

March 6, 2013

Tiffany Anderson
2 N Avena Ave.
Lodi, CA 95240

Dear Tiffany,

BOARD OF TRUSTEES

MARC WARMERDAM
PRESIDENT

SAN JOAQUIN COUNTY

GARY LAMBDIN
VICE PRESIDENT
CITY OF STOCKTON

JOY MEEKER
SECRETARY
CITY OF ESCALON

CITY OF LATHROP
OMAR KHWEISS

CITY OF LODI
JACK V. FIORI

CITY OF MANTECA
JACK SNYDER

CITY OF RIPON
FRANCIS GROEN

CITY OF TRACY
CHET MILLER

SAN JOAQUIN COUNTY
JAY COLOMBINI

SAN JOAQUIN COUNTY
MIKE MANNA

SAN JOAQUIN COUNTY
GREG O'LEARY

LEGAL ADVISOR
CHRISTOPHER K. ELEY

This is in follow up to our prior communications about your employment status and leave. We last communicated in January after the District received a doctor's note from you stating that your restrictions were permanent. As we have done continuously, the District tried to engage you in a dialogue about your situation, but you refused to talk with us.

About this same time we understood the District's employment attorney received communication from an attorney for you. The District held off on any further communication with you to allow your attorney to talk with the District's attorney about any concerns you might have.

At this time, the District can no longer delay this matter and believes it is necessary to move forward. Since you have refused to fully cooperate and provide the specific information requested, the District has no option but to proceed based on the information in its possession.

As you know, you have been on a leave of absence from the position of Mosquito Control Technician I (MCT I), since November 28, 2011. After the District's repeated requests for updated information from you, on January 7, 2012, you finally provided the District a new note from Dr. Murata, which suggests you have permanent restrictions of "never" squatting or kneeling and only occasional walking and standing. However, as you are aware, in order to perform the essential functions of a MCT I, you must be able to kneel and squat. Your walking and standing limitations could also be a problem. The restrictions identified by Dr. Murata appear to prevent you from performing these essential functions of the position. Based on the permanent nature of your restrictions and your continued unchanged status for well over a year, the District can only conclude that no change regarding your ability to perform your job duties can be expected.

Given the restrictions identified by Dr. Murata, particularly the never squatting or kneeling, there does not appear to be any reasonable accommodations that would allow you to perform the essential functions of the position of MCT I. Despite our inquiries, you have never indicated anything to the contrary or attempted to help the District identify any potential reasonable accommodations that would allow you to return to work in the position of MCT I.

The District is a relatively small employer. While other employees have been temporarily assigned to assist with ensuring that the duties of your position are completed, this has taken a toll and has created a hardship on District operations. This hardship is only expected to increase as the District moves into its busiest time of year. Thus, this temporary effort cannot be sustained indefinitely. Since you do not appear to be able to return to work, the District has no option but to move forward with hiring an individual to perform your duties in the position of MCT I.

Since your leave began in November of 2011, the District has continued to pay for your medical benefits. These benefits were provided although your leave was never formally characterized as leave under the Family Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA).

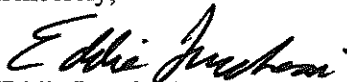
While the District does not have the requisite number of employees to make you an eligible employee for statutory FMLA/CFRA leave, the District is willing to offer you an additional twelve weeks of leave that will be identified as leave provided under the FMLA/CFRA. While on this leave, the District will continue to pay an employer contribution towards medical benefits. You will continue to be required to pay the employee portion of any premiums. While on leave, you will be expected to periodically communicate with the District about your status and any potential changes to your work restrictions. During your leave, the District will continue to evaluate its staffing needs, including actual and anticipated vacancies. If a position becomes available for which you can perform the essential duties, then the District will contact you to discuss a potential transfer or if the position would represent a promotion, the application process. If, at the end of the 12 weeks of FMLA/CFRA designated leave, you continue to remain permanently unable to return to work in the position of MCT I, and no other positions exist for which you are qualified, the District will evaluate its options. If you would like to accept the District's offer of additional leave, please let me know by March 13, 2013. If I do not receive an affirmative response accepting this offer, then the District will proceed with the understanding you have waived any right you could have to FMLA/CFRA leave.

