

PENSION BOARD POLICIES

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

Policy Number: 441

Policy: Pension Forfeitures

Eff. Date: 10/30/2013

Ref: Board Minutes

POLICY:

Florida Statute §112.3173 governs the forfeiture of pension benefits of public officers and employees when convicted of certain specified offenses which constitute a breach of the public trust. The statute provides that any public officer or employee who is convicted of a specified offense committed prior to retirement, or whose office or employment is terminated by reason of his or her admitted commission, aid, or abetment of a specified offense, shall forfeit all rights and benefits under any public retirement system of which he or she is a member, except for the return of his or her accumulated contributions.

The Board of Trustees shall follow the procedure outlined in Florida Statute §112.3173 regarding the initiation of forfeiture proceedings against members convicted of specified offenses. Counsel for the Board of Trustees shall review all possible cases where forfeiture proceedings may be commenced, and will make a recommendation at a meeting of the Board of Trustees as to whether a forfeiture proceeding is warranted. Should it be determined that forfeiture proceedings are appropriate, counsel for the Board of Trustees shall prepare and serve upon the member a Notice of Proposed Agency Action advising that the member has a right to request a hearing by a certain date.

If a request for hearing is timely received, the Board shall conduct a hearing in accordance with the provisions of Chapter 120, Florida Statutes. The Board of Trustees may retain outside legal counsel to advocate why benefits should be forfeited. If a request for hearing is not timely received, that Board of Trustees shall vote at the next regularly scheduled meeting to forfeit benefits, and a Final Order will be drafted by Board counsel and served upon the member.

Florida Statute §112.3173 does not address the procedure to be employed by the Board of Trustees in instances where the member has been charged with a crime, and prior to conviction, has either filed an application for retirement benefits, or commenced receipt of benefits. When a member has filed a retirement application or commenced receipt of benefits, and evidence has been brought to the Board of Trustee's attention that the member has been charged with what may be a specified offense, the Board of Trustees **shall** vote at the next regularly scheduled meeting to allow the member to continue to receive benefits up to an amount equal to his or her employee contributions.

Once the employee contributions are exhausted, the Board of Trustees **shall** discontinue the payment of retirement benefits until resolution of the criminal case and a determination of whether benefits should be forfeited is made by the Board of Trustees. If the member has

not yet received distribution of his or her DROP account, the Board shall defer acting on the DROP distribution until such time as the forfeiture proceedings are complete.

If the member is not convicted of a specified offense, the Board of Trustees shall act on the retirement application of the member.