



**California Code of Regulations**  
**Title 2. Administration**  
**Chapter 3. Department of Personnel Administration**

**Article 12.5. Industrial Disability Retirement**

**599.779 Scope**

Pursuant to Government Code Sections 19876.5, 21021.5, 21020.6, 21292.4 and Labor Code Section 139.5(g), an employee in Bargaining Units 1, 4, 15, 18, and 20 who suffers a qualifying industrial injury or illness and who is permanently unable to perform the duties of his/her current position is eligible to participate in this program.

*Note: Authority Cited: Section 21021.5, Government Code. Reference: Sections 19876.5, 21020.6, 21292.4, Government Code; Section 139.5, Labor Code.*

**599.779.1 Definitions**

For the purposes of this Article, the following definitions will apply:

(a) **Industrially Disabled.** Disabled from performing any job in State service as a result of a work related illness or injury.

(b) **Permanent and Stationary.** A disability is considered permanent after the employee has reached maximum improvement or his/her condition has been stationary for a reasonable period of time. A physician determines the date that a medical condition becomes permanent and stationary.

(c) **Qualified Injured Worker.** An employee who (1) has an injury which permanently precludes, or is likely to preclude, him or her from engaging in his or her usual occupation or the position in which he or she was engaged, and (2) can reasonably be expected to return to gainful employment through vocational rehabilitation services.

(d) **Same or Similar Salary.** The maximum salary of a classification that is at least 85% of the maximum salary of the job classification the employee was in at the time of the qualifying injury. It is further defined to include classifications with higher salaries to which the employee may transfer according to State Personnel Board rules.

(e) **Same or Similar Location.** Any work location to which the employee could be reassigned which would not require the employee to relocate according to the standards defined in a memoranda of understanding, or the Department of Personnel Administration rules, whichever is controlling for the purpose of relocation.

(f) **Originating Department.** The department where the employee was working when the injury occurred.

(g) Receiving Department. A department, other than the originating department, that hires an employee covered by the provisions of this Article.

*Note: Authority Cited: Section 211021.5, Government Code. Reference: Section 19876; Section 139.5, Labor Code.*

#### **599.779.2 Selection of an Appropriate Position**

When an eligible employee is medically incapable of performing the essential functions of his/her current job, or any other position in his/her current classification, the originating department must make every reasonable effort to place the qualified injured employee worker in a vacant position in another classification within the department or find the employee suitable employment with another State department. Efforts to accommodate the employee within the department should include, but not be limited to, altering the employee's work environment, providing specialized equipment, restructuring job duties, and training and development assignments. The originating department's efforts to find the employee a suitable position in another department should include, but not be limited to, identifying vacant positions in other departments within the same or similar location and at the same or similar salary, contacting the hiring departments to arrange interviews and assisting the employee to prepare for the employment interview.

The originating department should begin the placement process as soon as the employee is determined to be a qualified injured worker, but no later than the date the employee is determined to be permanent and stationary. Such placement efforts must continue for a minimum of 90 calendar days from the date that the employee is permanent and stationary. ~~While the department is encouraged to work with the employee to provide the best job match, especially when there is more than one vacant position, the department retains the right to select any vacant position that meets the criteria of "same or similar" salary and location.~~ The department should make every effort to assign the qualified injured worker to an vacant position that is equivalent to the former position in terms of pay and status and to work with the employee to provide the best job match. However, the department may reassign the employee to a lower position if there are no equivalent positions for which the individual is qualified, with or without reasonable accommodation, as long as that position meets the criteria of "same or similar" salary and location. Factors such as the nature of the employee's disability and the cost of retraining the employee for the new job should be taken into consideration when making this decision. If the employee refuses the job offer proposed by any department, the employee shall ~~forfeit~~ be denied his/her rights to Industrial Disability Leave, Enhanced Industrial Disability Leave, Industrial Disability Retirement and Vocational Rehabilitation.

*Note: Authority Cited: Section 21021.5, Government Code. Reference: Section 19876.5, Government Code, Section 139.5, Labor Code.*

### **599.779.3 Injured State Worker Placement**

If the appointing power is unable to place the ~~industrially~~ qualified injured ~~employee~~ worker within 90 days from the date the employee is medically certified as permanent and stationary and able to return to work, the Department of Personnel Administration shall take measures to place these employees in an appropriate position in another State agency by restricting other methods of appointment, including appointments under the State Restriction of Appointments Process (SROA). An employee's name may remain on one or more SROA lists for up to one year. When the Department of Personnel Administration determines that placement on a reemployment list would provide significant, additional opportunity to place the employee, it shall request that the State Personnel Board place the employee's name on an appropriate ~~general~~ reemployment lists.

*Note: Authority Cited: Section 21020.5, Government Code. Reference: Sections 19876.5, 19998.1, Government Code.*

### **599.779.4 Employment Costs for the Injured Employees**

It is the intent of this Article that qualified injured ~~employees~~ workers will be accommodated, whenever possible, in the department where the employee worked at the time of the injury. However, it is possible that some employees will be placed in other departments. If ~~an eligible~~ a qualified ~~industrially~~ injured ~~employee~~ worker receives an appointment to a new position in a department other than his/her originating department, the originating department is responsible for the following costs, in addition to any permanent disability settlement and ongoing medical costs:

(a) all necessary and reasonable expenses for the cost of training the employee in the required job duties of the new classification.

(b) all relocations costs, in accordance with the Department of Personnel Administration rules, for any employee who relocates in order to accept a position which is not in the same or similar location.

(c) any overtime, holiday credit, excess hours, or personal leave credits that are due to the employee on the date of transfer.

(d) any special equipment that may be required because of the employee's disability.

*Note: Authority Cited: Section 21020.5, Government Code. Reference: Sections 19876.5, Government Code; 139.5 Labor Code.*

### **599.779.5 Denial of Benefits for Failure to Participate**

Employee benefits will be denied to ~~an industrially~~ a qualified injured ~~employee~~ worker who does not participate in a reasonable and appropriate vocational rehabilitation plan necessary to continue State employment. Participation in a rehabilitation plan may include some or all of the following

activities: skill assessment, vocational counseling, additional medical testing, job interviews and training. Benefits include, but are not limited to Industrial Disability Leave, Enhanced Industrial Disability Leave, Industrial Disability Retirement, and other Vocational Rehabilitation Training.

*Note: Authority Cited: Section 21020.5. Reference: 19876.5, Government Code.*

#### **599.779.6 Post Retirement Job Opportunities**

In the event that a suitable position can not be found for ~~an employee who is capable of working~~ a qualified injured worker, the employee may be offered an alternate vocational rehabilitation plan or he/she may be placed on Industrial Disability Retirement. However, if the employee is retired under these circumstances and a job subsequently becomes available, within twelve months of the effective date of retirement, that meets the tests of "same or similar salary" and "same or similar location," then the employee will be required to reinstate into State service and the IDR benefits will be terminated effective on the date the job offer is made.

*Note: Authority Cited: Section 21100.55, Government Code. Reference: Sections 21020.5, 21292.4, Government Code.*

#### **599.779.7 Appeal Rights**

Employees may appeal to the Director of the Department of Personnel Administration ~~only~~ if they believe either (1) that they should not be required to participate in the program, or (2) that they should not be excluded from this program. An employee must submit the appeal in writing stating the grounds for the protest. The appeal shall be filed within thirty (30) days of the date the originating department notifies the employee in writing that he/she either must participate in, or is excluded from, this program.

*Note: Authority Cited. Section 21020.5, Government Code. Reference: Section 21020.5, Government Code.*