

# Disability Retirement Package Base Plan

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*Instructions and forms for the Disability Retirement application process.*



El Paso Firemen & Policemen's Pension Fund



909 East San Antonio Avenue  
El Paso, TX 79901-2523

August 2012

## Table of Contents

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Disability Retirement	1
Introduction	
Eligibility	
Application Process	2
Approval Process	3
Reconsideration Requests	3
Benefit Payments	3
Recall Process	4
Other Details	4
After You Retire On Disability	4
Taxes	
Direct Deposit	
Cost-of-Living Adjustment	
Insurance	
Conclusion	5
Application Instructions & Forms	6
Disability Application Procedure	17

# Disability Retirement

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## Introduction

The El Paso Firemen & Policemen's Pension Fund provides valuable protection to its participants in the event they become incapacitated from performing the usual duties of their position. The Disability Retirement benefit the Fund offers serves to supplement other insurance benefits and provides valuable income replacement to you.

### **IMPORTANT**

**This brochure is intended to provide you with instructions on the disability application process and the forms you will need to apply for a Disability Retirement from the Fund. In the event there are any inconsistencies between this booklet and the actual *Disability Pension Application Procedure*, the *Procedure* governs. If you wish to review the actual Procedure, you may obtain a copy by contacting the Fund office at (915) 771-8111.**

## Eligibility

Applying for Disability Retirement does not mean you will be approved for the benefit. You must satisfy the eligibility requirements and provide required documents for review and determination by the Board of Trustees.

Participating members of the Fund who are permanently disabled through an injury received or disease contracted in the line of duty or through circumstances which are not by the member's own wrongful conduct are eligible to receive a disability pension. To apply, a written application for a Disability Retirement must be made no later than 180 calendar days after you separate from your employment from the City of El Paso and cease to be a member of the Fund, as determined by the Board of Trustees.

The burden of proof lies with you, the member, to present supporting documentation to the Fund's Board of Trustees which substantiate your disabling condition.

Throughout the application process, the Fund will ask for your assistance in completing forms, providing information, and in some cases, attending scheduled medical appointments for needed information. Your compliance and prompt response in this process will help to ensure your application progresses in an expedient manner.

## Application Process

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You are interested in applying for a Disability Retirement. If you have not already done so, the first step in the application process is to contact the Fund office to schedule an individual consultation with a Benefits Specialist. Prior to your appointment, the Fund will advise you of specific documents you will need to bring to your appointment. The documents you will need to bring include the following:

- ~ your birth certificate or other credible evidence of your birth such as a baptismal record
- ~ if married, a copy of your marriage certificate and your spouse's birth certificate
- ~ your Social Security card
- ~ if you have children who meet the definition of a "qualified child", you must provide copies of birth certificates or similar credible evidence of the date of birth
- ~ if any children are disabled, provide adequate evidence of the disability and non self-supporting status

At the counseling session, the application process will be explained. If after discussing your options with the Benefits Specialist you still wish to pursue a Disability Retirement, the Benefits Specialist will assist you in completing the *Application for Disability Retirement*. Additionally, you will be advised to deliver the *Human Resources Assessment* form to the City of El Paso Human Resources Department. It will be your responsibility to ensure this form is returned to the Fund office. Failure to deliver this form will delay the application process.

You will also be instructed to deliver the *Attending Physician's Statement* form to your physician to evaluate and complete. Likewise, it is your responsibility to ensure this form and any supporting documents, narratives, test results, and the like are returned to the Fund office.

Upon receipt of all required documentation, the Fund may determine that an Independent Medical Examination (IME) is necessary to further your application. If an IME is required, the Fund will arrange the appointment for you and will pay the reasonable costs associated with the visit as well as costs for any tests or other procedures deemed necessary to the examination.

It is your responsibility to appear for all scheduled IME appointments and to provide the independent physician with all pertinent medical information not yet received by the Fund for evaluation. If you fail to appear for a scheduled IME appointment at the designated time and place, absent prior timely notice to both the independent physician and the Fund, the resulting cost of the appointment will be charged to you.

If the independent physician and your attending physician agree that you are not able to perform the duties of your position, the Fund will present all relevant documents and information to the Board of Trustees Benefits Committee for review and recommendation to the full Board. However, if the independent physician and your attending physician do not agree on your ability to perform the duties of your position, the Fund will schedule an appointment for further examination and evaluation by a second independent physician. If a majority of the examining physicians are in agreement that you can no

longer perform your job duties, the Fund will present your information to the Board's Benefits Committee.

It is important to note that you will be responsible for any and all costs of your own physician and related expenses in the application process. Additionally, please be aware that if you fail to provide the Fund with all of the required documentation within 60 days of the date in which you signed your application, your application will be deemed incomplete. Should you later elect to apply for a Disability Retirement, you will be required to reapply and complete the application process in its entirety.

