

Article 4: City Employees' Retirement System

Division 5: Disability Retirements

*("Benefits" incorp. 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S., adopted 11-29-1926;
repealed 10-25-1962 by O-8744 N.S.)
("Disability Retirement for Members and
Safety Members" added 10-25-1962 by O-8744 N.S.)
(Retitled to "Disability Retirements"
on 2-8-1993 by O-17891 N.S.)*

§24.0501 Industrial Disability—Safety and General Members

- (a) Any *Member* who joined the *System* on or before September 3, 1982, is eligible for an industrial disability retirement allowance, regardless of his or her age or years of *Service Credit*, if:
 - (1) the *Member* is permanently incapacitated from the performance of duty,
 - (2) the *Member's* incapacity is the result of injury or disease arising out of or in the course of his or her *City* employment, and
 - (3) the *Member's* incapacity renders his or her retirement necessary.
- (b) Any *Member* who enrolled in the *System* after September 3, 1982 will receive an industrial disability retirement allowance, regardless of his or her age or years of *Service Credit*, if:
 - (1) the *Member* is permanently incapacitated from the performance of duty,
 - (2) the *Member's* incapacity is the result of injury or disease arising out of or in the course of his or her *City* employment,
 - (3) the *Member's* incapacity renders his or her retirement necessary, and
 - (4) the *Member's* incapacity did not arise from:
 - (A) a preexisting medical condition, or
 - (B) a nervous or mental disorder.

- (c) For purposes of section 24.0501, a preexisting medical condition is a condition that occurred or existed before the *Member* joined the *System*. Any medical condition that occurs during a mandatory waiting period before the *Member* is eligible to join the *System* is not a preexisting condition.
- (d) Despite section 24.0501(b)(4), a *Member* who is employed by the *City* as of July 1, 2000 is eligible for an industrial disability retirement if all of the following conditions are met:
 - (1) the *Member* is a victim of a violent attack involving the use of deadly force,
 - (2) the attack occurs after June 30, 2000,
 - (3) the attack occurs within the applicable time period set forth in section 24.0501(e),
 - (4) the attack occurs while the *Member* is performing his or her duties as a *City* employee,
 - (5) the attack causes the *Member* great bodily harm,
 - (6) the attack causes the *Member* to suffer a nervous or mental disorder, and
 - (7) the *Board* determines, based upon the medical evidence, that the *Member* has become psychologically or mentally incapable of performing his or her normal and customary duties, as a result of the attack.
- (e) To receive an industrial disability retirement under section 24.0501(d), the attack must occur:
 - (1) before July 1, 2005, if the *Member* is not represented by the Police Officers' Association, or
 - (2) either before July 1, 2010, or on or after December 10, 2018, if the *Member* is represented by the Police Officers' Association.

(Amended 11-18-2002 by O-19121 N.S.)

(Amended 3-23-2016 by O-20617 N.S.; effective 4-22-2016.)

(Amended 7-30-2018 by O-20968 N.S.; effective 12-10-2018.)

§24.0502 Industrial or Non-Industrial—Service Retirement if Greater

Upon retirement for industrial or non-industrial disability, a member, including a safety member, who has attained the minimum age at which he may retire for service, shall receive his service retirement allowance, if greater.

(“Industrial or Non-Industrial—Service Retirement if Greater” added 12-8-1976 by O-11964 N.S.)

§24.0503 Industrial Disability—Safety Member—Computation of Benefits

Upon retirement of a Safety Member for industrial disability: (a) that Member shall receive in equal monthly installments a disability retirement allowance of 50% of Final Compensation plus an Annuity purchased with Accumulated Additional Contributions, if any; or, (b) if qualified for service retirement, that Member shall receive the service retirement allowance if such allowance, after deducting such additional Annuity is greater than the amount specified in Section 24.0503(a). The disability retirement allowance for a Safety Member retired because of industrial disability shall be derived from an Annuity based on that Member’s Accumulated Normal Contributions and a disability retirement pension derived from contributions of the City.

(Amended 2-25-1997 by O-18383 N.S.)

§24.0504 Non-Industrial Disability—Safety Member—Computation of Benefits

Upon retirement of a safety member for non-industrial disability, he shall receive a non-industrial disability retirement allowance which shall consist of:

- (a) An annuity which is the actuarial equivalent of his accumulated normal contributions at the time of retirement.
- (b) If in the opinion of the Board his non-industrial disability is not due to intemperance, willful misconduct, or violation of law on his part, a disability retirement pension derived from the contributions of the City. The disability retirement pension shall be such an amount as, with that portion of his annuity provided by his accumulated normal contributions, will make his disability retirement allowance equal to 90% of one 1/50th of his final compensation multiplied by the number of years of service credited to him or 1/3 of his final compensation, whichever is greater.

(“Non-Industrial Disability—Safety Member—Computation of Benefit renumbered from Sec. 24.0503.1 on 2-25-1997 by O-18383 N.S.)