In addition to the offered leave, the District would like to advise you of your right to apply for disability retirement benefits through the County retirement system. In order to receive these benefits, you should submit an application directly to the Retirement system. As it may take several months for the retirement system to make a determination on an application, you should submit an application immediately. A copy of the application instructions is enclosed for your reference. Additional information regarding disability retirement benefits can be found at www.sicera.org. You can also call the County retirement specialist at **209-468-2163**.

Because the District has received the doctor's note which indicates that you are permanently incapacitated from performing the duties of your current position, the District is obligated to submit an application for disability retirement benefits on your behalf if you do not submit one for yourself. The only exception to this is if you waive the District's obligation to submit the application. Regardless of whether the application is submitted by you or by the District, you will remain on an unpaid leave until a determination is made on that application. So as to avoid the submission of duplicate applications on your behalf, please let me know if you will be submitting an application for disability retirement benefits. If I do not hear back from you on this issue by March 13, 2013, the District will proceed with submitting an application on your behalf.

If you have any questions, please let me know. The District remains willing to meet with you or discuss the situation by telephone. I can be reached by phone at 209-982-4675 or by e-mail at elucchesi@sjmosquito.org

Sincerely,


Eddie Lucchesi
Manager

Disability Retirement Handbook

Table of Contents		
01) Who May Apply	08) Do I Need an Attorney?	15) Working if Disabled
02) Application Assistance	09) Allowance During Process?	16) Disability Cancellation
03) When to File	10) Allowance Problems?	17) Buy Back Credit
04) Filing Physician Report	11) Allowance Effective When?	18) IRS Reporting
05) Missed 90 day deadline	12) Allowance Payment Amount	19) What If Spouse Survives Me?
06) Determining Eligibility	13) Allowance Changes	20) How To Apply
07) Time to Process Application	14) Insurance Eligibility	

If you are a contributory member of SJCERA (San Joaquin County Employees' Retirement Association), and you have an illness or injury that is permanent and severe enough to force you to stop working, you may apply for a disability retirement. After review of medical documentation and other evidence, the Board of Retirement will decide whether you are capable of substantially performing the duties of your position and, if you are not, will grant you a disability retirement.

⬆ [Back To Top](#) ⬆

Who may apply for a disability retirement?

Service-Connected Disability:

If you are a contributory member to retirement, you may apply for a service-connected disability retirement any time during your County employment. A service-connected disability is when a member becomes permanently ill or injured as a result of his or her job duties.

Nonservice-Connected Disability:

If you are a contributory member, you may apply for a nonservice-connected disability retirement after completing at least five (5) years of continuous County/reciprocal retirement service credit. A nonservice-connected disability is when a member's permanent illness or injury is not related to his or her employment.

⬆ [Back To Top](#) ⬆

May another person file an application for me?

Yes. The head of your department, a member of the Board of Retirement, or any other person may file an application on your behalf.

⬆ [Back To Top](#) ⬆

When should an application be filed?

- You should apply when you have medical proof that your medical condition prevents you from permanently performing your regular job duties.
- You may apply while you are still employed.
- You may apply within four (4) months after you have separated from employment.
- You may apply any time after you have separated from employment if (1) you have been continuously disabled since your separation, and (2) SJCERA's ability to investigate your application has not been impaired because of an unreasonable delay in filing the application.
- You may not apply if you have withdrawn your retirement contributions.

⬆ [Back To Top](#) ⬆

How do I apply?

You must provide SJCERA with a physician's report (at your expense) within 90 days of the date you apply for disability. Every point in the following list of information must be answered by your physician in order for the application to be accepted:

1. History of the injury or illness
2. The medical complaints
3. Past medical history
4. Family medical history
5. Source of all facts set forth in the history and complaints
6. Findings on examination
7. Opinion as to whether member is substantially incapacitated to perform the member's usual duties of the member's employment
8. Cause of the substantial incapacity, if any
9. Medical treatment indicated
10. Likelihood of permanent disability
11. Opinion as to whether or not the member's incapacity is a result of an injury or disease arising out of and in the course of employment and whether such employment contributes substantially to such incapacity.
12. Opinion as to whether or not the member's incapacity is due to intemperate use of alcoholic liquor or drugs, or so far as the medical examination discloses, willful misconduct
13. Opinion as to whether or not the member's incapacity would preclude the member from performing and employment in the county service.
14. The reasons for these opinions
15. Each report must be in affidavit form, or if executed in California may be ended with this statement signed by the physician:

I declare under penalty of perjury that the foregoing is true and correct, Dated _____
at (City) _____ California.