## Approval Process

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Upon receipt of the Benefit Committee's recommendation, the Board will render its determination. While it is not required that you engage the services of a legal representative for this process, if you choose to do so, you and your representative will have the right to attend any session (closed or public) in which your application is discussed. Furthermore, you or others related to your case may offer other evidence, including testimony under oath, to substantiate your claim for disability benefits.

If you request to have other persons present at the Board meeting, you must submit your request in writing to the Fund office at least seven calendar days prior to the scheduled meeting in which your application is to be heard. Failure to provide seven calendar days written notification may postpone the Benefit Committee's and/or the Board's determination of your application.

If the Board approves your application, the date of the Board meeting will be the effective date in which your Disability Retirement benefits will begin. You will receive written notification of the Board's decision within seven calendar days of the meeting in which the determination was made.

## Reconsideration Requests

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If your application for a Disability Retirement is denied, the Board may reconsider your application if, within 90 days of the Board's decision, you provide the Board with a written request for reconsideration. Along with your request for reconsideration, you must provide additional relevant and meaningful medical information in writing which addresses the issues previously considered by the Board in their determination process.

Written requests for reconsideration will be presented at the next regularly scheduled Board meeting.

## Benefit Payments

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Once approved for a Disability Retirement, you will receive the greater of:

**2.75 % X Final Wages X Credited Service**

*OR*

**50% X Final Wages**

Disability Retirement benefit payments will be paid for your lifetime, provided you remain disabled. Upon your death, your survivors may qualify for survivor benefits. To determine if your survivors would be eligible for continued benefits, please contact a Benefits Specialist with the Fund.

## **Recall Process**

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The Board will designate the initial recall period at the time your Disability Retirement is granted and may subsequently order additional recalls from time to time. Generally, recalls will not be granted more often than once in a one year period. However, if the Board has reason to believe you are no longer disabled, or if you request to be allowed to return to duty, this one year rule shall not apply.

## **Other Details**

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Absent a reasonable excuse, if you fail to fulfill the requirements of the Disability Retirement application procedure to appear at scheduled appointments with physicians or at scheduled Board meetings (“hearings”) your application will be terminated. At this point, if you still desire to qualify for a Disability Retirement, you will be required to reapply.

Should you be approved for Disability Retirement benefits, you should contact the City of El Paso for information concerning the possible continuation of life and health insurance benefits.

Please note that you have rights under the Federal Americans with Disabilities Act and/or State Law. Therefore, you should request a reasonable accommodation of your condition from your department and the City of El Paso.

## **After You Retire On Disability**

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### **Taxes**

Regardless of whether you retire under the Service Connected or Ordinary Disability, your benefit may be subject to federal and possibly state income taxes. For further information concerning the taxability of your Disability Retirement, contact a Benefits Specialist with the Fund.

### **Direct Deposit**

The Fund sends benefit payments on the last business day of each month. Pension payments sent via the postal service may take up to an additional 7 to 10 days to reach you. Therefore, the Fund encourages all benefit recipients to opt for direct deposit of your disability pension.

To receive direct deposit, notify a Benefits Specialist with the Fund office of your request prior to the

initiation of your disability benefit. If you later wish to receive direct deposit, you will need to complete an *Electronic Funds Transfer Authorization* form which is available either on the Fund website at [www.ElPasoFireAndPolice.org](http://www.ElPasoFireAndPolice.org) or by contacting the Fund office.

Please remember to notify the Fund should your banking information change due to relocation, marriage, death, or change of account.

## Cost-of-Living Adjustment

Benefits received under a Disability Retirement qualify for a Cost-of-Living Adjustment (COLA). Once your COLA begins, your benefit from the Fund will increase by 3 percent per year every January. To determine the commencement date of your COLA, please consult with a Benefits Specialist with the Fund.

## Insurance

The Fund does not provide for the continuation of life, health, or other insurance benefits you may have arranged with your employer. If you are approved for a Disability Retirement and wish to continue insurance coverage, please consult with the City of El Paso.

## Conclusion

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The decision of the Board of Trustees with respect to an application for Disability Retirement shall be final and binding on all parties. However, the Board will reconsider the disability application if an applicant, previously denied, provides the Board with a written request for reconsideration and any additional relevant and meaningful medical information in writing to those issues previously considered by the Board in the disability application process. In order for an application to be reconsidered, the request must be received by the Fund office within 90 calendar days of the Board's determination.

If an applicant is approved for Disability Retirement and the Fund subsequently receives information that the individual is engaged in activities that are inconsistent with the findings contained in the statements of the examining physicians, a private investigative service may be retained to investigate the accuracy of the information received. If the Board receives such information prior to a decision in an applicant's disability request, all action will be suspended pending the receipt and consideration of the private investigative report.

