

GENERAL PRESUMPTION STATUTES



§ LC	WHO	WHAT	TIME REQUIRED	DISPUTABLE	EXTENSION AFTER REQUISITE EX	ANTI-ATTRIB CLAUSE	APPORTION
3212	P&F DA CHP	Hernia Pneumonia Heart	-	Yes	60 Months	Yes	4664 & 3208.2
3212.1	P&F	Cancer	-	Reasonably Linked	120 months	No	4664 & 3208.2
3212.2	CHP, YA Atascadero	Heart	-	Yes	60 Months	No	4664 & 3208.2
3212.3	CHP	Heart Pneumonia	full time >5 Years	Yes	60 Months	Yes	4664 & 3208.2
3212.4	UC Fire	Hernia Pneumonia Heart	full time not on probation	Yes	60 Months	Yes	4664 & 3208.2
3212.5	P CHP DA	Pneumonia Heart	full time >5 years	Yes	60 Months	Yes	4664 & 3208.2
3212.6	P&F, DA, CHP, Guards	Tuberculosis	full time	Yes	60 Months	No	4664 & 3208.2
3212.7	DOJ	Hernia Pneumonia Heart Tuberculosis	full time	Yes	60 Months	Yes	4664 & 3208.2
3212.8	P&F	Blood-born MRSA	-	Yes	60 Months 90 days	Yes	4664 & 3208.2
3212.85	P&F	Biochemical Exposure	-	Yes	60 Months	No	4664 & 3208.2
3212.9	P&F, CHP, DA	Meningitis	full time	Yes	60 Months	No	4664 & 3208.2
3212.10	DOC YA	Pneumonia Heart Tuberculosis Meningitis	-	Yes	60 Months	No	4664 & 3208.2
3212.11	Life Guards	Skin cancer	>3 consecutive months	Yes	60 Months	Yes	4664 & 3208.2
3212.12	P & Consv	Lyme Disease	-	Reasonably Linked	60 Months	No	4664 & 3208.2
3213	UCPD	Pneumonia Heart	>5 years full time	Yes	60 Months	Yes	4664 & 3208.2
3213.2	P	Lower back from duty belt	>5 years full time	Yes	60 Months	No	4664 & 3208.2
3212.15	P&F	PTSD on or after 1/1/2020	Sunset on 1/1/2025	Yes	60 Months	No	4663 4664 & 3208.2

INDUSTRIAL DISABILITY RETIREMENT



Government Code 20026 defines disability and incapacity for the performance of duty as:

- Disability of permanent or extended duration expected to last 12 consecutive months or result in death
- Based upon competent medical opinion

Government Code 21153: “an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any member believed to be disabled”

INDUSTRIAL DISABILITY RETIREMENT ELIGIBILITY

MEMBERSHIP CATEGORY	VESTING REQUIREMENT	AGE REQUIREMENT
State Safety	None	None
State Industrial*	None	None
State Miscellaneous**	None	None
School Safety	None	None
Local Safety	None	None
Local Miscellaneous (if this is a contracted benefit)	None	None

DISABILITY RETIREMENT ELIGIBILITY

MEMBERSHIP CATEGORY	VESTING REQUIREMENT	AGE REQUIREMENT
State Miscellaneous	Tier 1: Must have 5 years credited service Tier 2: Must have 10 years credited service, unless the member has 5 years of credited service under Tier 1 prior to 1/1/85	None
School Employees	Must have 5 years credited service	None
Local Miscellaneous	Must have 5 years credited service	None
Local Safety	Must have 5 years credited service	None

*Injury must be caused by a violent attack from an inmate

**Injury must be caused by a violent attack from a patient or client

Source: CalPERS Local Safety Disability Retirement Resource Guide

IDR CONSIDERATIONS

- Under retirement age requires recertification/evaluation every 2 years
- Workers' comp award does not automatically entitle employee to a CalPERS IDR
- Disability retirement is taxable, while under IDR the first 50% of monthly gross earnings is not
- Ability to fill vacancy, but IDR could impact pension rates
- LC4850 does not have to run out
- Does not have to be P&S/MMI in workers' comp

DIFFERENCE IN BENEFITS

Workers' Compensation

- Provide medical treatment
- Replace lost wages
- Determine PD based on AMA guides
- Can use prolific restrictions to determine disability
- Settlement

CalPERS

- Benefit is non-negotiable
- Cannot 'buyout' future medical care
- "Substantial Incapacity" is based on medical determination
- Cannot use prolific restrictions to determine incapacity
- Based on factors of impairment and/or residuals
- CalPERS pays disability benefit until recovery or for life