matter that the sum of the above equals the amount of average final compensation.
 - Individual private insurance settlements and separate private retirement accounts and other similar non-system resources, including disability benefits from the Social Security Administration and the Veterans Administration, other than worker's compensation, shall be specifically exempted from consideration in any of the above computations. Social security shall not be deducted if the retirement system in which the member is vested provides for joint participation and benefits with social security.

Certification of continuing eligibility for disability benefits

R.S. 11:220

- Once each year during the first five years following retirement, and once in every three-year period thereafter, MPERS may require any disability beneficiary who has not yet attained the equivalent age of regular retirement to undergo a medical examination, at the beneficiary's expense. Such examination is to be made at the place of residence of said beneficiary if he is immovable or other place mutually agreed upon, by a board designated specialist. The examining physician shall submit a report to the board of trustees recommending either the continuation or cessation of the beneficiary's disability status. A contested decision shall be appealed under the procedures described in R.S. 11:218.
 - Currently, our procedures require that they be examined by board designated physicians. However, we should revise our procedures to reflect the current practice of having to file a physician statement from their own doctor. We can then review and send them to our doctor if necessary. Otherwise, they will have to pay around \$2,500 each time.

Certification of continuing eligibility for disability benefits (continued)

R.S. 11:220

- Should any disability beneficiary who has not yet attained the equivalent age of regular retirement refuse to submit to at least one medical examination in any such year by a medical board physician designated by the board of trustees, his allowance shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year all his rights in and to his disability pension shall be revoked by the board of trustees.
- The board of trustees, upon receipt of a final and binding report from a member of the State Medical Disability Board declaring a beneficiary's total disability to have ceased, shall order the discontinuation of the disability allowance.

MPERS Disability Retirees

<u>Member Code</u>	<u>Number of Members</u>	<u>October 2017 Monthly Benefits</u>	<u>Total Benefits to Date</u>
Merged	24	\$33,287.20	\$10,513,718.54
Less than 12 years service credit	138	\$126,098.79	\$23,054,950.17
12 or more years service credit	52	\$84,268.68	\$9,555,458.11
Totals	214	\$243,654.67	\$43,124,126.82
Average Monthly Benefit		\$1,138.57	