## Application Instructions & Forms

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To apply for a Disability Retirement from the El Paso Firemen & Policemen's Pension Fund, you will need to complete and return the following forms to the Fund office:

***Application for Disability Retirement***  
***Statement by Member for Disability Retirement***  
***Authorization for Release of Medical Information***  
***Disability Pension Applicant's Waiver of Privacy Rights***

Additionally, you will need to deliver the following forms to the appropriate individuals and ensure the forms are completed and returned to the Fund office:

***Human Resources Assessment***

(deliver to the City of El Paso Human Resources Department and ensure it is completed and returned to the Fund office)

***Attending Physician's Statement***

(deliver to your physician and ensure it is completed and returned to the Fund office along with any supporting documents, narratives, test results and the like)

The following documents are included to provide you with additional information:

***Americans with Disabilities Act - Information Summary***  
***Disability Pension Application Procedure***

All forms listed above are included in this packet in the succeeding pages.





# El Paso Firemen & Policemen's Pension Fund



## APPLICATION FOR DISABILITY RETIREMENT

Base Plan     Second Tier Plan

### SECTION I: MEMBER INFORMATION

Member Name:  Social Security Number:

Mailing Address:

Phone Number:  Date of Birth:   Fire  Police

*Street*                      *City*                      *State*                      *Zip Code*

### SECTION II: DEPENDENT INFORMATION

**List all unmarried dependent children\* under the age of 19:**

Name:  SSN:  Date of Birth:

Name:  SSN:  Date of Birth:

Name:  SSN:  Date of Birth:

Name:  SSN:  Date of Birth:

**List all unmarried dependent children\* over the age of 19, under the age of 23, and a full-time student:**

Name:  SSN:  Date of Birth:

Name:  SSN:  Date of Birth:

**List all unmarried dependent children\* deemed physically disabled and non-self supportive:**

Name:  SSN:  Date of Birth:

**List all unmarried dependent children\* declared mentally incompetent by a Court proceeding:**

Name:  SSN:  Date of Birth:

\* **Dependent child means a biological or adopted child who is less than 50% self-supporting.**

**SECTION III: SPOUSE INFORMATION**

Name of Spouse:  Date of Marriage:   
Social Security Number:  Date of Birth:

**SECTION IV: RETIREMENT INFORMATION**

Please select which type of disability retirement member is applying for:

- Ordinary Disability Retirement (Non-work-related)       Service Connected Disability Retirement (Work-related)

**To qualify for either disability retirement, your disability must be total and permanent.**

Date of Separation:  Date of Retirement:

**SECTION V: DOMESTIC RELATIONS ORDER INFORMATION**

If you have a Domestic Relations Order in effect, you must supply the Fund with a copy. The Fund will need to evaluate the DRO for qualified status and address any Alternate Payee payments due prior to the initiation of your retirement benefit.

Have you ever been divorced while a member of the El Paso Firemen & Policemen's Pension Fund?,  Yes  No  
if yes, please provide Divorce Decree

Are you in the process of obtaining a divorce?  Yes  No

Do you have a Domestic Relations Order pursuant to a divorce?  Yes  No

If yes, Alternate Payee's Name:

**Please provide Court Order**

*I hereby certify and affirm under penalty of perjury under the Laws of the State of Texas that the information contained here within is true and accurate to the best of knowledge and belief.*

Member's Signature:

**SECTION VI: MEMBER AUTHORIZATION**

*I hereby certify and affirm under penalty of perjury under the Laws of the State of Texas that the information contained here within is true and accurate to the best of knowledge and belief.*

Member Signature:  Date:

Witness:  Date:

**SECTION VII: SUPPORT DOCUMENTATION (for internal office use only)**

Check those that apply:

- Copy of Separation & Clearance Form
- Copy of Marriage Certificate
- Copy of Birth Certificate for Qualified Dependent(s)
- Copy of Social Security Cards (Member, Spouse & Dependents)
- Copy of Photo Identification (Spouse)
- Receipt for Buyback of Pension Contributions
- W4-P Form
- Electronic Funds Transfer Authorization Form
- Records Release Form
- Back DROP Application and Spousal Consent Packet
- Other Documentation

List:



# El Paso Firemen & Policemen's Pension Fund



## STATEMENT BY MEMBER FOR DISABILITY RETIREMENT

Member Name:

Department:  Social Security Number:

*Please answer the following questions.*

1. Was your injury the result of an accident?  Yes  No

If yes, please give the date and nature of the accident:

2. What was the date of onset of your condition?

3. Describe in detail your present disabling condition and its causes:

4. Describe your assigned duties at the time of the disabling condition:

5. Does your disabling condition completely prevent you from engaging in any business or occupation or performing any work for compensation, gain, or profit, even in a limited manner?