§24.0505 Industrial Disability—General Member—Computation of Benefits

Upon retirement of a General Member for industrial disability:

- (a) that Member shall receive in equal monthly installments a disability retirement allowance of 50% of Final Compensation plus an Annuity purchased with Accumulated Additional Contributions, if any; or,
- (b) if qualified for service retirement, that Member shall receive the service retirement allowance if such allowance, after deducting such additional Annuity is greater than the amount specified in Section 24.0505(a). The disability retirement allowance for a General Member retired because of industrial disability shall be derived from an Annuity based on that Member Accumulated Normal Contributions and a disability retirement pension derived from contributions of the City.

(“Industrial Disability—General Member—Computation of Benefits,” renumbered from Sec. 24.0504.1 and amended 2–25–1997 by O–18383 N.S.)

§24.0506 Non–Industrial Disability—General Member—Computation of Benefits

Upon retirement of a general member for non–industrial disability, he shall receive a non–industrial disability retirement allowance which shall consist of:

- (a) An annuity which is the actuarial equivalent of his accumulated normal contributions at the time of retirement.
- (b) If in the opinion of the Board his non–industrial disability is not due to intemperance, willful misconduct, or violation of law on his part, a disability retirement pension derived from the contributions of the City. The disability retirement pension shall be such an amount as, with that portion of his annuity provided by his accumulated normal contributions, will make his disability retirement allowance equal to 90% of 1/ 60th of his final compensation multiplied by the number of years of service credited to him, or 1/3 of his final compensation, whichever is greater.

(“Non–Industrial Disability—General Member—Computation of Benefits” renumbered from Sec. 24.0505.1 on 2–25–1997 by O–18383 N.S.)

§24.0508 Minimum Benefit Due to Intemperance, Willful Misconduct or Violation of the Law

If in the opinion of the Board the disability is due to intemperance, willful misconduct or violation of law on the part of the member, including a safety member, and his annuity is less than \$240.00 per year, the Board may pay the member his accumulated contributions in one lump sum in lieu of his annuity.

(“Minimum Benefit Due to Intemperance, Willful Misconduct or Violation of the Law” added 12-8-1976 by O-11964 N.S.)

§24.0509 Annual Filing of Disability Affidavit

The Board of Administration shall prescribe rules and regulations for an annual filing of an affidavit of condition of disability from any member, including a safety member, who has been retired for disability, industrial or non-industrial. The Board may at any time prior to the time such member reaches the minimum age for voluntary retirement order suspension of benefits for failure to timely submit such affidavits or for failure to comply with any lawful order of the Board.

(“Annual Filing of Disability Affidavit” added 12-8-1976 by O-11964 N.S.)

§24.0510 Periodic Physical Exams of Disability Retirees

The Board of Administration shall prescribe rules and regulations providing for periodical physical examination of any member, including a safety member, who has been retired for disability, industrial or non-industrial, and may at any time prior to the time or before such member reaches the minimum age of voluntary retirement order such employee to active duty, in which case said disability retirement allowance shall cease.

(“Periodic Physical Exams of Disability Retirees” added 12-8-1976 by O-11964 N.S.)

§24.0515 Industrial Disability—Workers Compensation

- (a) If, pursuant to general law, an award of compensation shall be made or compensation shall be paid on account of injury or sickness caused by or arising out of employment as an employee of The City of San Diego, that compensation shall not be cumulative with any industrial disability retirement allowance provided for in this article. Such compensation, as may be awarded, shall be set off against any disability retirement pension payments which is the obligation of the City. If the amount of compensation as may be awarded is paid in one sum or in installments equal to or greater than the monthly disability retirement pension payment, no disability retirement pension payments shall be paid until the disability retirement pension payments equal the amount of compensation awarded and paid. No deductions shall be made from the annuity portion of any disability retirement allowance awarded to a member. This provision shall apply only to those persons hired by The City of San Diego on or after October 1, 1978.
- (b) Notwithstanding the provision of subsection (a) above, the requirement to set off any compensation received in the nature of workers compensation shall not be applicable to safety members from and after January 1, 1988. All set-off requirements and actions previously imposed upon safety members pursuant to this section shall, as of January 1, 1988 be discontinued such action to be prospective only. No right of claim to prior valid offsets (prior to January 1, 1988) shall exist. Such discontinuance shall apply to all existing and future industrially retired safety members.
- (c) Notwithstanding the provision of subsection (a) above, the requirement to set off any compensation received in the nature of workers compensation shall not be applicable to general members from and after July 1 1989. All set-off requirements and actions previously imposed upon general members pursuant to this section shall, as of July 1, 1989 be discontinued, such action to be prospective only. No right of claim to prior valid offsets (prior to July 1, 1989) shall exist. Such discontinuance shall apply to all existing and future industrially retired general members.

(Amended 5-15-1989 by O-17295 N.S.)