



El Paso Firemen & Policemen's Pension Fund



DISABILITY PENSION RE-EVALUATION PROCEDURE

Effective as of March 22, 2017

Amended July 17, 2019

EL PASO FIREMEN & POLICEMEN'S PENSION FUND DISABILITY PENSION RE-EVALUATION PROCEDURE

PURPOSE:

The El Paso Firemen & Policemen's Pension Fund ("Plan") contains provisions entitling members to disability benefits when they have met the Plan's qualifications for such benefits. It is recognized that some disabilities last a lifetime and other disabilities may be of a shorter duration.

A Member or Retiree with less than 20 years of Credited Service is subject to the Board of Trustees ("Board"), in its sole and absolute discretion, requiring any such person to undergo a new medical examination by a physician selected by the Pension Office. The physician's report of such medical examination together with any supporting materials shall be considered by the Board in determining if the Member or Retiree continues to be eligible for disability benefits under the Plan.

The Board of the El Paso Firemen & Policemen's Pension Fund hereby adopts the following as its procedure ("Re-Evaluation Procedure") for the re-evaluation and medical reexamination of persons receiving disability pension ("Recipient" or "Disability Recipient"). This Re-Evaluation Procedure is intended to establish a uniform, coordinated, equitable and documented means of processing disability re-evaluation calls under the Plan.

It is the intent of the Board that the Re-evaluation Procedure affords both a prompt, transparent and fair evaluation of whether a person is entitled to the continued receipt of a disability pension. To that end, this Re-evaluation Procedure will provide a detailed outline of the procedural steps in the medical reexamination and re-evaluation process. In that connection, Disability Recipients will be timely provided with a copy of this procedure and those forms and any additional guidance necessary to comply with this Procedure.

MEDICAL EXAMINATION

Pursuant to its authority under Section 12 of Article 6243(b) of the Revised Civil Statutes of Texas ("Article 6243b") the Board "may cause any person receiving any pension under the provisions of this law, who has served less than twenty years (20) years, to appear and undergo a medical examination, as a result of which the Board shall determine whether the relief in said case shall be continued, increased, decreased or discontinued. If any person receiving relief under the provisions of this law, after due notice, fails to appear and undergo such examination, the board may reduce or entirely discontinue such relief."

FREQUENCY OF RE-EVALUATIONS:

The Board may designate the initial re-evaluation period at the time the Disability Pension is granted and may subsequently order re-evaluations from time to time whether based merely on the passage of a certain length of time or because the Pension Staff or Board has become aware that there may have been a change in the condition of the Disability Recipient. Generally, re-evaluations will not be ordered more often than once in a one (1) year period, provided, however, that if the Board has reason to believe the Disability Recipient is no longer incapacitated, or if the Disability Recipient requests to be allowed to return to duty, this one (1) year guideline shall not apply.

INVESTIGATORS:

At any time in the process the Plan may hire an investigator to obtain information relating to the disability status of the Recipient.

MULTIPLE HEARINGS:

When considering the continuation of a Disability Pension, the Benefits Committee of the Board may request additional information relating to the disability status of the Recipient. If so, it may defer action until a subsequent meeting. In addition to its authority to request investigations, the Board has the authority to issue process for witnesses and examine those witnesses under oath pursuant to Section 11 of Article 6243(b)

PROCEDURE:

I. The Disability Re-evaluation Process

1. Prior to the scheduled meeting of the Benefits Committee at which the Disability Recipient's continued disability status or re-evaluation is to be considered, the Pension Office will send a Re-evaluation Procedure Notice to the Disability Recipient by Regular Mail. This Re-evaluation Notice will include:
 - a. A new "Attending Physician's Statement", "Statement by Member for Disability Retirement", "Disability Pension Applicant's Waiver of Privacy Rights", and "Authorization for Release of Medical Information." (Exhibit "A" to this Procedure);
 - b. A statement of the job duties ("Job Duties") applicable to the former position of the Disability Recipient, as provided by the Department of Human Resources of the City of El Paso; and
 - c. A copy of this Procedure.
 - d. Notice of the requirement for review by an Independent Medical Examination.
 - e. Notice of the requirement that the Disability Recipient provide copies of his/her last two years' of tax returns.
2. It is the responsibility of the Disability Recipient to ensure that a fully and properly completed Attending Physician's Statement in legible form and signed by the Member's Attending Physician along with any ***intervening medical history***, narrative and/or test results (such as: X-Rays, blood work, CAT-scans, M.R.I.s, or psychological test results) is received by the Pension Office. (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)).
3. If the Pension Office has not received a fully and properly completed and signed Attending Physician Statement within sixty (60) calendar days of the date that the materials listed above in Paragraph 1, have been delivered to the Disability Recipient,

a second copy of the Disability Re-evaluation Notice Procedure containing the same items described above will again be sent to the Disability Recipient by both Regular and Certified Mail.