Yes  No Please explain:

**continued back page** ←

6. Since your injury, have you engaged in any business or occupation or performed any work for compensation, gain, or profit, even in a limited manner?

Yes  No Please explain:

7. Do you currently perform any volunteer or charity work?  Yes  No

If so, please explain:

8. Since your disabling condition occurred, have you or are you currently attending any schools, classes, or seminars to modify or improve your education and/or employment skills?

Yes  No If so, please explain:

9. List the name and title of the individual at the City of El Paso whom you contacted regarding "reasonable accommodations" under the Americans with Disabilities Act (ADA). If you have not contacted anyone at the City of El Paso regarding the ADA, please write "none".

10. List all physicians who have attended you during your present disabling condition, including any physicians seen for specialized treatment, therapy, x-rays, and medical tests.

Physician Name	Address	Dates To/From
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

*I certify that the information contained on this form is true and accurate to the best of my ability.*

Member Signature:  Date:



# El Paso Firemen & Policemen's Pension Fund



## AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

### TO WHOM IT MAY CONCERN:

You are hereby authorized to allow the El Paso Firemen & Policemen's Pension Fund, its agents, or employees access to any and all medical records pertaining to:

Name:

Address:

Social Security Number:

which are in the possession or are subject to the control of yourself or your organization, and upon request, to provide to the El Paso Firemen & Policemen's Pension Fund, its agents, or employees copies of any and all medical records you may have pertaining to the said UNDERSIGNED.

Your organization is released from responsibility or liability for the release of such medical information to the El Paso Firemen & Policemen's Pension Fund. However, I request that this information remain confidential as to all other persons not related or affiliated with the El Paso Firemen & Policemen's Pension Fund.

A photocopy of this signed authorization shall have the same status as an original bearing my signature.

Signature:

Date:



# El Paso Firemen & Policemen's Pension Fund



## DISABILITY PENSION APPLICANT'S WAIVER OF PRIVACY RIGHTS

1. The undersigned acknowledges that an application for disability pension benefits has been filed with the El Paso Firemen & Policemen's Pension Fund;
2. The undersigned further acknowledges that the El Paso Firemen & Policemen's Pension Fund, by and through its Pension Administrator and/or Benefits Committee, will be given access to certain confidential medical records in connection with its review of the undersigned's disability benefits application;
3. The undersigned further acknowledges that the El Paso Firemen & Policemen's Pension Fund Board of Trustees may review and discuss the merits of the undersigned's application for disability pension benefits in executive session in order to preserve the confidentiality and privacy rights of the undersigned;
4. Notwithstanding the foregoing, the undersigned requests that the El Paso Firemen & Policemen's Pension Fund Board of Trustees discuss and deliberate the merits of the undersigned's application for disability pension benefits in an open and public hearing and not in closed session.

Signed this  day of , .

Disability Pension Applicant:

Social Security Number:

*A photocopy of this signed authorization shall have the same status as an original bearing my signature.*

Signature:  Date:



# El Paso Firemen & Policemen's Pension Fund



## HUMAN RESOURCES ASSESSMENT

TO BE COMPLETED BY THE CITY OF EL PASO HUMAN RESOURCES DEPARTMENT

In order to assist the Board of Trustees in making their determination whether the employee listed below is so permanently and totally disabled as to incapacitate him/her from the performance of duty, please provide the following information and return this form to the El Paso Firemen & Policemen's Pension Fund office.

### SECTION I: EMPLOYEE INFORMATION

Employees Full Name:

Social Security Number:  Department:

Basis for Disability:

### SECTION II: ASSESSMENT

Position at the Time of the Disabling Condition:

Length of Time in Position Listed:

Describe Current Duties:

Please Indicate One of the Following:

- There IS NOT a position within the department that can be provided to the above named disability applicant that is commensurate with their physical or mental capabilities. I make this determination pursuant to the information provided to me. The use of my discretion is reasonably exercised.
- There IS a position within the department that can be provided to the above named disability applicant that is commensurate with their physical or mental capabilities. I make this determination pursuant to the information provided to me. The use of my discretion is reasonably exercised.

Signature of Human Resources Representative:  Date:

Title of Human Resources Representative:

**Please return this form to the El Paso Firemen & Policemen's Pension Fund at the address listed below.**





# El Paso Firemen & Policemen's Pension Fund



## ATTENDING PHYSICIAN'S STATEMENT

The following individual has applied for a disability retirement from the El Paso Firemen & Policemen's Pension Fund. Please complete the following information in order to assist the Board of Trustees in their determination of the applicant's eligibility for a disability retirement.

