

**THE PASADENA FIRE & POLICE RETIREMENT SYSTEM  
BOARD MEETING FOR  
DECEMBER 7, 2022 AT 10:00 A.M. WILL TAKE PLACE SOLELY  
BY TELECONFERENCE/VIDEOCONFERENCE.**

TO ACCESS THE MEETING:

Livestream of the Retirement Board meeting with captioning is available at  
<http://www.pasadenamedia.org> and at  
[http://pasadena.granicus.com/MediaPlayer.php?publish\\_id=9](http://pasadena.granicus.com/MediaPlayer.php?publish_id=9)

OR

Topic: FPRS Special Board Meeting December 7, 2022  
Time: Dec 7, 2022 10:00 AM Pacific Time (US and Canada)

Join Zoom Meeting  
<https://us02web.zoom.us/j/81141731072>

Meeting ID: 811 4173 1072  
One tap mobile  
+16694449171,,81141731072# US  
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Dial by your location  
+1 669 444 9171 US  
+1 669 900 6833 US (San Jose)  
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+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 719 359 4580 US  
+1 386 347 5053 US  
+1 507 473 4847 US  
+1 564 217 2000 US  
+1 646 931 3860 US  
+1 689 278 1000 US  
+1 929 205 6099 US (New York)  
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+1 305 224 1968 US  
+1 309 205 3325 US  
+1 312 626 6799 US (Chicago)  
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Meeting ID: 811 4173 1072  
Find your local number: <https://us02web.zoom.us/j/81141731072>

In order to facilitate public participation at meetings held solely by electronic means, the Retirement Board will accept public comment in the following manner:

**1. Advance Correspondence, to become part of the record:**

Members of the public may submit comments of any length up to two hours prior to the start of the meeting, at the following e-mail address:

[FPRS@cityofpasadena.net](mailto:FPRS@cityofpasadena.net)

Please be aware that, while these comments will be provided to the members of the body and will become part of the meeting record, they will not be read aloud. Any comment submitted in this fashion will be forwarded to the legislative body prior to the start of the meeting.

**2. Live Public Comments during the meeting**

During the meeting, members of the public may provide live public comment on an agenda item, at the time the Chair solicits public comment, by either (a) if using the Zoom program, selecting the “raise hand” function; or (b) if participating by telephone, pressing \*9 to raise your hand.

Public comments are limited to 3 minutes each, and the Chair or the Retirement Board may limit this time if reasonable under the circumstances.

Your phone call to the Retirement Board meeting will be recorded as part of the Retirement Board meeting. By staying on the line and making public comment during the Retirement Board meeting, you are agreeing to have your phone call recorded.

If assistance is needed by phone, please call the FPRS Office at (626) 744-4320.

**Public Comment will be limited to items on this Special Meeting Agenda.**

**IF YOU NEED A REASONABLE MODIFICATION OR ACCOMMODATION  
PURSUANT TO THE AMERICANS WITH DISABILITIES ACT  
BECAUSE YOU ARE UNABLE TO PARTICIPATE ELECTRONICALLY AS SET  
FORTH ABOVE, CONTACT THE FPRS OFFICE AS SOON AS POSSIBLE AT  
(626) 744-4320 OR FPRS@CITYOFPASADENA.NET.**



**PASADENA FIRE & POLICE RETIREMENT SYSTEM**  
**RETIREMENT BOARD - SPECIAL MEETING**

**Wednesday, December 7, 2022**  
**Teleconference/Videoconference**  
**10:00 a.m.**

**AGENDA**

1. Call to Order
2. Public Comment - Limited to items on this Special Meeting Agenda.

**CONSENT CALENDAR**

3. Schedule the CalPERS Service Pending Industrial Disability Retirement hearing application for John Perez, Chief of Police, for the February 15, 2023 meeting of the FPRS Board.