4. If the Disability Recipient should again fail to provide the Pension Office with a fully and properly completed and signed Attending Physician's Statement within thirty (30) calendar days of the second re-evaluation notice described above, the Board may suspend any further payment of the Recipient's disability pension until such time as the Pension Office receives the completed Attending Physician's Statement along with supporting documentation.
5. Upon receipt of a fully and properly completed Attending Physician's Statement and all supporting documentation, the Pension Office will forward a copy of the following to an independent Physician selected by the Pension Office ("Independent Physician"):
 - a. An "Independent Physician's Statement" form (Exhibit "B" to this Procedure);
 - b. The Attending Physician's Statement, along with all required supporting documentation;
 - c. A current statement of the Job Duties of the Disability Recipient; and
 - d. Any other medical information that the Disability Recipient has provided and that the Disability Recipient believes to be relevant.

Depending upon the nature of the claimed disability the Pension Office may select an Independent Physician located outside of El Paso. If the Pension Office requires the Disability Recipient to be examined by an Independent Physician outside of the El Paso area the Pension Office will make the necessary travel arrangements in coordination with the Disability Recipient and will pay for the reasonable, and in the case of airfare, coach class travel. The Benefits Committee reserves the right to waive an Independent Medical Exam.

6. The Pension Office will confirm in writing to the Disability Recipient his/her scheduled appointment(s) with the Independent Physician(s). It is the responsibility of the Disability Recipient to appear for all appointments and examinations. Failure to appear, absent prior timely notice to the Physician and Pension Office, will result in the cost of such visit becoming the responsibility of the Disability Recipient.
7. If the Recipient fails to appear for the appointment or appointments scheduled with the Independent Physician or Physicians, the Board may suspend any further payment of the Recipient's disability benefits.
8. The Pension Office will forward to the Disability Recipient copies of all reports it receives within thirty (30) calendar days of its receipt.
9. If the Independent Physician and the Attending Physician agree that the Disability Recipient can or cannot perform the Job Duties as a result of their disability, then the

Pension Office will present the Physicians' Statements and all other relevant information to the Benefits Committee at its next meeting.

10. If the Independent Physician(s) and the Attending Physician do not agree on the issue of whether the Disability Recipient can perform the Job Duties as described, then the Pension Office may schedule an appointment for the Disability Recipient with another Independent Physician it selects for a further examination and evaluation.
11. The Pension Office will send an Independent Physician's Statement to the Independent Physician prior to the scheduled appointment with the Disability Recipient together with the following:
 - 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 current statement of the Job Duties applicable to the Disability Recipient's; and
 - d. Any other medical information that the Disability Recipient has identified as being relevant.
12. It is the responsibility of the Disability Recipient to appear for all appointments or examinations with Independent Physician(s). Failure to appear, absent prior timely notice to the Physician and Pension Office may result in assessment of the cost of such missed appointment to the Disability Recipient. The Board may suspend any further payment of the Recipient's disability benefits until such time as the Pension Office receives the fully completed Independent Physician's Statement.
13. If two of the three physicians agree that the Disability Recipient either can or cannot perform the current Job Duties, then the Pension Office will present the examining physicians' statements and all other relevant information to the Benefits Committee and further action will be taken by the Board at its next regular scheduled Board meeting.
14. The Pension Office shall provide the Disability Recipient with a copy of all of the above correspondence no later than fourteen (14) calendar days prior to the scheduled Board meeting in which the Disability Recipient's re-evaluation will be considered.

II. The Board Meeting

1. The Board will receive the recommendation of the Benefits Committee and render its determination concerning the Disability Recipient's re-evaluation in open session; however, any testimony or discussion regarding the Disability Recipient's medical information will be held in closed session, unless the Disability Recipient requests otherwise in writing, waiving confidentiality for any and all matters that may be discussed. The medical records related to the Disability Recipient's re-evaluation will be kept confidential and any non-essential copies will be destroyed by the Pension Office.

2. The Disability Recipient may appear at the Benefits Committee meeting and at the closed and open session of the Board meeting in person on his or her own behalf or through or with a representative, who may be legal counsel. Further, the Disability Recipient may present such other evidence, including testimonial evidence given under oath, by any person with knowledge of facts that might bear on the Disability Recipient's entitlement to disability benefits.
3. The attendance of the Chief, or his designated representative, responsible for the Disability Recipient's former Department at the Board meeting may be requested by the Board.
4. If the Disability Recipient desires to address questions to persons who have information that may be relevant to the existence of a disability, the Recipient should request in writing to such person(s) that they be present to offer evidence or testimony. If such person is the Chief of the Recipient's Department or the Independent Physician, the Recipient should inform the Pension Office of the Recipient's request and the Pension Office shall request such person(s) attendance. Further, the Benefits Committee or the Board may, in its sole and absolute discretion, require any person's attendance that the Pension Office advises may have relevant information to the proceedings. If a person who may have relevant information (such as the Chief of the Recipient's Department, or designee, or one of the examining physicians) is not in attendance at the Benefits Committee meeting and the 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 attendance necessary for a fair hearing of the matter, or investigation, a hearing on the Recipient's application may be postponed until the next scheduled meeting. The Recipient's request for the attendance of one or more persons must be submitted in writing to the Pension Office at least fourteen (14) calendar days prior to the meeting scheduled for that purpose. Failure to provide the fourteen (14) calendar day's written notification may require an additional postponement of the Benefits Committee or Board's determination of the Recipient's.

