

**PENSION BOARD POLICIES
FIREFIGHTERS & POLICE OFFICERS
PENSION FUND OF THE CITY OF TAMPA**

Policy Number: 402
Policy: Procedures for Applying for Disability Retirement
Eff. Date: 02/26/80 07/14/81 08/23/88 03/12/91 04/13/93 09/09/96 03/28/00 07/25/00 10/25/07 06/24/10 11/20/13 09/27/17 01/30/19 01/27/22 06/22/22 12/14/22 10/25/23
Ref: Board Minutes

POLICY:

1. An applicant requesting retirement due to disability must complete a disability application (“application”), which can be obtained from the Pension Office.

2. The applicant will be required to sign a medical and personnel records release form and list all personal/private treating physicians, including all Worker’s Compensation physicians, and former employers, so that all personal and work-related medical records and employment history records can be obtained and reviewed along with the disability application. The Trustees shall obtain all relevant information and information that may lead to relevant information at any time.

3. A medical report (“Qualifying Letter”) from the applicant’s treating physician must accompany the application for disability retirement. The treating physician shall be a Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.), unless otherwise recommended by the Medical Director. The treating physician shall not be a chiropractor or psychologist. The report from the physician must address all of the questions in the form letter included with the application.

4. Upon receipt of the completed application and accompanying medical reports, the Plan Administrator and Medical Director will review for completeness. If the disability application is not complete or if the qualifying letter fails, as determined by the Plan Administrator and Medical Director, to sufficiently address **all** of the questions on the form provided to the physician, processing of the disability application shall be suspended until the pension office receives the completed documentation. The disability applicant shall be notified of the defect(s) in writing via a “cure letter” by the pension office, and it is the responsibility of the applicant to cure all defects by obtaining and providing the required information. In order to be considered by the Board, a member must submit a complete application, including a complete qualifying letter, prior to separation or termination with the City of Tampa. A vested member who separates from the City of Tampa and begins immediate receipt of monthly pension benefits shall not be disqualified from applying for a disability pension provided he/she submits a complete application, including a complete qualifying letter, prior to separation or termination with the City of Tampa. Deadlines for submitting an application may be extended on a case-by-case basis at the discretion of the Board.

5. If the applicant does not cure the defect(s) within one hundred eighty (180) days of the date of the cure letter, the application shall be placed on the next Board’s agenda following the expiration of the cure period for dismissal. If the applicant separates or

is terminated from service with the City of Tampa for a reason other than one related directly to the medical condition(s) for which the disability is sought (see paragraph 7 of this policy) prior to the expiration of the cure letter and is not eligible for immediate receipt of pension benefits, the application shall be placed on the next Board's agenda following the expiration of the cure period for dismissal. Written notice shall be sent to the applicant indicating that the matter is being placed on the Board's agenda for dismissal unless good cause is shown. (Examples of good cause are death or disability of the applicant's qualifying letter doctor or a serious physical infirmity of the disability applicant, such as paralysis or coma, etc.)

6. Any Trustee or member shall have the right to submit to the Medical Board or to the Board of Trustees any documents he/she believes relevant to the application for disability benefits. Such documents must be submitted to the Plan Administrator within fourteen (14) days after the Chairman approves the Medical Director's referral of the member to the Medical Board. The Chairman may require the full Board to vote on the referral, in his/her sole discretion. The disability application and all supporting documents shall be reviewed and acknowledged by the applicant in writing prior to the records being submitted to the Medical Board. However, the Trustees may consider other evidence at the informal hearing or formal hearing.
7. In the event the Plan Administrator learns that the applicant's employment with the City has been terminated for any reason other than one related directly to the medical condition(s) for which the disability is sought, the Plan Administrator shall advise the Board prior to referral to the Disability Medical Board. Examples of other types of termination include, but are not limited to, voluntary resignation, termination for cause, or termination due to criminal charges for a crime which could constitute a forfeitable offense. In that instance, the Board, at the next succeeding meeting, shall determine whether to hear evidence on the issue prior to referral to the Disability Medical Board or shall defer considering the issue until the informal hearing on the disability application. This paragraph will apply in the case of a vested member who is not eligible to immediately commence receipt of benefits or who terminates employment for any reason other than one related directly to the medical condition(s) for which the disability is sought. This paragraph 7 shall not apply in the case of a member who is eligible, based on age and service, to immediately commence receiving service retirement benefits pending the completion of the disability application process.
8. After the Plan Administrator and Medical Director have determined that the required information has been received, a line-of-duty (LOD) retirement disability application will be presented to the Chairman, who will refer the applicant to a Disability Medical Board for evaluation as recommended by the Medical Director. Upon receipt of all medical records pertaining to a non-line-of-duty (NLOD) retirement disability application, the applicant's package of information shall be sent to a Disability Medical Board as recommended by the Medical Director. If the Medical Director or Chairman deems it necessary, a NLOD disability applicant may be required to be physically evaluated by the Medical Board. The Chairman, in his/her discretion, may

place any application on a board meeting agenda to be discussed by the Board of Trustees prior to referring the applicant to the Disability Medical Board.

