

## CITY OF BATTLE CREEK POLICE AND FIRE RETIREMENT SYSTEM

### DISABILITY RETIREMENT POLICY

To establish a policy to ensure that disability retirements are being timely, consistently and accurately administered. This policy hereby establishes the procedures and forms necessary to provide/process the information required for retirement.

- The member or member's department head shall submit in writing the details of the reason for the member becoming totally incapacitated for duty by completing an Application for Disability Retirement.
- The board shall request that an Authorization for Release of Records be signed by the member. This authorizes the board and its medical advisors to review all pertinent employment and medical records. The board shall request copies of all medical records and/or incident reports on file with the member's department head, Personnel Department, the member's physician(s), and other identified sources as the Board deems pertinent in its sole discretion. All reasonable costs for duplication and copying of records shall be immediately payable from the assets of the Retirement System.
- The board shall establish a Medical Committee consisting of one physician representing the board (its medical advisor) and one physician representing the member. If needed, a third physician shall be designated by the first two (2) physicians named.
- The board may use an outside consultant to locate potential physicians to represent the board. The outside consultant will recommend multiple physicians within the field of the claimed disability and the board will vote to determine which physician is preferred.
- If the member has more than one type of possible qualifying disability, more than one Medical Committee may be established. The determinations of multiple Medical Committees may be made concurrently or separately.
- The physician representing the member should be qualified in the field of the claimed disability and must be independent and apart from previous medical involvements funded by the City of Battle Creek.

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- The board should designate an independent physician to serve as its medical advisor on the Medical Committee. The examining physician should be qualified in the field of the claimed disability.
- The member shall complete the Designation of Physician form to determine the single physician(s) that shall serve as the member's representative on the Medical Committee(s).
- The board shall notify the examining physician(s) as to the standard of review [e.g., the applicant is totally and permanently mentally or physically incapacitated for duty.] The board shall provide the Medical Committee(s) with a copy of the applicable job description and medical/employment records prior to examination.
- The physicians so designated to the Medical Committee(s) shall submit to the board a specific determination of findings (certification) by no less than completion of the Battle Creek Police and Fire Pension Medical Report on Disability Retirement and a detailed medical report.
- If the Medical Committee disagrees as to the member being totally and permanently incapacitated for duty, the Medical Committee shall select a third physician to evaluate the member and render his/her opinion. These three opinions shall be used to reach a majority opinion.
- The member shall be provided with proper notice of the process and proceedings to ensure that the member is given reasonable opportunity to present his/her case.
- The board shall place a closed session on the agenda in compliance with the Open Meetings Act of 1976, as amended (MCL 15.261 et. seq.), during a regular meeting of the board, or a special meeting of the board if necessary, to discuss the member's disability application, medical reports and opinions, and all other pertinent information. The board shall notify the member of the meeting at least 7 days prior to the date of the meeting.
- The board shall resolve to grant or deny the disability retirement based upon: (a) the Medical Committee's and/or physician's findings, recommendations and certifications; (b) the review of the applicant's records; (c) concurrence with the certification of the physicians; and (d) any other evidence deemed appropriate and relevant by the board.

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- Once the disability retirement has been approved by the board, the board shall then determine whether the claimed disability arose by reason of a personal injury or disease which the board finds to be a natural and proximate result of the actual performance of the member's duty in the employ of the City. While the board shall be the finder of fact with regard to duty causation, the board may request an opinion from the Medical Committee as to whether the member's disability is a natural and proximate result of the member's actual performance of duty in the employ of the City. The board shall grant duty disability based upon: (a) the Medical Committee's and/or physician's findings, recommendations and certifications; (b) the review of the applicant's records; (c) concurrence with the certification of the physicians; and (d) any other evidence deemed appropriate and relevant by the board.
- A member's effective date of disability retirement shall not predate the later of (a) the date of disability, (b) the date the member ceases to be paid by the City, or (c) six (6) months before the application for disability retirement is filed with the board.
- The board shall notify the applicant and the City in writing within thirty (30) days of the board's action to grant or deny the application for disability retirement.
- The board's decision may be appealed within sixty (60) days of the date of notification of the denial by filing, with the board, a written request for hearing and a statement of the reason(s) for believing the action to be improper. The board shall schedule a hearing of the appeal before the board within sixty (60) days of receipt of the request to appeal. The applicant or the City will have the ability to present any new information to the board which may be forwarded to its Medical Committee for consideration. The board shall make the final decision on the matter being appealed. Appeal of a final decision of the board may be made to a court of appropriate jurisdiction.
- The board shall pay the cost of retaining its Medical Advisor. The member shall be responsible for the cost of his/her personal physician(s) unless the application for disability retirement has been initiated/submitted by the member's Department Head, in which case the board shall pay the cost of the member's physician. If a third physician is necessary, the cost shall be evenly divided between the board and the member. Additionally, the member shall be 100% responsible for any cancellation charges incurred due to the member's failure to keep any scheduled appointment.

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- In the event the member fails to fully cooperate in the application process the member's department head should be so advised and the member may thereafter be subject to disciplinary action for failure to comply with the provisions of Act 345. Additionally, if the member fails to keep three scheduled appointments with either the Board's Medical Advisor or the third physician, then the Board will consider the member to not be in full cooperation with the application process and will consider the member's application for a disability retirement to be void.
- The board shall take all reasonable efforts to protect the confidentiality of medical records.