**PLEASE RETURN THIS FORM DIRECTLY TO THE PENSION ADMINISTRATION OFFICE. THANK YOU!**

### SECTION I: PATIENT INFORMATION

Patient Name:

Social Security Number:

Date of Birth:

### SECTION II: MEDICAL INFORMATION

Member's Condition/Illness/Ailment:

Initial Consultation Date for the Present Condition:

Cause of the Condition (work related/accident/etc.)

Date of Onset:

Prognosis:

Diagnosis:

Is the patient so totally and permanently disabled through the condition so as to incapacitate the member from the performance of duties, as currently assigned, as described? (see attached description)  Yes  No

Comments:

Is the patient able to perform any gainful employment?  Yes  No

If yes, what restrictions, if any, are applicable:

Sitting  Standing/Walking  Bending  Squatting  Kneeling  Climbing  Reaching  Driving

### SECTION III: PHYSICIAN INFORMATION

Physician Name:

Address:

Street

City

State

Zip Code

License Number:

Phone Number:

Signature:

Date:

**PLEASE ATTACH COPIES OF ALL MEDICAL RECORDS. RETURN THIS COMPLETED FORM TO THE ADDRESS BELOW - ATTENTION: BENEFITS SPECIALIST.**

909 E. San Antonio Avenue · El Paso, TX 79901-2523  
 (915) 771-8111 · Fax (915) 779-6693  
[www.ElPasoFireAndPolice.org](http://www.ElPasoFireAndPolice.org)  
<https://facebook.com/elpasofireandpolice>



# El Paso Firemen & Policemen's Pension Fund



## AMERICANS WITH DISABILITIES ACT Information Summary

In order to qualify for a disability retirement from the El Paso Firemen & Policemen's Pension Fund (the "Pension Fund"), you must establish by medical evidence that you have become so permanently disabled, through an injury sustained or disease contracted in the line of duty, such that you are incapacitated from the performance of duty, or that for any reason, not caused by your own fault, you have become so permanently disabled as to incapacitate you from the performance of duty.

Since July of 1990, the Americans with Disabilities Act (ADA) prohibits discrimination against a qualified individual with a disability who can perform the essential functions of a position with or without reasonable accommodation. The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. The term "disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of impairment, or being regarded as having such impairment. This means that an employer may not discriminate against a qualified individual with a disability, and that the employer has an affirmative duty to reasonably accommodate an employee with a disability so long as such accommodation does not constitute an undue hardship. This accommodation may include reassignment to a different position or providing flexible work schedules, including job restructuring and part-time or modified work schedules. The term "undue hardship" means an action requiring significant difficulty or expense.

If you are capable of performing the functions of your duty with reasonable accommodation, you are not eligible for a disability retirement.

Although you are not required to specifically request a reasonable accommodation, it is your duty to notify your employer that some adjustment or change in your working conditions is necessary in order to accomplish the duties of your job. Your employer is under no duty to provide accommodation until you make your disability or impairment known. Your failure to make known your need for an adjustment in your working conditions may be used as a basis for denying your application for a disability retirement. You may contact your department, the City's Equal Opportunity Office, and the Equal Employment Opportunity Commission (EEOC) for enforcement of your rights under the ADA.

Note that if your employer cannot make a reasonable accommodation, it does not automatically mean that you are eligible for a disability retirement.

For further information about your rights under the ADA and other anti-discrimination laws, contact the El Paso Office of the EEOC or the City's Affirmative Action/EEOC office.



# El Paso Firemen & Policemen's Pension Fund



## DISABILITY PENSION APPLICATION PROCEDURE

Re-Stated and Approved July 19, 2006  
Revised January 23, 2008  
Revised April 16, 2008  
Revised November 18, 2009

## **EL PASO FIREMEN & POLICEMENS' PENSION FUND DISABILITY PENSION APPLICATION PROCEDURE**

### **PURPOSE:**

Pursuant to its authority under Section 8 of Article 6243b of the Revised Civil Statutes of Texas ("Article 6243b") and Section 11 of the City of El Paso, Texas Firemen and Policemen's Pension Fund ("Plan"), the Board of Trustees ("Board") of the Plan hereby amends and adopts the following as its procedure ("Procedure") for processing disability pension applications of members ("Member"). This Procedure establishes a coordinated and documented means of processing Members' applications for disability pensions under the Plan.

The Board intends that this Procedure will clarify for all parties concerned the:

- rights, duties and responsibilities of the Board and its staff in the Disability Pension Application and Review Process,
- rights, responsibilities, and reasonable expectations of Members who might wish to apply for a disability pension benefit under the terms of the Plan, and
- afford everyone involved in the disability pension application process with an adequate understanding of when a Member may be eligible for a service-connected or ordinary disability pension (herein referred to as a ("Disability Pension")), when a Disability Pension may be denied, and what is involved in the process of applying for a Disability Pension. To that end, this Procedure will provide a detailed outline of the steps as well as the normal periods involved in the typical disability pension application process. In addition, Members will be provided with all documents necessary to comply with this Procedure.

