



VCERA

VENTURA COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION

Disability Retirement Process Overview

Erika Herincx, Disability Retirement Benefits Manager

Agenda

- New Model
- Disability Benefits
- CERL Disability Legal Standards
- Application Process
- Investigation Process
- Hearing Process
- Board Actions
- Resources



New Model

Enacted July 2020

Old Model Cases Remaining: 5

Oldest case 2018
3 are in the Courts as Writs

New Model Cases Open: 56

2022: 9

2023: 26

2024: 14

Hearing: 7

**Average Number Of Accepted
Applications Per Year: 29**

- All investigations and recommendations are performed and prepared by VCERA.
- Parallel process to any investigations conducted by Workers' Compensation and/or Risk Management.
- Records are not disclosed to anyone except as required by CERL, court order, or by member authorization.



- In addition, DHPs require VCERA share copy of application and all submitted supporting documentation to Employer, and if case goes to hearing, records are disclosed to Employer as "party."*
- Independent Medical Evaluations (IME) are conducted to assess claimed injuries.
- Goal: to close cases timely, within 1.5 years.

Disability Benefits

Benefit Component:	Service–Connected Disability (SCD)	Non-Service-Connected Disability (NSCD)
Retirement Benefit Calculation Multiplier Of Final Average Compensation (FAC):	50% or full-service retirement allowance (whichever is greater)	Approximately 1/3 (or 33%)** or full-service retirement allowance (whichever is greater)
Taxation:	Portion attributable to SCD is non-taxable (i.e. 50% of FAC)* <i>Note: Any COLA applicable to the portion attributable to service-connected disability is also non-taxable</i>	No tax advantage (entire benefit is taxable)
Continuance (To Eligible Beneficiary):	100% continuance	60% continuance*** (same as service retirement)

**per IRS code section 104(a)(1)*

***may vary depending on age and years of service*

****unless optional allowance is selected*

CERL Disability Legal Standards

§ 31720. Permanent Incapacity

Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, and only if:

- a) The member's incapacity is a result of injury or disease arising out of and in the course of the member's employment, and such employment contributes substantially to such incapacity, or
- b) The member has completed five years of service, and
- c) The member has not waived retirement in respect to the particular incapacity or aggravation thereof as provided by Section 31009.

CERL Disability Legal Standards

§ 31720(a) Service Connection

Incapacity must arise out of and in the course of employment.

“Arising out of” refers to the risk of injury presented by the employment.

“In the course of” refers to the time, place and circumstances of employment.

Substantial Contribution: a real and measurable connection between the incapacity and the employment.

- Not inconsequential or infinitesimal
- Percentage of causation is relevant but not dispositive

Aggravation of Pre-existing Condition:

Would the applicant have been permanently incapacitated absent the employment?

CERL Disability Legal Standards

§ 31724. Effective Date

A disability retirement allowance is effective on the date the application is filed, but not earlier than the day after the last date of regular compensation.

The member may seek an earlier effective date as of the day after the last day of regular compensation if application was delayed due to:

- (a) Administrative oversight; OR
- (b) Inability to ascertain the permanency of the incapacity until after the date following the day for which the member last received regular compensation.

CERL Disability Legal Standards

§ 31729: The Board has authorized staff to reassess whether a member receiving disability retirement **and is not yet age 55** shall undergo medical re-examination.

§ 31730: If the BOR determines beneficiary is not incapacitated, and his or her **employer offers to reinstate** that beneficiary, his or her **retirement allowance shall be canceled** forthwith, and he or she shall be reinstated in the county service pursuant to the regulations of the county or district for reemployment of personnel.

§ 31731: If any disability beneficiary under age 55 refuses to submit to medical examination, his **pension shall be discontinued** until his withdrawal of such refusal, and if his refusal continues for one year, his retirement allowance shall be canceled.

