

[Chapter 5.28 COUNTY OF LOS ANGELES NONPENSIONABLE FLEXIBLE BENEFIT PLAN](#)

5.28.380 Purpose.

There is hereby established the County of Los Angeles Short-Term Disability Plan, hereinafter called the "STD Plan." The STD Plan is established for the purpose of providing Eligible Participants with income replacement benefits in the event the Participant incurs a Disability. With respect to Eligible Participants whose Disability qualifies them for workers' compensation benefits, the STD Plan is declared to be of the same general character as workers' compensation benefits. (Ord. 2005-0072 § 1 (part), 2005; Ord. 94-0079 § 8 (part), 1994.)

5.28.390 Core Coverage, Optional Benefits and benefit costs.

- A. Core Coverage. The STD Plan, shall pay, after a 14-calendar day Waiting Period, an Eligible Participant an income replacement benefit equal to the Eligible Participant's Compensation multiplied by 70 percent.
- B. Optional Benefit. Each Eligible Employee and each Participant may elect to increase the core coverage, payable after a 7-calendar day Waiting Period, in the event of and for the period that a Disability is Nonindustrial as follows:
1. To an amount equal to the Participant's Compensation multiplied by 100 percent for the first three weeks of the period during which STD Benefits are payable under this STD Plan; and
 2. To an amount equal to the Participant's Compensation multiplied by 80 percent for the balance of the period during which STD Benefits are payable under this STD Plan.
- C. Cost. Core STD coverage shall be provided at no cost to Participants. The Optional STD benefit shall require contributions from the affected Participants as provided for in the Election Information. (Ord. 2005-0072 § 1 (part), 2005; Ord. 99-0084 § 5, 1999; Ord. 94-0079 § 8 (part), 1994.)

5.28.400 Disability benefits.

- A. Payment of Benefits. An Eligible Participant shall begin accruing the benefit determined under Section 5.28.390 on the first day following the expiration of the Waiting Period. Except as otherwise herein provided, such benefit shall be paid as long as the Eligible Participant's Disability continues, but in no event longer than 26 weeks from the first day of Disability.
- B. Other Income Benefits.
1. The STD Plan Benefit payable to the Eligible Participant shall be reduced by other income benefits. "Other income benefits" are those benefits identified below to which the Eligible Participant is entitled. Such benefits, which may be payable either periodically or in a lump sum, are:
 - a. The amount of any benefit with respect to the same Disability and the same period for which the monthly benefit is payable under this STD Plan when such benefits are provided or payable:
 - (1) By any federal, state, county, municipal or other government agency;
 - (2) As temporary disability benefits under California workers' compensation laws;

(3) Under any other workers' compensation law;
(4) Under any employer's liability law; or
(5) Under any third-party liability policy, less any unreimbursed medical expenses awarded by a court and less reasonable expenses of collecting such amounts, including attorneys' fees.

b. The amount of any salary or other compensation, including sick leave, vacation, annual leave, or other pay the Eligible Participant receives from the County shall be coordinated with the STD benefit as specified in the Election Information.

2. Where other income benefits are received in the form of a lump-sum payment or payments, such benefits shall be coordinated with the benefits otherwise payable under this STD Plan in the manner set forth in the Election Information.

C. Termination of Benefits. No benefit shall be payable under this STD Plan if any of the following events occur:

1. The 26-week period, calculated from the first day of Disability, concludes;

2. The Eligible Participant ceases to be Disabled;

3. The Eligible Participant dies, retires, or terminates employment with the County;

4. The Eligible Participant engages in gainful self-employment or receives earned compensation from an employer other than the County, except as part of a rehabilitation program approved by the CAO;

5. The Eligible Participant fails to provide satisfactory Evidence of Disability, ceases to be under the care of a Physician, and/or is not receiving appropriate treatment for the Disability as defined by a recognized professional association established for the license type of the Physician;

6. The Eligible Participant refuses to accept an offer of County employment which is consistent with work restrictions imposed by the Claims Administrator or the CAO, and appropriate to his experience, training, and/or abilities;

D. Recurrent Disability. If an Eligible Participant returns to active County employment and is disabled again for the same cause within 30 calendar days from the date of his return to active employment, or within such other time period as may be specified in the Election Information, STD benefit payments may be resumed without a new Waiting Period; provided, however, that nothing in this provision shall extend the payment of income replacement benefits for the original and any subsequent period(s) of Disability arising from the same cause beyond a total of 26 weeks from the first day of Disability. For purposes of this section, an Eligible Participant will be treated as having returned to active County employment, only if the Eligible Participant has resumed a normal working schedule at the County facility at which he is employed for the regularly scheduled working days during the 30 calendar days after his return to active employment. (Ord. 2005-0072 § 1 (part), 2005; Ord. 94-0079 § 8 (part), 1994.)