**ACTION ITEMS** – The Board may discuss and take action on the following items:

4. Schedule the CalPERS Service Pending Industrial Disability Retirement hearing application for Eduardo Calatayud, III, Police Commander (date to be determined).
5. Consider rescheduling the CalPERS Service Pending Industrial Disability Retirement hearing application for Emilio Heraldez, Firefighter/Paramedic (date to be determined).

**COMMENTS FROM BOARD MEMBERS**

**ADJOURN**

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POSTING STATEMENT: I HEREBY CERTIFY that this Agenda was posted in its entirety at the City Kiosk and on the City Council Chamber bulletin board, Room S249, on December 6, 2022 at 10:00 a.m.

A handwritten signature in blue ink that reads "Bernadette K. Carpio".

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Bernadette K. Carpio  
Administrator/Secretary to the Board

Any documents distributed to a majority of the Pasadena Fire & Police Retirement Board regarding any item on this agenda will be made available at the office of the Fire & Police Retirement System, located at 100 N. Garfield Avenue, #S201, Pasadena, CA 91101. To make arrangements to view items, during normal business hours, please contact the Retirement Office at (626)744-4320.

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System Atty BBK

City Manager  
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California Public Employees' Retirement System  
Disability and Survivor Benefits Division  
P.O. Box 2796, Sacramento, CA 95812-2796 | Fax: (916) 795-1280  
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | [www.calpers.ca.gov](http://www.calpers.ca.gov)

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November 4, 2021

City of Pasadena  
100 N Garfield Ave Rm S135  
Pasadena, CA 91101-1726

CalPERS ID: [REDACTED]

Re: John E Perez  
Occupation: Chief of Police

Dear Personnel Officer,

John E Perez has filed an application for service pending industrial disability retirement based upon their [REDACTED]. Your agency needs to make a determination of the member's disability in accordance with Government Code sections 21154 and 21156. **You must make your determination within six months of this request unless the local safety member waives the requirements of this provision (Government Code section 21157).**

All documentation submitted by your agency must be signed by the governing body or its lawful delegate (i.e., City Manager, Chief Administrative Officer, County Executive, or other comparable individual). If the governing body chooses to delegate the responsibility of making a determination, a certified copy of the delegation order of this authority, approved and signed by the governing body, must accompany the finding by such delegate in each instance. For Public Agency and Schools Reference Guide – Benefits Procedures and sample resolutions, please refer to the following link for further information:

<https://www.calpers.ca.gov/docs/forms-publications/pas-ref-guide.pdf>

**If any of the following separation reasons or circumstances apply, your agency must forward all relevant personnel documents and medical records to CalPERS and obtain CalPERS' determination that the member is eligible to apply for disability retirement before your agency starts the process:**

- Disciplinary process was underway prior to the member's separation from employment.
- The member was terminated for cause.
- The member resigned in lieu of termination.
- The member signed an agreement to waive their reinstatement rights as part of a legal settlement (i.e., Employment Reinstatement Waiver).
- The member has been convicted of or is being investigated for a work-related felony.

Your determination shall be made on the basis of competent medical opinion. You shall not use disability retirement as a substitute for the disciplinary process (Government Code section 21156(2)). If the disciplinary process occurred before the member's separation from employment, you are required to forward all relevant personnel documents to CalPERS for determination of the member's eligibility for disability retirement before you start the process of adjudication.

Under the California Public Employees' Retirement Law, disability is defined as the incapacity from the performance of duty in public services for permanent or extended and uncertain duration of twelve consecutive months or longer, as determined on the basis of competent medical opinion. Disability is not necessarily an inability to perform every function of a given position. Rather, the courts have concluded that the test in any case is whether the employee can substantially perform their usual duties. Difficulty in performing certain tasks alone is not enough to support a finding of disability. It is the inability to perform the essential functions of the actual and present job duties that determines whether the member is substantially incapacitated for the performance of their job duties. A CalPERS disability retirement must be based upon an actual and present (not prospective) inability to substantially perform the member's actual and usual job duties. Furthermore, prophylactic restrictions are not a basis for a disability retirement. If a disability is not currently present but just may occur in the future, the member is presently ineligible for a CalPERS disability retirement.