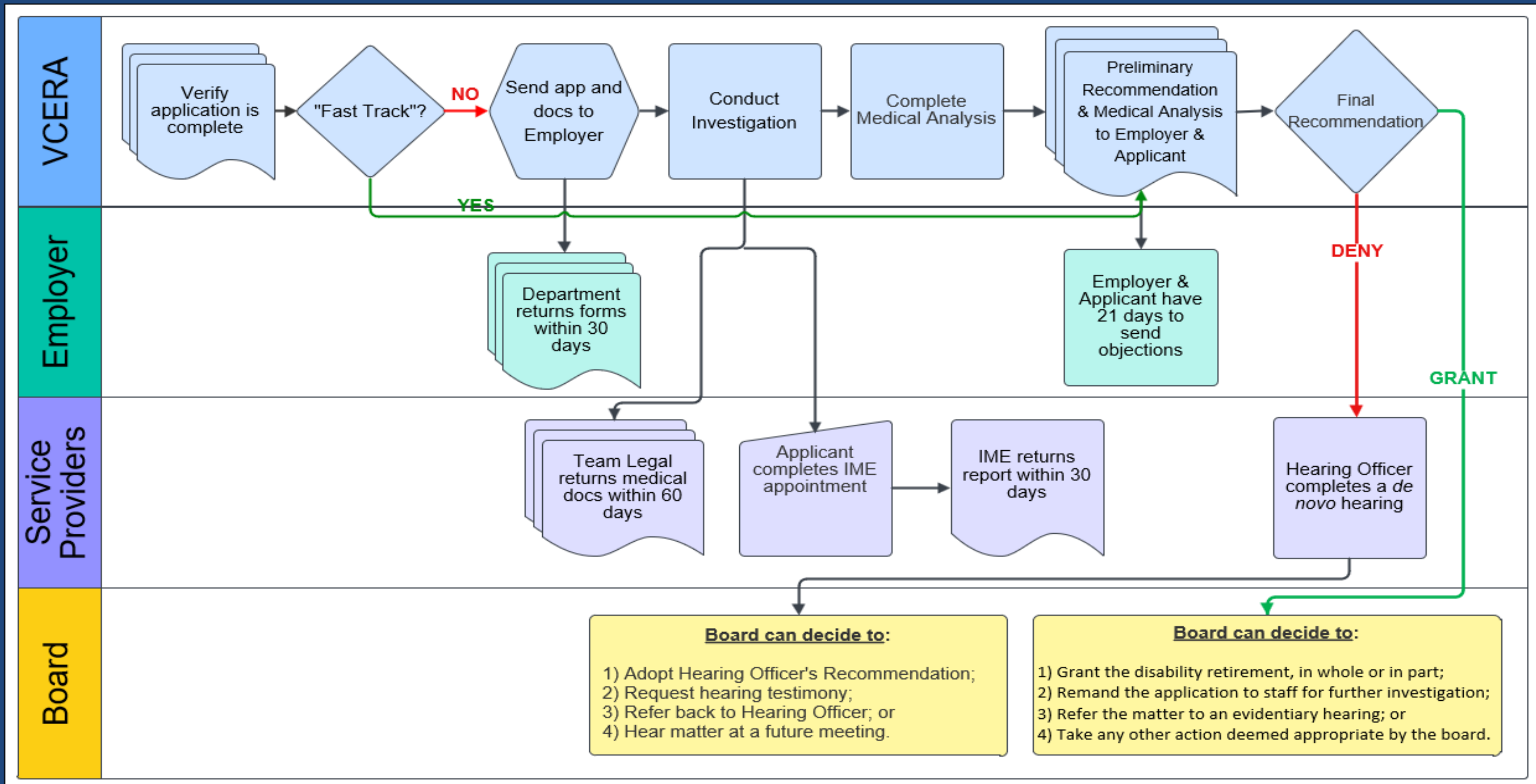
Application Process



Note: The burden of proof is on the applicant to provide evidence of permanent incapacity, and service connection if applicable. VCERA's role is to independently determine whether the criteria for disability retirement has been met.

1. Member is counseled about options, procedures, and disability legal standards by a VCERA Benefits Specialist.
2. Member must submit the following:
 - ✓ Application for Disability Retirement
 - ✓ Signed Authorization form to release records and information and electronic consent
 - ✓ Completed Attending Physician Report (APR) with supporting medical evidence of permanent incapacity for each claim
 - ✓ Evidence that reasonable accommodation was explored by the employer
3. VCERA will inform the member within 10 business days if their application is accepted or if additional information is required.


Disability Retirement Application Process



Investigation Process

- **Medical Records** - VCERA staff, along with Team Legal, collects all medical records. VCERA staff reviews all records.
- **Interviews** - VCERA staff conducts with Applicant, and if needed, witnesses (employer, co-workers).
- **Independent Medical Examination (IME)** - Doctor (independently contracted by VCERA) examines Applicant and/or completes a medical records review. IME provides a comprehensive report within 30 days following the exam.
- **Medical Analysis & Preliminary Recommendation** - Upon receiving the IME report, VCERA staff drafts reports.
- **Objections** - The Applicant and Employer have 21 days to respond with any objections to Prelim. VCERA staff will investigate further, depending on Employer's objections or any new evidence.
- **Final Recommendation** - If VCERA staff recommends to Grant, the Board will make final decision.
If VCERA staff recommends to Deny, case is automatically directed to Hearing, unless Applicant waives.
- **Board of Retirement** - If the Board decides to Grant, VCERA staff places the member on retiree payroll.
The Board can also Deny or direct the case to an evidentiary hearing.

Evidentiary Hearing Process

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- **Applicant Representation:** Applicant has 30 days to retain legal representation.
 - **Notice of Hearing Officer Assignment & Administrative File:** VCERA assigns and distributes to parties.
 - **Hearing Date:** Hearing shall commence no later than 270 days after Notice.
 - **Pre-Hearing Conference:** Held with all parties and the Hearing Officer no later than 60 days after Notice.