III. The Board's Decision

1. When presented with the Disability Recipient's re-evaluation, the Board shall make its decision in accordance with the standards set forth in Sections 8 and 12 of Article 6243b of the Revised Civil Statutes of Texas.
2. The Board's written decision regarding the Disability Recipient's re-evaluation shall be provided to the Disability Recipient within fourteen (14) calendar days of the meeting in which the decision was made.

IV. Reconsideration of Disability Status

1. The Board may reconsider the disability status of a Disability Recipient if:

- a. the Disability Recipient 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 re-evaluation process; and
 - b. the Disability Recipient's request for a reconsideration of the disability status is received by the Pension Office within ninety (90) calendar days of the Board's determination.
2. A Disability Recipient's timely request for reconsideration of his/ her disability status will be presented to the Board at its next regular scheduled meeting.

V. Other Guidelines and Statements

1. The Pension Office may engage the services of a private investigator to assist with any re-evaluation procedures to ascertain employment status, sports or other activity, emergency service reports, court records, home interviews, and any other services which could help the Committee or Board make an informed decision on the validity of the continued disability claim.
2. If the Pension Office receives credible information that a Disability Recipient 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 is authorized to engage the services of a private investigator to ascertain the accuracy of the information received. If the Pension Office receives such information prior to its decision on the Disability's Recipient's status, such decision may be suspended pending the receipt and consideration of the report of the investigator at a duly called Board meeting. Upon receipt of a report from the investigator that calls into question whether such Disability Benefits should continue, the Benefits Committee will notify the Disability Recipient of his or her immediate re-evaluation for medical reexamination and/or require the Disability Recipient to meet with the Benefits Committee and/or Board for purposes of reconsidering the award of a Disability Pension.
3. The reasonable costs for medical re-examinations and completion of forms by the Independent Physician, as well as other authorized medical examinations (but not the Disability Recipient's own physician) will be paid for by the Fund, except as provided to the contrary in this Procedure.

VI. Decision of Board Final

The decision of the Board shall be final and binding on all parties unless the Disability Recipient requests reconsideration in writing within the above stated 90 days after date of the Board's decision. If the Disability Recipient requests reconsideration within said 90 calendar days, the further decision of the Board upon reconsideration shall be immediately final and binding on all parties.



El Paso Firemen & Policemen's Pension Fund



ATTENDING PHYSICIAN'S STATEMENT (Review Process)

The following individual currently has 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 retiree's continued 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.



El Paso Firemen & Policemen's Pension Fund



STATEMENT BY MEMBER FOR DISABILITY RETIREMENT - REVIEW PROCESS

Member Name:

Retirement Date: 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:

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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 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



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



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:

Independent Physician Evaluation Request Packet (Review Process)

Contents:

This packet contains information to be used in your Independent Medical Examination of the disabled retiree and their eligibility for continued disability retirement. Contents of this packet include the following:

Independent Medical Examination Questions
Disability Applicant's Job Description
Statement by Member for Disability Retirement
Human Resources Assessment
Supporting medical records

Instructions:

The Board of Trustees will review your report during the disability evaluation and decision process. Reports that are concise, consistent, and thorough are the most meaningful and useful.

At the beginning of your report, please include the full name of the applicant who was examined, the applicant's date of birth, last four digits of his/her Social Security number, and the type of disability he/she has applied (Service Connected or Ordinary Disability). The completed report must include answers to the Independent Medical Evaluation Questions provided with this packet.

Please return your completed evaluation including answers to the listed questions as directed.

Thank you!

Independent Physician Evaluation Request Packet (Review Process)

Independent Medical Examination Questions:

With regard to the following questions, please refer to the following **Permanency Standard**:

A disability is permanent if it will continue for an indefinite period of time that is likely to never end even though recovery at some remote, unknown time is possible. If the Independent Medical Evaluation is unable to determine when the applicant will no longer be disabled, they must consider the disability to be permanent. However, if the recovery is reasonably certain after a fairly definite time, the disability cannot be classified as permanent. It is imperative that the physician make his or her determination based on the actual examination of the applicant and other available medical tests or records that have been provided. It is not the physician's task to look into employment possibilities that may become available to an applicant at some future point in time.

1. What is your diagnosis of the applicant's condition and nature of his/her permanency or impairment, if any, and the medical basis for your conclusions?
2. Is the applicant mentally or physically incapable of performing the essential duties of his/her particular job?
3. Is the said incapacity likely to be permanent? (Please refer to the Permanency Standard.)
4. What are the job duties and activities that the applicant is unable to perform?
5. What type of gainful occupation could the applicant perform in light of his/her current mental and physical condition, training, and qualifications?
6. What is the basis for your conclusion that the applicant's disability is or is not likely to be permanent?
7. Is the nature of the applicant's condition or injury such that it can be expected to improve to any degree over time? If improvement is expected, what is the anticipated length of the recovery time?