### **COOPERATION:**

Absent a reasonable excuse, the failure of a Member to fulfill the requirements of this Procedure to appear at scheduled appointment(s) with physician(s) or at scheduled Board Meetings or "hearings" will terminate the Member's application for a Disability Pension. If this happens, a Member who still desires to qualify for a Disability Pension will be required to reapply for a Disability Pension.

### **PRIVATE INVESTIGATORS:**

At any time during the disability process, the Plan may hire a Private Investigator to obtain information relating to the Disability Pension Application.

### **MULTIPLE HEARINGS:**

When considering an application for a Disability Pension, the Benefits Committee of the Board or the Board may decide that additional information on some subject relating to the application is desirable. If so, then it may defer action until a subsequent meeting. In addition to its authority to

3. Prior to the scheduled counseling appointment, the Pension Office will send or provide a letter to the Member requesting that the following documents be provided to the Benefits Specialist or designated representative at the counseling appointment:
  - a. the Member's birth certificate or similar credible evidence of date of birth (such as, baptismal record); request investigations, the Board reserves the right to issue process for witnesses and to examine those witnesses under oath.

**PROCEDURE:**

**I. Federal & State Law May Protect An Employees' Right to a Job & Reasonable Accommodation**

Members are advised that they may have rights under the Federal Americans with Disabilities Act or State law. They should request reasonable accommodation of their condition with their Department and with the City of El Paso ("City").

**II. The Disability Pension Application Process**

1. A Member who wishes to apply for a Disability Pension must first contact the Pension Office and schedule a counseling appointment with a Benefits Specialist or designated representative, which appointment, generally, will be at the Pension Office.
2. The legal guardian of a Member may apply for a Disability Pension on the Member's behalf if the Member lacks the capacity to independently make such an application; however, no such application will be fully processed by the Pension Office until legal documents establishing the guardianship are presented to and approved by the Plan. Where appropriate, references to the Member in this Procedure shall likewise refer to a Member's legal guardian.
  - b. if the Member is married:
    - (i) a copy of the Member's marriage certificate (or similar evidence of a legal marriage and social security number), and
    - (ii) a copy of the spouse's birth certificate or similar credible evidence of date of birth; and
  - c. if the Member has children, who may meet the definition of a Qualified Child, as more fully explained in Section 3.18 of the Plan, such children's birth certificate or similar credible evidence of date of birth, and if disabled, adequate evidence of such disability and non self-supporting status.

4. At the counseling session, a Benefits Specialist or designated representative will inform the Member of the following:
  - a. the current status of the Member's retirement pension benefit, as well as the potential survivors' rights to benefits;

the Disability Pension that may be available to the Member, as well as the potential Qualified Spouse and/or Qualified Children's rights to benefits under the Plan;

the discretion of the Board to take no action on an application or order that a hearing be held at a later date;

the time frames and requirements of this Procedure;

the fact that the Member bears the burden of proof; and

the fact that the Board alone has the sole and absolute right, duty and obligation to make the final decision, based upon its weighing of all the credible evidence received from all sources at the hearing, whether a Member is so permanently disabled as to incapacitate him or her for the performance of duty.

The requirement that a written application for a Disability Pension must be made no later than one-hundred-eighty (180 ) calendar days after the Member separates employment from the City of El Paso and ceases to be a member of the Fund as determined by the Board.
5. After the above information has been provided to the Member, the Benefits Specialist or designated representative will ask whether the Member wishes to proceed with an application for a Disability Pension. If the Member indicates a desire to continue the process, the Benefits Specialist or designated representative will:
  - a. assist the Member in filling out an Application for Disability Retirement form (Exhibit "A" to this Procedure);
  - b. provide the Member with a copy of the "Human Resources Assessment Form" (Exhibit "B" to this Procedure) which must be completed by the Department Head in full and returned to the Fund's offices. Failure to provide the "Human Resources Assessment Form" will delay the disability process. **(Revised November 18, 2009)**
  - c. advise the Member that he or she must schedule an appointment with his or her own Physician(s), (the "Attending Physician") to evaluate and prepare a detailed written "Attending Physician's Statement" (Exhibit "C"

to this Procedure) to be sent to the Plan on the Member's condition; (For purposes of this Procedure, any reference to "physician" means a person licensed as a physician under Tex. Occ. Code Ann. §155.001 et seq. (Vernon 2002) (as amended)).