5.28.410 Claims.

A. Application for Benefits. The Eligible Participant shall give notice of the Disability to the Claims Administrator in accordance with the procedures established for such purpose in the Election Information.

B. Evidence of Disability. Written medical certification of Disability must be submitted by a Physician, practicing within the scope of his license, to the Claims Administrator within the time frame established for such purpose in the Election Information. Failure to furnish Evidence of Disability within the time required will not invalidate or reduce any claim if it was not reasonably possible to give such evidence within such time, provided that the Evidence of Disability is furnished as soon as reasonably possible.

C. Medical Records and Medical Examination. The Claims Administrator may require such additional evidence, as is deemed necessary, including copies of medical records, and/or a medical examination at County expense to determine the existence, cause and extent of any injury or illness which may be the basis of a claim under the STD Plan.

D. Determination.

1. If the Evidence of Disability shows to the satisfaction of the Claims Administrator that an Eligible Participant is Disabled, the STD Plan benefit as specified under this section shall become payable effective as of the expiration of the Waiting Period.

2. If the Claims Administrator determines after review of the Evidence of Disability and all other evidence, including, but not limited to, medical records and medical examination, that an Eligible Participant is not Disabled, no benefits under this STD Plan shall be payable.

E. Appeal. A Participant may appeal any denial, cessation, or cancellation of benefits under the STD Plan by filing a written notice of appeal with the Claims Administrator, together with any pertinent supporting medical documentation. The Claims Administrator shall conduct a full and fair evaluation of the appeal and render a decision, which shall be final. The appeal from the Participant, and the final decision from the Claims Administrator shall be completed within the time frames established for such purposes in the Election Information. (Ord. 94-0079 § 8 (part), 1994.)

5.28.420 Exclusions and limitations.

Benefits provided for under this STD Plan shall not be paid for any Disability not supported by prevailing medical evidence and treatment. In addition, benefits shall not be paid for any Disability resulting from or as a consequence of one or more of the following:

A. Intentionally self-inflicted injuries;

B. Participation in the commission of a felony;

C. War or an act of war, declared or undeclared;

D. Mental or nervous disorders, alcoholism, or chemical dependency, except while the Eligible Participant is under regular care in a planned program of observation and treatment by a Physician as required by applicable medical standards; or

E. Any other cause or circumstance set forth in the Election Information. (Ord. 94-0079 § 8 (part), 1994.)

5.28.220 Definitions.

The following terms, when used herein with initial capital letters, unless the context clearly indicates otherwise, shall have the following respective meanings:

A. "Basic Monthly Compensation" means the average monthly base rate, as established in Title 6 of this Code, as amended, on salaries, hereinafter referred to as "Title 6," for the position or positions the employee held during the 12 consecutive months immediately preceding the qualifying period; provided, however, that in no event shall the basic monthly compensation include the following:

1. Overtime compensation; or

2. Any lump sum payoff or reimbursement for unused accumulated overtime, vacation, holiday time, or sick leave benefits; or

3. Compensation from two or more positions held on a concurrent basis.

B. "Benefit" means cash and/or one or more Nontaxable Benefits or Taxable Benefits.

C. "Board" means the Los Angeles County Board of Supervisors.

D. "CAO" means the Chief Administrative Officer of the County appointed by the Board pursuant to the Los Angeles County Code.

E. "Claims Administrator" means the County department, contracted insurance company, or contracted service company designated by the CAO to be responsible for the adjudication and processing of claims filed under the Short-Term Disability and Long-Term Disability Plans.

F. "Code" means the Internal Revenue Code of 1986, as amended.

G. "Compensation" means the monthly base rate, as established in Title 6 of the Los Angeles County Code, as amended, plus any monthly bonus established as a designated number of schedules and/or levels in the Standardized Salary Schedule contained in such Title 6 or established as a percentage of the base rate pursuant to Part 3 of Chapter 6.08, Management Appraisal and Performance Plan, of Title 6, Compensation, shall not include any of the following:

1. Overtime compensation;
2. Any lump-sum payoff or reimbursement for unused, accumulated overtime, vacation, holiday time, sick leave, or annual leave benefits;
3. Compensation pursuant to Section 6.16.010 of the Los Angeles County Code;
4. Any hourly bonus;
5. Any monthly bonus established as a flat dollar amount or as a percentage of the base rate except that Compensation shall include any monthly bonus paid as a percentage of the base rate for employees compensated pursuant to Part 3 of Chapter 6.08 entitled Management Appraisal and Performance Plan of the Los Angeles County Code.