**WORKERS' COMPENSATION OFFSET:** In the event the member receives workers' compensation benefits, amounts paid under the Worker's Disability Compensation Act of 1969, 1969 PA 317, shall be offset against any disability benefit. Pursuant to PA 345 of 1937, if the workers' compensation benefits are less than the retirement benefits calculated under PA 345, the amount to be paid out of the retirement fund shall be the difference between the benefits provided under workers' compensation and the benefits under the retirement system. Upon the termination of benefits paid under the Worker's Disability Compensation Act, the benefits shall be paid pursuant to PA 345.

- Upon retirement of a member who retires on account of a disability and who is in receipt of workers' compensation on account of a disability arising out of an in the course of City employment, the board shall pay disability pension benefits in accordance with Retirement System provisions.
- While a retiree is receiving workers' compensation benefits, the retiree's pension benefits shall be offset by the weekly workers' compensation award converted to a monthly amount.
- If a disability retiree received a workers' compensation redemption settlement, the workers' compensation offset shall be handled in the following manner:
  - The net workers' compensation proceeds shall be the gross amount reflected in the Compensation Redemption Order less
    - Applicable attorney fees
    - Amounts allocated for payment to health care providers for specific and identifiable past medical expenses incurred
    - Amounts specifically allocated for past, present and future medical expenses
    - Statutory redemption fees

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- The net Workers' Compensation Redemption proceeds will be divided by the previously determined weekly workers' compensation award converted to a monthly amount.
- The workers' compensation offset shall continue until the total net workers' compensation proceeds are offset.
- In the absence of specific allocation in the Compensation Redemption Order, the board will accept written correspondence signed by an appropriate City employee setting forth the foregoing allocation for the purposes of determining the net workers' compensation redemption proceeds.
- If a disability retiree waives his/her rights to seniority and employment as part of a workers' compensation redemption, he/she will have no rights to reemployment in the event it is determined that the retiree is no longer eligible to receive disability retirement benefits.

**DISABILITY REEXAMINATION:** Disability retirement commonly requires an individual to be subject to periodic reexamination. This ensures that the individual's medical condition has not changed and that disability retirement benefits are being properly paid.

- In compliance with Public Act 345 of 1937, the Board agrees to the following reexamination process:
  - The Board may require a disability retiree to be reexamined up to once per year during the first five (5) years of disability retirement.
  - The Board may require a disability retiree to be reexamined once every three (3) years after their first reexamination.
  - If a disability retiree requests to be reinstated, the Board shall require a reexamination prior to being reinstated.
  - All disability retirees shall be required to undergo medical reexamination unless substantial reasons that would support the retiree's exclusion.
- The timing of any reexamination will be determined by the board using the information provided by the member's physician, the board appointed physician and the third physician (if necessary).
- The board shall request that a release be signed by the retiree which authorizes the board and its medical advisors to review all pertinent medical records.
- The board shall appoint an independent physician to serve as medical advisor. The board agrees to use the same independent physician used in the original disability evaluation, if available.

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- Reexamination shall be at the office of the Board's designated physician unless there is some hardship that would prevent the member from doing so.
- The board shall advise the examining physician as to the standard of review for duty. The board shall provide a job description and medical/employment records prior to examination.
- The medical advisor shall submit to the board a specific determination of findings (certification).
- The retiree shall be provided with proper notice of the process and proceedings.
- If a retired member who has not attained 55 years of age, refuses to submit to the medical examination by the date requested by the board, the member's disability retirement pension may be discontinued by the board. If the member's refusal continues for one (1) year, all the member's rights to his or her disability retirement pension may be revoked by the board.
- If upon a medical examination of the retired member the physician reports to the board that the retired member is physically able and capable of resuming employment in the classification held by the member at that the time of retirement, the member shall be restored to active service. Payment of the disability retirement pension shall cease if the report of the physician is concurred by the retirement board.
- The board shall take all reasonable efforts to protect the confidentiality of medical records.

#### DISABILITY RETIREMENT OPTIONS

- A duty-disability retiree shall fall under Section 6(1)(h) for the purpose of allowing a 60% survivor benefit in accordance with Act 345 of 1937, as amended.
- All disability retirees may elect to receive pension in accordance with Option I or Option II instead of Straight life. This selection must be made within 60 days preceding your 55<sup>th</sup> birthday.
- Duty disability pension benefits are equal to 50% of Final Average Compensation calculated based on your disability retirement effective date. When you attain age 55 your benefit will be adjusted to reflect a Straight Life Pension based on your

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years of credited service while working plus the years of service earned while receiving duty disability pension benefits. All such years will be calculated using a 3% multiplier as addressed in your collective bargaining agreement. However, a member shall receive 1% of final average compensation for years beyond 25 years and up to the maximum benefit equal to 80% of your final average compensation.

- Non-duty disability pension benefits are equal to 1.5% of your Final Average Compensation calculated based on your disability retirement effective date, multiplied by your years of credited service while working. When you attain age 55, your benefit will be adjusted to reflect a Straight Life Pension based on your years of credited service while working, times a 3% multiplier as addressed in your collective bargaining agreement.

**POLICY REVIEW:** The board shall review this Disability Retirement Policy at least annually. The board may amend this policy, at any time, by majority vote of the board.

Stan Chubinski, Chairman  
Battle Creek Police and Fire Pension Board

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