Disputed questions regarding the industrial relationship of the disabling injury to the member's work will be resolved by the Workers' Compensation Appeals Board (WCAB). In the event there is no dispute, such a finding can be made by the employer. A Workers' Compensation Award is not sufficient evidence that a local safety member is disabled for retirement purposes. There must be a specific finding under Government Code section 21166, by the employer, with respect to the disability for which the member will be retired.

If it is determined that the member is not disabled from the performance of their duties, a Resolution to that effect must be filed with CalPERS. Please refer to sample Resolution No. 1 in the Public Agency and School Reference Guide - Benefits Procedures.

If the member is found to be disabled, CalPERS will require the following documentation:

1. A statement from the employer certifying that the determination was made based on competent medical opinion and the disability is expected to fulfill at least one of the following statements:
  - a) Is permanent
  - b) Will last at least twelve consecutive months from the date of an application for benefits
  - c) Will result in death
2. A statement certifying the determination was not used as a substitute for the disciplinary process. If any of the above-mentioned circumstances are met, a statement must also be included that confirms all relevant personnel documents were forwarded to CalPERS and CalPERS' determination that the member is eligible to apply for disability retirement was obtained prior to starting the process of medical determination.

3. A finding indicating the member has been found to be substantially incapacitated from the performance of the usual duties of their position.
4. A statement confirming whether or not the member has filed a Workers' Compensation claim(s) for their disabling condition(s). If so, a statement is required as to whether the claim(s) is accepted.
5. A finding by the employer as to whether or not the causation of the disability was industrial:
  - a) In the case of an ongoing dispute about the causation of the disability, the employer must provide a revised determination resolution along with a copy of the Workers' Compensation Appeals Board (WCAB) findings resolving the question of industrial causation.
  - b) A member must have a minimum of five years of service credit to qualify for non-industrial disability retirement. If a member does not meet the minimum service requirements for disability retirement, the member may still qualify by re-depositing previously withdrawn contributions or contributing an amount for service rendered prior to membership with CalPERS. Generally, time during which the member is absent from state service by reason of injury or illness, which is determined within one-year after the end of such absence to be job-related, shall be considered as time spent in state service for the purpose of qualification for retirement and death benefits.
6. A statement by the employer documenting the member's last day on payroll. The retirement effective date must be established in accordance with Gov. Code sections 21163 and 21164. Please refer to the online Public Agency & School Reference Guide.
7. A statement by the employer as to whether there is, or is not, a possibility of third-party liability present (meaning whether the member's disability was caused by negligence or an intentional act of a party other than the employer).

If a person (other than the employer) caused an injury that results in certain CalPERS benefits being paid, then CalPERS has the right to recover up to one-half of the total retirement benefit costs payable due to this injury from the responsible party (G.C. section 20250).

The employer should also advise CalPERS if it is aware that the member is pursuing a claim (other than a Workers' Compensation claim) against any person or entity for the same injuries that also entitle the member to a disability retirement from CalPERS.

8. A statement from the employer identifying the disabling condition(s) and body part(s) involved: i.e., orthopedic (right knee), psychological, cardiovascular, internal (kidney), neurological (leg).
9. If Advance Disability Pension Payments (ADPP) have been or will be paid to the member, the employer must include the monthly amount and the beginning date. The employer must also provide the address to which the reimbursement check should be mailed.

**It is the employer's responsibility to report to CalPERS the amount of ADPP paid to a member. If an employer fails to notify CalPERS of ADPP or if the member service retires, the local agency and the employee shall arrange for repayment. CalPERS will not reimburse the employer in these situations.**

We appreciate your help. If you have any questions, please visit our website at [www.calpers.ca.gov](http://www.calpers.ca.gov), or you may call us toll free at **888 CalPERS** (or **888-225-7377**).

Sincerely,

Marie Michel  
Staff Services Analyst  
Disability Retirement Section

Enclosures: LS - 1st Letter to Member  
Employer Information for Disability Retirement

cc: John E Perez