

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

Policy Number: 409

Policy: Reevaluation, Post-retirement Employment, and Notices of Disability Pensioner Reemployment or Physical Activities

Eff. Date: 04/24/08 04/22/10 10/27/11 10/26/16 12/14/22
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Ref: Board Minutes, Legal Opinion 4/17/2008, Pension Contract Sections 3, 5, 5h, 7, 13, 16 & 21

POLICY:

A. **PURPOSE:** The purpose of this policy is to provide a method for the reexamination of certain disability retirees, to establish a reporting process for certain disability retirees who have regained full health, and for notices regarding certain disability retirees who have accepted other employment that requires certification as a firefighter or police officer, or are otherwise engaging in activities that are seemingly inconsistent with their disabilities. This policy also establishes a consistent evaluation process for those certain disability pensioners who may be again capable of performing his or her full duties in the Tampa Police or Fire Department.

The provisions of this policy shall apply whenever the disability retiree is reemployed in any profession covered by the Fund, whether or not it is the same profession in which the disability retiree previously worked for the City of Tampa.

As used herein, the phrase “certain disability retirees” means those disability retirees who would not yet be eligible for normal retirement, as provided for in Section 7(A) of the Pension Contract, if they had not become disabled and had kept working as firefighters or police officers for the City of Tampa and who are under age 46, pursuant to Section 16 of the Pension Contract.

B. PROCESS FOR DISABILITY RE-EVALUATIONS

1. **Procedures for re-evaluation:** Certain disability retirees (line-of-duty and non-line-of-duty) shall be reevaluated for continuing disability with those retiring in even years being reevaluated in even years and those retiring in odd years being reevaluated in odd years. Prior to any routine reevaluation, the Medical Director shall review the medical records and make a recommendation as to the reasonableness of the reevaluation. The Board of Trustees shall provide written notice to the selected retiree via certified mail to their last known address informing him or her that he or she is to be re-evaluated for continuing disability and is required to complete and return the following documents within two weeks of receipt of the written notice:

- i. Retiree’s Report of Continuing Disability Application
- ii. Retiree’s Medical and Employment Authorization

The selected retiree must also submit a letter from his or her personal, primary treating physician for condition of disability attesting to continuing disability to the Board of Trustees within 60 days of receipt of the written notice. The

physician's letter must conform to the specific guidelines contained in the sample letter with directions on how to complete the letter. The pension board shall pay the cost of obtaining the letter from the disability pensioner's physician up to \$200.00, and any cost in excess of \$200.00 shall be the personal responsibility of the disability pensioner. For payment by the pension board, the physician shall submit an invoice directly to the F&P pension office as per the instructions contained in the letter.

Failure to provide the required information within the specified time limits may result in the retiree having his or her pension benefits held in the pension office until he or she complies.

2. **Records Collection and Review:**

- a. The plan administrator shall review the documents provided by the retiree and the retiree's treating physician for completeness. If the application is considered complete, the pension office shall obtain all medical and employment records for the prior two years listed by the disability pensioner in his or her application, as well as any medical records not disclosed which are referenced elsewhere in the medical records. If the application is considered incomplete, the pension office will request additional information from the retiree and/or his or her treating physician until the deficiencies are satisfied.
- b. The accumulated records shall be forwarded to the Medical Director for review and evaluation. If the Medical Director believes that more information is needed, the Medical Director will request it. The Medical Director shall evaluate the provided documentation and recommend to the Board of Trustees as to whether or not they should be referred to a three-member medical board for re-evaluation.
 - i. If the Medical Director makes a determination that a disability retiree should be re-evaluated by a medical board, the retiree will be re-evaluated by three licensed specialists in the related field of the individual's disability, as recommended by the Medical Director and approved by the Board of Trustees, who are in good standing in the State of Florida to perform certain medical examinations before any decision is made by the Board of Trustees. If a retiree is out of state, an out of state medical board will be designated unless the Board determines the need to have a retiree examined by a medical board comprised of three physicians who are in the Tampa Bay area. If the Board determines that a retiree living out of state should be examined in the Tampa Bay area, the Board will be responsible for paying for the retiree's expense of traveling to Tampa, Florida.
 - ii. All disability retirees who are re-evaluated by a medical board shall be referred to independent evaluating specialists who have not evaluated them in the past. The F&P pension office shall schedule appointments for disability retirees and notify them of same.

- iii. The re-evaluation by the medical board shall consist of a personal examination in the area of the disability for which a member was retired, including results of diagnostic testing to either prove or disprove a disability, as well as any other area of complaint of the body related to the specialist's field.
- iv. The medical board shall investigate all essential statements or certificates made by or on behalf of the retired member and shall report in writing to the Board of Trustees its conclusions and recommendations, which shall specifically include:
 - 1) An outline of the patient's present physical/mental complaints and medical findings.
 - 2) A statement as to whether the patient continues to have a permanent physical/mental disability.
 - 3) The pertinent findings present on physical/psychological examination or review of other medical information.
 - 4) A statement as to whether the patient's above described physical/mental condition continues to preclude him or her from performing regular and continuous duties as a police officer or firefighter.
 - 5) If it is felt that the patient can perform the regular and continuous duties of a police officer or firefighter, a statement outlining the reasons for arriving at that conclusion.
 - 6) If it is likely that the disability pensioner could pass a new-hire physical in order to be rehired by the Tampa fire or police department.
- v. If it is determined that a disability retiree is no longer disabled from performing the regular and continuous duties of a police officer or firefighter based on the condition they were retired on, the individual shall be referred by the Board of Trustees to a pre-employment/pre-admission medical board for evaluation to determine their overall physical condition.
- vi. A copy of the reports of the medical board including its conclusions and recommendations shall be furnished to the Board of Trustees and to the retiree. A copy of the reports of the pre-employment/pre-admission medical board including its conclusions and recommendations shall be furnished to the Board of Trustees and to the retiree.