- d. provide the Member with a copy of the Attending Physician's Statement. Attached to such form is an official statement of the Member's Job Description to assist the Attending Physician in responding to certain questions contained in the Attending Statement. The Attending Physician's Statement must be properly, fully and legibly completed and signed by the Attending Physician. In order to facilitate a typewritten report, this form may be downloaded at [www.ElPasoFireAndPolice.org](http://www.ElPasoFireAndPolice.org). If the Attending Physician's Statement and any attachments thereto are incomplete or illegible, such disability process may be postponed or delayed;
  - e. explain that the Board may require the Attending Physician's presence at a scheduled Board meeting if the Board wishes to ask questions of the Attending Physician in order to better assess the Member's claim for a Disability Pension; and
  - f. provide the Member with a copy of this Procedure.
6. It is the responsibility of the Member to ensure that a fully and properly completed Attending Physician's Statement along with any narrative and/or test results (such as, copies of medical records, CAT-scans, M.R.I.s, or psychological tests) be delivered to the Pension Office. A police report if available, shall accompany all disability applications which involve non-job related accidents.
  7. Upon receipt of the Attending Physician's Statement and all required documentation, the Pension Office may determine that an examination of the Member by an Independent Physician is required. **(Revised January 23, 2008)**
  8. Upon a determination by the Pension Office that an Independent Medical Examination (IME) of the Member by an Independent Physician is required, the Pension Office or its designated agent shall advise the Member of the date, time and location of an appointment for the IME by an Independent Physician selected by the Pension Office. In connection with the IME, the Pension Office will forward to the Independent Physician the Attending Physician's Statement and also: (i) an "Independent Physician Evaluation Request Packet" (Exhibit "D" to this Procedure); (ii) a statement of the Job Duties for the Member's Department; and (iii) any other medical information that the Member advises the Pension Office in writing that the Member believes to be relevant to the disability application. In appropriate circumstances the Independent Physician may render an opinion based solely upon the written materials. **(Revised January 23, 2008 & November 18, 2009)**

9. It is the responsibility of the Member, upon notification by the Pension Office or its agent, to appear for all scheduled IME appointments and to provide to the Independent Physician pertinent medical information not yet received by the Pension Office that the Member believes relevant for the Physician's evaluation. Failure of the Member to appear for such IME at the appointed time and place, absent prior timely notice to both the Independent Physician and the Pension Office, will result in the cost of such appointment being assessed to the Member. The Pension Office will take no further action on the Member's application for a Disability Pension until such time as the required examination and evaluation has been completed. Except as otherwise provided in this Procedure, the Plan will pay the reasonable expenses for the cost of the IME and any tests or other procedures or evaluation reasonably deemed necessary to such examination. The Member shall be responsible for any and all costs of his or her own Attending Physician and related services. **(Revised January 23, 2008)**
10. Upon receipt of a full and complete Independent Physician Evaluation Request Packet of the IME, the Pension Office shall forward a copy to the Member. **(Revised January 23, 2008 & November 18, 2009)**
11. If the Independent Physician(s) and the Attending Physician agree that the Member cannot perform the Job Duties, then the Pension Office will present as soon as practicable the Physicians' Statements and all other relevant information to the Benefits Committee. **(Revised January 23, 2008)**
12. If however the Independent Physician and Attending Physician do not agree on the issue of whether the Member can perform the Job Duties as described, then the Pension Office will schedule an appointment for further examination and evaluation of the Member with a second Independent Physician. **(Revised January 23, 2008)**
13. The Pension Office will send an Independent Physician Evaluation Request Packet to the second Independent Physician prior to the scheduled appointment for an IME of the Member together with the following: **(Revised January 23, 2008 & November 18, 2009)**
  - a. A copy of all prior Independent Physician's Statement(s);
  - b. A copy of the Attending Physician's Statement and supporting documentation;
  - c. A statement of the Job Duties of the Member's Department;
  - d. Any other medical information that the Member has identified as being relevant.
14. If a majority of the examining physicians are in agreement concerning the issue of whether the Member can perform his/her current Job Duties, then the Pension Office will present all the examining physicians' statements and other relevant



information to the Benefits Committee for its review and recommendation to the Board for dispositive action at the next regular scheduled meeting of the Board. The Pension Office shall provide the Member with a copy of all of the documentation to be reviewed by the Benefits Committee in connection with the Member's application no later than seven (7) calendar days prior to the meeting at which the Member's application is to be considered. **(Revised January 23, 2008)**

15. The Pension Office may also request the Independent Physician(s) and or other persons having information relevant to the application to be present and available at a scheduled Benefits Committee or Board meeting in order to thoroughly assess the Member's claim for disability benefits. If any medical professional is requested or subpoenaed to attend a meeting of the Committee or Board as herein provided, such person shall be reimbursed at a rate not to exceed the lesser of the person's then regular hourly rate of compensation or \$250.00 per hour for the time in attendance at such meeting. **(Revised January 23, 2008)**
16. If the Member fails to provide the Pension Office with all the required documentation within sixty (60) days from the day the Member signed the Application for Disability Retirement form, such application will be deemed incomplete and set aside. Should the Member later elect to apply for Disability Retirement, he must reapply by again completing the Disability Pension Application Process in its entirety. **(Revised April 16, 2008)**