- **Pre-Hearing Statements:** Submitted by parties no later than 45 days before hearing date.
- **Exhibits & Witness Lists:** Submitted by parties no later than 20 days before hearing date.

- **Closing Briefs:** Submitted no later than 30 days after close of hearing record.
- **Rebuttal Briefs:** Submitted no later than 14 days after service of closing brief.
- **Proposed Findings of Fact & Recommended Decision:** Hearing Officer serves parties within 90 days of hearing record close.
- **Written Objections:** Submitted no later than 10 days after Decision served on parties.

- **Board Determination:** The Hearing Officer's Recommended Decision is submitted to the Board for consideration.
- **Reconsideration:** On Petition by any party or on Board's own motion, within 35 days of the Board Determination.
- **Note:** *The County is authorized to participate as a party regardless of their stance on the recommendation.*

Board Actions

§ 31534. Service of findings and recommendations; objections; proceedings on referee's report

Upon receiving the proposed findings of fact and the recommendations of the referee, the Board may:

- a) Approve and adopt the proposed findings and the recommendations of the referee, or
- b) Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon the receipt thereof the Board shall take such action as in its opinion is indicated by such evidence, or
- c) Refer the matter back with or without instructions to the referee for further proceedings, or
- d) Set the matter for hearing before itself. At such hearing the Board shall hear and decide the matter as if it had not been referred to the referee.

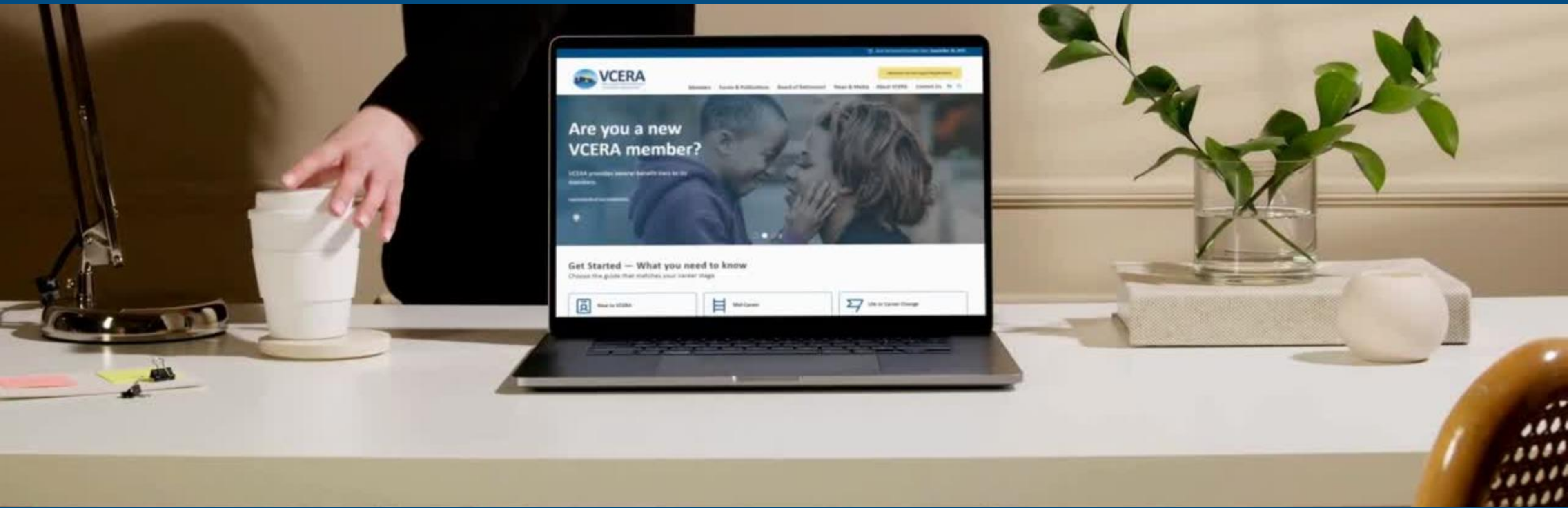


Disability Policies And Procedures

- Disability Applicant Guide
 - [Disability Applicant Guide](#)
- Disability Retirement Process
 - [Disability Hearing Procedures \(1999\)](#)
 - [“New Model” Disability Retirement Process Document](#)
 - [New Model Disability Retirement Hearing Rules](#)
 - [Disability Retiree Re-Examination Policy](#)

Go to www.VCERA.org/members/active-members/disability-retirement

For more information about Disability Retirement



Questions?



Email:

VCERA.Info@ventura.org



Call:

(805) 339-4250



Visit:

1190 S. Victoria Avenue,
Suite 200
Ventura, CA 93003