3. **Board Action**

- a. Based on the information obtained, if the Board of Trustees initially finds that the retired member has regained his or her full health and is shown to be physically able to perform his or her duties in the fire or police department, or

that a disability pension was granted or obtained erroneously, fraudulently, or illegally for any reason, the following procedures shall be applicable:

1. The retired member will be notified by certified mail of the Board's initial and preliminary findings and conclusions, and that it intends to discontinue the disability pension. The notice shall include a summary of the factual, legal and policy grounds for the intended decision prepared by Board Counsel.
2. Following the receipt of notification contained above, the retiree may request a full hearing before the Board, as outlined by Board policy.
3. If the Board determines that a person has regained full health and is shown to be physically able to perform his/her duties in the fire or police department, the Board shall require the member to resume his or her position in the respective department and shall discontinue the member's pension.
4. The decision of the Board of Trustees shall be reviewable by petition for certiorari to the Thirteenth (13th) Judicial Circuit in and for Hillsborough County.

C. PROCESS FOR SELF-REPORTING AND EVALUATION OF NOTICES

1. Self-Reporting

- a. Any retired member who is receiving a disability pension (line-of-duty or non-line-of-duty) who regains his or her full health and is shown by the disability pensioner, the disability pensioner's own physician, or the Fund's Medical Director or Medical Board to be physically able to perform his or her duties in the fire or police department shall notify the pension office immediately.
- b. Any retired member who is receiving a disability pension (line-of-duty or non-line-of-duty) shall notify the pension office in writing immediately if he or she accepts employment which requires certification as a firefighter or law enforcement officer.

2. Notices

- a. A written notice may be filed with the Board of Trustees, and must cite specific and verifiable facts, details, and information for the Board's consideration in order to be considered credible. A written notice must be signed by the reporting party.
- b. A verbal notice may be reported to the Board of Trustees during a regularly scheduled Board meeting. The reporting party must complete an agenda

appearance request in accordance with Board policies. A verbal notice must cite specific and verifiable facts, details, and information for the Board's consideration in order to be considered credible.

- c. Generally, an anonymous notice shall not be considered by the Board of Trustees, unless there is sufficient indication of reliability to warrant further review by the Board, as determined by the Chairman. Anonymous notices are discouraged and may delay or impede the investigation due to incomplete or erroneous information.

3. Evaluation of Notices

- a. Based upon the report of employment as a certified firefighter or police officer, the pension office shall request employment verification of the affected disability pensioner from his or her employer. Verification shall include copies of the disability pensioner's job application, job description (including any physical and/or certification requirements), and any other information that would help determine if he or she is working in a job that requires firefighter or law enforcement certification.
- b. If the documentation reflects that the disability pensioner **is not working** a job that requires firefighter or law enforcement certification, no further action will be required, and the reporting party, if known, and the disability pensioner in question, shall be notified.
- c. If the documentation reflects that the disability pensioner **is working** in a job that requires a firefighter or law enforcement certification, or that the disability pensioner is physically able to perform his or her duties as a Tampa police officer or firefighter, the Pension Office shall notify the disability pensioner in question and implement a medical records review.

4. Medical Records Review

- a. The pension office shall request a current medical records release authorization and a list of all of the pensioner's health care and insurance providers for the previous two years and list of employers since the date his or her disability was granted. Failure to provide this information within 60 days of providing notification to the pension office (for self-reporting) or receiving notification from the pension office (for notices) may result in subsequent pension payments being held at the pension office until the pensioner has complied.
- b. Upon receipt of the aforementioned documents, the pension office shall request the pensioner's medical records for the previous two years, as well as a copy of his or her personnel file from any employer since the date of disability retirement and a copy of the disability pensioner's post-offer, pre-employment physical from any employer that may require certification as a firefighter or police officer.

- c. The accumulated records shall be forwarded to the Medical Director for review and evaluation. If the Medical Director believes that more information is needed, the Medical Director will request it. The Medical Director shall evaluate the provided documentation and recommend to the Board of Trustees:
 - i. that the disability pensioner in question have a physical examination conducted by the Medical Director at the Board's expense; or
 - ii. that the disability pensioner in question be examined by a three member Medical Board specializing in the area of disability of the pension in question at the Board's expense; or
 - iii. that no further action be taken, as the disability pensioner remains permanently incapacitated from the regular and continuous duties of a Tampa firefighter or police officer based upon the review of the medical records provided.

5. **Board Action:** Upon completion of the Records Review and/or physical examination(s), the Board of Trustees shall consider the facts and circumstances. If it appears to the Board of Trustees that the disability pensioner may no longer be disabled, the procedures in paragraphs B.2.v., B.2.vi., and B.3. above shall apply.

D. This policy shall not apply to the surviving spouse, joint annuitant, or minor children of a disabled member who are receiving survivor benefits pursuant to Section 8 or Section 9 of the Pension Contract.

DocuSigned by:

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