Signature

- At the time of application, you will be asked to identify any other treating physicians you have seen and to sign a medical release form for SJCERA's investigation.

⬆ [Back To Top](#) ⬆

What happens if I cannot get a physician's report within the 90 day period?

Without the physician's report, your application will be dismissed. You may reapply for disability, or you may request a time extension if your request is made to the Board before the 90 days have expired and you can give good cause for the delay. If you reapply, you will receive a new application date for determination of benefits.

⬆ [Back To Top](#) ⬆

How is my eligibility to receive a disability retirement determined?

- The role of the retirement staff is to expedite the application for disability retirement in order for the Board of Retirement to make a determination on your disability.
- You may be examined by a doctor selected by staff of the retirement office.
- The Board will then review pertinent medical reports and records to determine if you are permanently incapacitated. The medical reports are provided by you and/or are obtained through the disability review process.

⬆ [Back To Top](#) ⬆

How long does the determination of disability take?

Usually from three (3) to six (6) months after you have provided the physician's report.

⬆ [Back To Top](#) ⬆

Do I need an attorney to help me?

- A disability application may be filed with or without the assistance of an attorney. Staff members of the retirement office are available to help you.
- If the Board's decision is to refer the matter to a hearing, SJCERA encourages you to obtain the services of an attorney. You may, however, represent yourself in any hearing or court proceeding.

⬆ [Back To Top](#) ⬆

May I receive a service retirement allowance while waiting for the Board to decide upon my application?

- Yes, possibly, if a decision has not been made by the Board after you have filed your application, and you would otherwise be eligible to receive a regular service retirement regardless of whether you are disabled. However, the date of the service retirement will become the date of the new application.
- Your retirement allowance may be adjusted to the date of retirement if you are later found disabled by the Board.

⬆ [Back To Top](#) ⬆

Could there be any consequences if I take a service retirement allowance pending the Board's decision?

- Yes. If you are not ultimately found to be disabled, you are nonetheless service retired. The employer considers you retired from employment. Any resumption of employment status is an issue to be determined between you and the employer.
- If you do not take a service retirement, pending the Board's decision, and you are not found to be disabled, you have the right to be reinstated by your employer.

⬆ [Back To Top](#) ⬆

If my application is approved, when will my disability retirement allowance become effective?

- Your disability retirement allowance will become effective the date you filed your application with the Board of Retirement; or
- The day following the last day of your regular compensation, whichever is later.
- If it is determined by the Board that you delayed in filing your application because you could not determine the permanency of your disability, or if an administrative oversight caused the delay, the effective date of your disability retirement allowance will be the day following the last day of your regular compensation.
- You and your personnel officer or payroll clerk should determine if it is to your advantage to use your paid sick leave before receiving your disability retirement allowance.

⬆ [Back To Top](#) ⬆

When will I receive my first check?

Usually within 60 days after the Board approves your application.

⬆ [Back To Top](#) ⬆

How much money will my retirement allowance be?

- The amount of money you receive for service-connected disability retirement is a minimum of 50% of your final compensation.
- The amount of money you receive for a nonservice-connected disability retirement is based on your age and how many years you have contributed to your retirement plan. It is generally equal to 1/3 of your final compensation although it could be more, or less, depending on your age and years of service.
- If you are eligible to receive a service retirement allowance and the amount of that allowance would be greater than the service-connected or nonservice-connected disability retirement allowance, you will receive the greater service retirement allowance.

⬆ [Back To Top](#) ⬆

Will my retirement allowance ever change?

- Yes. Your retirement allowance is adjusted every April 1 to reflect changes in the Consumer Price Index.
- Your allowance may increase no more than 3%, not including any supplemental cost-of-living increases that may be granted by the Board of Retirement.

⬆ [Back To Top](#) ⬆

Will I still be eligible for medical and dental insurance?