### **III. The Board Meeting**

1. The Board, upon receipt of the recommendation of the Benefits Committee, will render its determination concerning the Member's application for a Disability Pension in open session; however, any testimony or discussion regarding the Member's medical information will be held in closed session, unless the Member waives confidentiality and requests that the discussion be held in public session. The medical records related to the Member's application will be kept confidential and any extra copies will be destroyed by the Pension Office. **(Revised January 23, 2008)**
2. The Member and/or his legal representative shall have the right to attend any session, whether closed or public, where the Member's application is under discussion. Further, the Member may present such other evidence, including testimonial evidence given under oath, by any person with knowledge of facts that might bear on the Member's entitlement to a Disability Pension. **(Revised January 23, 2008)**
3. The attendance of a representative of the City's Human Resources Department or designated representative responsible for the Member's Department may be requested by the Board. **(Revised November 18, 2009)**
4. If the Member desires to address questions to persons who have information that may be relevant to the existence of a disability, the Member should request in

writing to such person(s) that they be present to offer evidence or testimony. If such person is a representative of the City's Human Resources Department or of the Member's Department or the Independent Physician, the Member should inform the Pension Office of the Member's request and the Pension Office shall request such person(s) attendance. Further, the Benefits Committee or the Board in its sole and absolute discretion, may require any person's attendance whom the Pension Office advises may have relevant information to the proceedings. If a person who may have relevant information (such as representatives of the City's Human Resources Department or of the Member's Department, or designee, or one of the examining physicians) is not in attendance at the Benefits Committee or Board meeting, the Benefits Committee or the Board may attempt to contact such persons by telephone during the course of the meeting, provided that all persons present can hear and be heard. If, however, the Benefits Committee or the Board deems a person's physical attendance necessary to proceed, a hearing on the Member's application may be postponed until the next scheduled meeting. The Member's request for the attendance of one or more persons must be submitted in writing to the Pension Office at least seven (7) calendar days prior to the meeting scheduled for that purpose. Failure to provide the seven (7) calendar day written notification may require an additional postponement of the Benefits Committee's or Board's determination of the Member's application. **(Revised January 23, 2008) (Revised November 18, 2009)**

#### **IV. The Board's Decision**

1. When presented with the Member's Disability Pension Application, the Board shall make its decision in accordance with the standards set forth in Section 8 of Article 6243b of the Revised Civil Statutes of Texas. The date of the Board meeting awarding any Disability Pension shall be the effective date such benefit is to commence. **(Revised January 23, 2008)**
2. The Board's written decision regarding the Member's application shall be provided to the Member within seven (7) calendar days of the meeting in which the decision was made. **(Revised January 23, 2008)**

#### **V. Reconsideration of Disability Pension Application**

1. The Board may reconsider the Disability Pension Application of a Member if:
  - a. the Member provides the Board with a written request for reconsideration and any additional relevant and meaningful medical information in writing to those issues previously considered by the Board in the disability application process; and

- b. a Member's request for a reconsideration of the disability application is received by the Pension Office within ninety (90) calendar days of the Board's determination.
2. A Member's timely request for reconsideration of a Disability Pension Application will be presented to the Board at its next regular scheduled meeting.

## **VI. Other Guidelines and Statements**

1. If the Pension Office receives information that a Member is engaging in activities that are inconsistent with the findings contained in the statements of the examining physicians, then upon notice to the Board Chairman, the Executive Director shall be required to engage the services of an approved private investigative service generally within seven (7) calendar days of receiving such information. The private investigative service shall be authorized to investigate the accuracy of the information received. If the Board receives such information prior to its decision on the Member's Disability Pension Application, all action shall be suspended pending the receipt and consideration of the report of the private investigative service at a duly called Board meeting. Upon receipt of a report from the investigator, the Board may notify the Member of his or her immediate recall for a medical reexamination and or requiring the Member to meet with the Benefits Committee and/or the Board for the purpose of reconsidering the award of a Disability Pension.
2. The reasonable costs for medical examinations and completion of forms by the Independent Physician, as well as other authorized medical examinations (but not the costs for the Member's own physician) will be paid for by the Plan, except as provided to the contrary in this Procedure.

## **VII. Decision of Board Final**

The decision of the Board with respect to a Disability Pension Application shall be final and binding on all parties except as provided under Section V, Reconsideration of Disability Pension Application



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