H. "Contribution" means any Nonelective Contribution or Elective Contribution made on behalf of a Participant pursuant to Section 5.28.240.

I. "County" means the County of Los Angeles and (1) any governmental entity of which the Board is the governing body; and (2) the County Municipal Courts and the Los Angeles County Superior Court to the extent the operation of this Plan in said courts is otherwise authorized by state law or rules of court.

J. "Disability" or "Disabled" means, during the Waiting Period and the subsequent period for which a Participant might be eligible to receive benefits under the Short-Term Disability Plan, the continuous inability and incapacity of the Eligible Participant to perform the regular and customary duties of his position with the County at the time and place designated by the County.

K. "Domestic Partner" means a qualified person pursuant to the provisions of Chapter 2.210 of the Los Angeles County Code or Section 298.5, California Family Code, as applicable.

L. "Election Information" means the information and rules relating to the general administration of the Plan. The CAO shall develop and issue such information and rules, except as otherwise provided by the Board. Such information shall include, but not be limited to the following:

1. The cost to be charged to Participants for elective coverage, including the manner and timing of payment;
2. Rules relating to election procedures and deadlines, including rules relating to the disposition of benefits for Eligible Employees who fail to meet election deadlines;
3. Rules relating to the disposition of benefits for Participants who enter or exit the Plan during a Plan Year, or who experience an interruption of active service;
4. Rules relating to the administration of the various benefits contained within the Plan, including rules relating to the year-to-year availability of such benefits. Such rules may place restrictions on Participant access to nonelective or elective coverage if such restrictions are necessary to protect the financial well-being of the Plan, to comply with restrictions imposed by insurance carriers, or to preserve the status of the Plan as a cafeteria plan within the meaning of Section 125 of the Code.

M. "Elective Contribution" means the amount allocated to specific Taxable Benefits and/or Nontaxable Benefits at the election of a Participant equal to a reduction in his Eligible Earnings pursuant to Section 5.28.240 B.

N. "Eligible Earnings" means any compensation paid to an Eligible Employee for service performed for the County which is currently includible in gross income under the Code.

O. "Eligible Employee" means a full-time permanent employee of the County who is not in an Excluded Bargaining Unit and who is designated by the Board as eligible to participate in the Plan. For purposes hereof, "full-time permanent" means any employee appointed to an "A," "L" or "N" item pursuant to Title 6 of the Los Angeles County Code. "Eligible Employee" shall also mean or any employee appointed to a "D" item pursuant to said Title 6 who is required to possess a California license to practice as a Registered Nurse or an

employee of the County appointed to a monthly temporary training "M" item pursuant to Title 6 of the Los Angeles County Code who is not in an Excluded Bargaining Unit and who is designated by the Board as eligible to participate in the Plan.

P. "Eligible Participant" means a Participant who becomes disabled as a direct consequence and result of injury or disease.

Q. "Evidence of Disability" means a statement of medical certification of disability submitted by a Physician to the Claims Administrator.

R. "Excluded Bargaining Unit" means an employee representation unit, unless the representative of such unit and the County agree that the employees in such unit shall be covered hereunder.

S. "Materials" means the booklets, manuals, handbooks, contracts, plan documents or sections thereof and other provisions of the Los Angeles County Code relating to the County-sponsored or County-approved employee benefit plans approved for inclusion in Subdivision 2 of the Plan by the Board.

T. "Nonelective Contribution" means the amount available for allocation to particular Taxable Benefits and/or Nontaxable Benefits or for receipt as additional Eligible Earnings by a Participant pursuant to Section 5.28.240 A.

U. "Nonindustrial" means any injury or disease that the director of personnel or the workers' compensation appeals board has not yet determined to be compensable under the workers' compensation laws of the state of California or an injury or disease which has been determined not to be so compensable.

V. "Nontaxable Benefit" means participation in any employee benefit program provided or sponsored by the County, insured or uninsured, now existing or hereafter adopted, for inclusion in the plan the cost of which is excludible from the gross income of the Participant pursuant to Sections 79, 105, 106, or 129 of the Code or any other applicable Code section, as the same may be amended.

W. "Participant" means any Eligible Employee or former Employee who meets the requirements for participation in the Plan set forth in Section 5.28.230.

X. "Physician" means any physician, surgeon, osteopath, psychiatrist, psychologist, chiropractor or other medical practitioner who is duly licensed by the state in which he practices and who is practicing within the scope of his license.