- Yes. If you are approved for a disability retirement, you will be offered the opportunity to have those plans when you are retired. The medical plans available to you are maintained by your Retirement Association but administered by the County Human Resources Department. There is a dental program available through the San Joaquin Public Employees' Association but it is not the same program that is available with the county/district.
- The cost of your portion of the insurance premiums will be deducted from your retirement allowance, or sick leave bank, if eligible.

⬆ [Back To Top](#) ⬆

May I continue to work for the County if I am found to be disabled?

- Yes. If you are capable of performing other duties, you may accept a new position in the County.
- Although you will not be retired, if the salary of your new job is less than what you earned when you became disabled, you will receive a supplemental disability allowance.
- The supplemental disability allowance you receive will generally increase your salary up to the

compensation you had been receiving from your old job.

- However, the supplemental disability allowance may not be greater than the disability allowance you would have received if you had accepted a disability retirement.
- If a safety member is found to be disabled and works in a nonsafety position, the member's safety status will be maintained.

⬆ [Back To Top](#) ⬆

May I obtain employment other than County employment if I am found to be disabled?

Yes. You may obtain full- or part-time employment in another occupation outside the County system. It will not affect your retirement benefits.

⬆ [Back To Top](#) ⬆

Can my disability retirement be cancelled at a later date?

Yes. If you are under age 55, the SJCERA can require you to submit to a medical reevaluation. If the Board of Retirement determines you are no longer disabled, your disability retirement can be cancelled, but only if the County agrees to reinstate you to your former position.

If I served in the military, worked for another government agency, was absent from work due to illness and received no pay, worked in a temporary status, or redeposited withdrawn retirement contributions, may I receive retirement credit for my previous employment.

- Yes. Certain prior employment with other California agencies, federal government, military service, a leave of absence from your job without pay due to illness, or the redeposit of withdrawn retirement contributions may make you eligible to "buy back" retirement credit for your previous service.
- You may apply for previous service credit. SJCERA will notify you of your eligibility and cost.
- Payments for previous service, including interest, must be made before the Board considers your application for a disability retirement.

⬆ [Back To Top](#) ⬆

Is it to my advantage to purchase or "buy back" credit for my previous service?

- Possibly. Purchasing credit for previous service could increase your service-connected or nonservice-connected disability retirement allowance.
- If you have less than five (5) years of County employment, "buying back" credit for your previous County service may allow you to become eligible to apply for nonservice-connected disability retirement.
- You should contact staff at the Retirement Office to determine if it would help you to receive credit for your previous service.

[⤴ Back To Top ⤴](#)

Is my retirement allowance reported to the IRS?

- All disability retirement pay is reported to the state and federal governments during the years in which you receive it.
- You may be eligible to exclude a portion of your service-connected disability retirement allowance from being taxed.
- You are advised to contact your own tax consultant to determine the taxable portion of your retirement allowance.

Are taxes withheld from my retirement allowance?

Federal and state taxes will be withheld as if you are married with three (3) exemptions unless you notify your Retirement Office not to withhold.

[⤴ Back To Top ⤴](#)

What if my spouse survives me?

- If you were married before you retired and are receiving a service-connected disability allowance, your surviving spouse will receive 100% of your monthly allowance for life.
- If you were married at least one year before you retired and are receiving a nonservice-connected disability allowance, your surviving spouse will receive 60% of your monthly allowance for life.

[⤴ Back To Top ⤴](#)

How do I apply for disability retirement?

You may request a disability retirement appointment by calling the SJCERA (209) 468-2163.

San Joaquin County Employees' Retirement Association
6 South El Dorado Street
Suite 400
Stockton, CA 95202

What other programs should I consider?

You may contact your human resources office for information regarding Social Security benefits, the State Disability Insurance Benefits, Workers' Compensation or any other benefits available to you.


This web page is intended to provide you with general information about your disability retirement. No attempt is made to interpret the laws and statutes which govern your retirement system. If there are any

discrepancies between information provided in this brochure and the law, the law will prevail.

Revised: December 1997

[⤴ Back To Top ⤴](#)

 ***Go Back***

Or Go To Page... 

Last modified: Monday, October 1, 2012