9. The Medical Director shall have the authority to refer an applicant for a psychological evaluation if deemed necessary.
10. Upon receipt of complete medical reports from the three members of the Disability Medical Board, the applicant will be scheduled for a hearing before the Pension Board.

In the event the applicant withdraws his/her application for any reason other than regaining full health and returning to full duty and before the informal hearing occurs, the applicant shall reimburse the fund all professional costs related to processing his/her application. These costs include fees paid to the Medical Director, Board Counsel, Medical Board doctors, and any other professionals engaged by the Board of Trustees for the purpose of examining and reviewing the applicant and application in order to make a determination on his/her case. For active members, neither pension benefits nor contributions shall be paid until any financial obligation to the fund has been satisfied. For members in receipt of benefits, pension benefits and/or DROP disbursement shall be suspended until any financial obligation to the fund has been satisfied.

11. In order to qualify for a disability retirement, the member has the burden of proving that the injury, disease, or disability “permanently incapacitates him, physically or mentally, from regular and continuous duty as a firefighter or police officer.” In reviewing applications for disability retirement, the Board of Trustees shall place greater weight on objective medical evidence than on subjective complaints. Pursuant to Florida Statutes 175.191(3) and 185.18(3), no firefighter or police officer shall be entitled to a disability retirement if: 1) the disability is a result of excessive and habitual use of drugs, intoxicants, or narcotics; 2) the injury or disease was sustained while willfully and illegally participating in fights, riots, civil insurrections or while committing a crime; 3) the injury or disease was sustained while serving in any armed forces; 4) the injury or disease was sustained after employment has terminated; or 5) the injury or disease was sustained while working for anyone other than the City and arising out of such employment.
12. In determining whether or not the applicant is permanently incapacitated, the Board of Trustees will consider whether or not the applicant has reached maximum medical improvement or could be expected to significantly improve in the future. In doing so, the Board of Trustees has the right to consider whether recommended treatment, within reasonable medical probability will restore the applicant to regular and continuous duty as a firefighter or police officer.

Members who refuse or fail to complete recommended medical treatment will be considered to have not reached maximum medical improvement or to be only “temporarily” disabled. Recommended medical treatment is that medical treatment, which is reasonably and safely available to correct the disability and has been

recommended by the treating physician and/or more than one member of the Medical Board. This policy does not require any member to undergo surgery.

However, the Board recognizes that in certain severe circumstances, the applicant may not have reached maximum medical improvement, but may be permanently incapacitated if it is determined that even after any expected or possible improvement, the member will still be permanently incapacitated from the regular and continuous duties of a firefighter or police officer.

13. After the Board of Trustees reviews and votes on the member's application for disability retirement, the Board's decision and detailed reasons for the decision will be provided to the applicant in writing via **certified mail** by the Board's attorney and will include information regarding the applicant's right to a Full Hearing before the Pension Board and what is required to arrange for a rehearing, if applicable.
14. If the Pension Board denies a line-of-duty disability retirement, the applicant may waive his/her right to a line-of-duty disability retirement and convert his/her application to a non-line-of-duty disability retirement, if eligible. The Pension Board may, at its discretion, review and vote on the non-line-of-duty application immediately or postpone it to a future board meeting.
15. If the Pension Board approves the disability retirement, the effective date of benefits shall be the last day on which the member was entitled to receive pensionable earnings, regardless of the date the Trustees by vote determined that the member is disabled or permanently incapacitated from regular and continuous duty as a firefighter or police officer. Pensionable earnings shall be in compliance with the pension contract and Florida Statutes.
16. Provided that a completed application has been received by the pension office, if an applicant for disability retirement dies prior to the consideration of the application by the Board, the Board may consider and act on the application and, if granted, award benefits to the member's lawful survivor retroactive to the member's last date on the City payroll and any applicable death benefits thereafter.

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