Y. "Plan" means the County of Los Angeles Nonpensionable Flexible Benefit Plan, as set forth in this Subdivision 2, as the same may be amended or restated from time to time.

Z. "Plan Year" means the calendar year.

AA. "Retirement Plan A, B, C, or D Member" means an Eligible Employee or a Participant who is covered by any of the contributory retirement plans established for general or safety members of the Los Angeles County Employees Retirement Association pursuant to the County Employees Retirement Law of 1937. For the sole purpose of determining entitlement to Nonelective Contributions and Nontaxable Benefits and Taxable Benefits provided under the Plan, an Eligible Employee or Participant employed on a monthly temporary training "M" item basis pursuant to Title 6 of the Los Angeles County Code shall be treated as if he were a Retirement Plan A, B, C, or D Member. In no event shall such Eligible Employee or Participant be entitled to any benefit under the County Employees Retirement Law of 1937 by reason of this treatment.

BB. "Retirement Plan E Member" means an Eligible Employee or a Participant who is covered by the optional noncontributory retirement plan made operative for general members of the Los Angeles County Employees Retirement Association on or after July 1, 1981.

CC. "SIB Compensation" means an SIB Participant's Compensation in the month preceding his death, or the commencement of benefits under the LTD Plan, whichever occurs first.

DD. "SIB Participant" means a Retirement Plan E Member who is:

1. A Participant who has elected coverage under the SIB Plan for the current Plan Year; or
2. A former Participant who is disabled and receiving benefits under the LTD Plan, and who elected coverage under the SIB Plan for the Plan Year in which his LTD benefits commenced.

EE. "Taxable Benefit" means participation in certain health or welfare programs provided or sponsored by the County, insured or uninsured, now existing or hereafter adopted, described in the Materials, the cost of which will be treated by the County as includible in the gross income of the Participant pursuant to the Code as the same may be amended.

FF. "Total Disability" or "Totally Disabled" means during the Waiting Period, and during the subsequent 24-month period for which Participant might be eligible to receive benefits under the LTD Plan, means the complete and continuous inability and incapacity of the Participant to perform the duties of his or her position with the County. After the expiration of 24 consecutive months of eligibility for benefit payments, "Total Disability" or "Totally Disabled" means the Participant is Disabled within the meaning of the Federal Social Security Act and is eligible to receive or is receiving disability benefits under the Federal Social Security Act; provided, however, that for a Participant who makes timely application for disability benefits under the Federal Social Security Act and who has not received a final determination regarding disability under that Act, "Total Disability" or "Totally Disabled" (for the period prior to the date on which a final determination is made regarding disability) shall mean the complete and continuous inability and incapacity of the Participant to perform the duties of his or her position with the County. A Participant who is not insured for disability benefits under the Federal Social Security Act (such as lacking sufficient quarters of covered employment) shall be considered Totally Disabled at the end of the 24-month period of eligibility for benefit payments and during the continuance thereafter of the disability if he or she is disabled within the meaning of Section 223(d) of the Federal Social Security Act.

GG. 1. "Waiting Period" for purposes of the Short-Term Disability Plan means that a waiting period shall be required with respect to any one Disability, and that such period shall be a continuous period equal to 14 days, except as reduced by elective option. The Waiting Period shall commence with the first day the Participant is Disabled, and shall continue during the time he remains Disabled.

2. "Waiting Period" for purposes of the Long-Term Disability Plan means that a waiting period shall be required with respect to any one Total Disability, and shall be a continuous period equal to six months, commencing with the first day on which an eligible employee is absent from work due to a total disability, and during which he or she remains totally disabled except as provided below. If the eligible employee ceases to be totally disabled and returns to work for less than an aggregate of 30 days during a waiting period, any such cessation of total disability shall not interrupt continuity or extend the duration of the waiting period used to determine the first day on which benefits commence, provided that the successive absences during the waiting period are due to the same cause. The waiting period shall not include any time prior to January 1, 1991.

3. The continuity of the Waiting Period shall not be interrupted, nor shall the Waiting Period be extended, merely because an Eligible Participant incurs a disability during such period that arises from a different and unrelated cause than that which initially caused the Eligible Participant to be absent from work.

4. The Election Information may establish rules under which an Eligible Participant may return to work on a trial basis during the Waiting Period without causing any interruption or extension of said period. (Ord. 2005-0072 § 1 (part), 2005; Ord. 2005-0019 § 7, 2005; Ord. 2004-0001 § 15, 2004; Ord. 99-0084 § 4, 1999; Ord. 96-0052 § 9 (part), 1996; Ord. 94-0102 § 13, 1994; Ord. 94-0079 § 8 (part), 1994.)