

ARTICLE 17A
CHANGE IN EMPLOYMENT STATUS BECAUSE OF DISABILITY

17A.1 No worker who is a member of the Public Employees Retirement System and who is credited with at least 5 years of service, may be terminated pursuant to this article unless they waive the right to retire for disability. Pursuant to Government Code Section 21152, if a worker does not waive their right to retire for disability and the District believes the worker to be disabled, either the worker or the District, on behalf of the worker, shall apply to PERS for disability retirement.

17A.2 A permanent worker who is unable to perform the essential functions of their job because of a mental or physical impairment may be terminated by the District if:

- a. Section 17A.1 does not operate to prevent termination;
- b. Prior to initiating any proceedings to terminate the worker the District first requests a medical exam as provided in Section 17A.3, or the worker submits a medical report as provided in Section 17A.4; and
- c. The worker is accorded the notice and hearing rights specified in the disciplinary action procedures set forth in Article 16 of this Agreement, but all records related to the action shall indicate that the matter is not disciplinary in nature.

17A.3 The worker may submit medical reports or other pertinent information to the District. In addition any worker may be required to submit to a medical examination by a physician or physicians designated by the District to evaluate whether or not the worker is able to perform the essential functions of their position. Fees for such an examination shall be paid by the District.

The examining physician shall make a written report of the examination to the District. A copy of the report shall be provided to the worker. Failure or refusal of the worker to submit to any medical examination required by the District shall constitute a failure or refusal to perform the normal and reasonable duties of the position. In such event, the absence of an examination shall not prevent the District from submitting an application for disability retirement for the worker, or from commencing disciplinary action pursuant to Article 16.

17A.4 In lieu of or in addition to a medical examination as provided in Section 17A.3, the District may rely upon a medical report from the worker's physician.