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Status **Pending** PolicyStat ID **20206008**



San Bernardino County Employees'
Retirement Association

Origination	12/6/2018	Area	Benefits
Last Approved	N/A	Applicability	SBCERA systemwide
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Processing an Internal or Internal Related Applicant's Disability Retirement Application and Related Appeals

POLICY NO. 028

I. PURPOSE

The Board of Retirement (Board) has a fiduciary duty to ensure all disability retirement applications are kept confidential and receive a fair and impartial review. The Board also has a duty to ensure all recommendations submitted to the Board are based solely on the facts in evidence and free of any bias.

The Board recognizes that staff routinely takes great steps to ensure all member information is kept confidential and all disability retirement cases are processed with the utmost professionalism. However, in situations where the applicant is an SBCERA employee, Trustee, who is also a member of the system, or an immediate family member of either an SBCERA employee or any Trustee of the Board, it is prudent to take additional precautionary steps to maintain confidentiality and a bias free review to avoid any appearance of impropriety.

This policy will provide direction to staff on how a Disability Retirement Application from an SBCERA employee or Trustee, who is a member of the system or an immediate family member of either an SBCERA employee or any Trustee of the Board shall be processed and presented to the Board for a decision.

I. Statement of Policy

All SBCERA members deserve to have their application for a disability retirement processed in a confidential manner based solely on the factual evidence pertaining to their disability.

Applications or appeals from an SBCERA employee or Trustee [hereinafter referred to as "Internal Applicant"] or an immediate relative (hereinafter referred to as "Internal-Related

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Applicant (defined as a spouse, ex-spouse, child, sibling, mother, or father) require additional processing precautions to ensure the member's confidentiality is maintained and any appearance of potential bias, including a conflict of interest, is mitigated.

II. Implementation

The Board directs the Chief Executive Officer (CEO) or designee, to process a Disability Retirement Application or appeal concerning an Internal or Internal-Related Applicant, in the following manner:

- A. All SBCERA employees will maintain strict confidentiality of the medical records, including the Disability Retirement Application of an Internal or Internal Related Applicant as required by Government Code section 31532 and SBCERA Administrative Board Policy 008.
- B. The CEO or designee shall ensure that all SBCERA employees processing an Internal or Internal Related Applicant's disability application or appeal are made aware of their responsibility to maintain confidentiality of records.
- C. Disability applications or appeals for all Internal and Internal-Related Applicants shall be processed in accordance with all applicable provisions of the County Employees Retirement Law of 1937, Board of Retirement Regulations and Board Policies, including the Procedures for Disability Retirement Applications and Formal Hearing ("Procedures") in effect at the time of receipt of the Application.
- D. The CEO or designee shall ensure that all SBCERA employees processing Internal or Internal-Related disability applications or appeals are free from bias towards the Internal or Internal-Related Applicant involved. In the event the CEO determines that the Application can be processed without bias and the Internal Applicant, as well as the SBCERA employee related to the an Internal -Related Applicant is recused from all aspects of the case, then the CEO will permit the internal processing of the disability application or appeal..
- E. In the alternative, the CEO will determine whether it is impossible to maintain confidentiality or recusal will not mitigate any appearance of potential bias or conflict of interest, then in the discretion of the CEO or designee, the CEO or designee will recommend that the Internal or Internal Related Applicant's disability application or appeal be transferred for processing and adjudication to a 1937 Act pension that has a reciprocal agreement for the processing and the adjudication of Internal or Internal-Related applications or appeals.

Prior to adjudicating an Internal or Internal-Related Applicant's application or appeal for disability retirement benefits, the Board Chair shall query the Board to determine whether any Trustee has a conflict-of-interest or whether any member is unable to be fair and impartial with regard to the adjudication of an Internal or Internal-Related application.

- A. Any Board member that has a conflict-of-interest or who cannot be fair and impartial will declare their conflict or their inability to be fair and impartial on the record and leave the Board room during the consideration of the disability application
- B. If the remaining Board members do not constitute a quorum, then the Chairman will direct the CEO to transfer the adjudication of the disability application to a 1937 Act pension that has a reciprocal agreement for the adjudication of Internal or Internal-Related applications.

Approval Signatures

Step Description	Approver	Date
Policy Owner & Chief Counsel Review	Barbara Hannah: Chief Counsel	Pending

Applicability

SBCERA, SBCERA Internal

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