CITY OF DALLAS
EMPLOYEES' RETIREMENT FUND
RULES OF PRACTICE AND PROCEDURE
REGARDING DISABILITY RETIREMENT

The following rules are adopted by the Board of Trustees of the Employees' Retirement Fund (the "Fund") of the City of Dallas, on this 13th day of December 2016.

SCOPE OF RULES

These rules govern the procedure for the institution, conduct, and determination of all disability claims arising under Chapter 40A of the Dallas City Code. They shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers or authority of Chapter 40A or the substantive rights of any person.

DEFINITIONS

"Active Member" means an employee who is currently contributing to the Fund.

"Applicant" means a member or inactive member who has applied for disability retirement under Section 40A-17 of the Dallas City Code or a child who seeks to be eligible for certain death benefits under Section 40A-22 or 23 by reason of being a qualified recipient under Section 40A - 1(38~~5~~) (D).

"Earned pension" means that amount received, or that could be received, based on actual pay and contributing years of service.

"Inactive Member" means a former employee who has not retired or received a refund of his or her contributions to the Fund.

"Medical Committee" or "Committee" means a group comprised of members of the Board of Trustees (the "Board") (but less than a quorum of Board members) and officers of the Fund including the Executive Director's designee, whose responsibility is to review applications for disability and make recommendations to the Board.

"Non-service disability retirement" means a total and permanent injury or illness that did not occur due to the performance of official city duties and that prevents the person from getting and holding a job.

"Permanently Disabled Child" means an applicant who is a child of a deceased member, inactive member, or retiree and ~~who~~ which child is medically determined to be totally and permanently disabled before the age of 18, by the Fund's medical examiner.

"Service disability retirement" means retirement due to total and permanent injury or illness

suffered while performing official city duties. The disability must be such as to prevent the member from getting and holding a job.

In general, the term "Total and permanent disability" means the continuing inability of a person to obtain and retain any type of employment for compensation as a result of a mental or physical impairment caused by an injury or illness. Chapter 40A, however, contains additional rules and provisions that must be considered. For example, if the impairment can be reasonably and safely diminished to the extent that the person will not be prevented by the impairment from obtaining and retaining any type of employment for compensation, they will not be considered totally and permanently disabled.

ELIGIBILITY

Active or Inactive Members may apply for disability retirement benefits if they have a sickness or injury that prevents them from getting and holding a job:

Active Members:

1. Service-connected disability - There are no minimum pension service requirements.

2. Non-service connected disability – Only if the disability occurs after five (5) years of pension service.

Inactive Members:

1. With 10 years of pension service or

2. With less than 10 years of pension service, but more than five (5) years of pension service; however, such an Inactive Member must apply within 60 days from the date the member's department signs the P-2C form of termination. An application for disability retirement may ~~can~~ be filed before terminating employment.

Disability Retirement Pension:

1. The minimum disability retirement pension payable for a non-service disability is equal to 10 times the percentage multiplier used in computing benefits of the Active Member or Inactive Member on the date of retirement multiplied by the Active Member or Inactive Member's average monthly earnings.

2. Effective on and after January 1, 2017, the minimum disability retirement pension payable for a service disability is equal to the greater of:

   A. ~~$500~~ $1,000 a month, regardless of the date of retirement; or
   B. 10 times the percentage multiplier used in computing benefits of the Active Member or Inactive Member on the date of retirement multiplied by the Active Member or Inactive Member's average monthly earnings.

Disability Benefits for Qualified Recipients:

1. A qualified recipient who is a permanently disabled child may be entitled to receive full, lifetime death benefits in accordance with Section 40A-22 or 23.

2. Prior to retirement, Active Member or Inactive Members seeking to qualify their permanently disabled child as a qualified recipient under Section 40A-1(3~~5~~8) (D) must submit completed Attending Physician's statements from all treating physicians. Each physician must be a licensed M.D. or D.O.

FILING OF DOCUMENTS

All applications and supporting documents shall be filed with the Executive Director of the Fund, and shall be considered filed when actually received. All documents filed with the Executive Director shall be held in the strictest confidence permitted under the law.

APPLICANT'S RESPONSIBILITY FOR FILING THE APPLICATION

1. To initiate the disability retirement process, the Applicant (or a person acting on the Applicant's behalf) must complete and submit an Application for Disability Retirement.

2. Applicant must receive mandatory counseling from the ~~Retirement~~ Fund staff unless such counseling is waived in writing by the Executive Director.

3. All forms will be available at the Fund's office, and must be legibly completed and returned to the Fund's office.

4. The Applicant must sign an Information Release form. This release will permit the Fund to obtain medical records and any other relevant information from Applicant's health care providers and any other parties that may have information pertaining to Applicant's disability claim.

5. The Applicant must complete the Employee's Statement of Disability. In this statement, the Applicant will describe the disability in detail and explain how it prevents him/her from performing any type of work.

6. The Applicant must provide to the Fund a completed Attending Physician's Statement from all treating physicians. The physician must be a licensed M.D. or D.O.

7. In addition to completing the forms outlined above, the Applicant must provide the Fund with the originals or certified copies of the following:

   A. Birth certificate
   B. Marriage license, or declaration of common law marriage, if married
   C. Spouse's birth certificate, if married

D. Social Security number
E. Spouse's Social Security number, if married
F. Divorce decree, if applicable
G. QDRO, if applicable.

Members are required to obtain the physicians' statement to prove "total and permanent disability."

Failure to provide the Fund with the requested documentation within ninety (90) days after first filing the application for disability benefits ~~generally will result in a delay in processing the disability application~~ shall cause the application to be deemed withdrawn. ~~If the Applicant requires additional time in compiling the supporting documents, the applicant should make a written request for additional time prior to the expiration of the ninety (90) days. If after one year, the applicant has not completed the application, the application shall be deemed withdrawn.~~ If the Applicant then wishes to continue to pursue a claim, the Applicant must file a new application.

ACTIONS BY THE FUND - PROCESSING THE APPLICATION

The Fund will process completed applications as quickly as administratively feasible.

If the Applicant is filing for a service connected disability retirement, the Fund will request a copy of the Applicant's Workers' Compensation medical file from the Risk Management office.

THE MEDICAL COMMITTEE

After the Fund receives all required documentation, the Fund will forward the Applicant's medical documents to the Fund's designated Medical Officer for review. Additionally, the Fund will notify the Applicant by letter to contact the Fund's designated Medical Officer for an appointment for an examination and review. The Applicant has 10 business days to schedule an appointment; otherwise it may cause a delay with the Medical Committee review and recommendation to the Board. The Fund's designated Medical Officer must examine the Applicant unless the Executive Director specifically waives this provision.

The Applicant authorizes the Fund's designated Medical Officer to contact the Applicant's treating physicians or health care providers, and the Fund's designated Medical Officer may recommend a new examination of the Applicant before rendering an opinion as to the extent and cause of any disability.

The Fund's designated Medical Officer will complete the Evaluation form and forward it to the ~~Retirement~~ Fund Office.

If the Fund's designated Medical Officer disagree with the treating physicians' prognosis, or otherwise recommends an Independent Medical Evaluation ("IME") by an appropriate third physician ("Medical Consultant"), the Executive Director will authorize staff to make an appointment for the Applicant with the Medical Consultant and will send all available medical

documentation and forms to be completed by the Medical Consultant. An Applicant must always submit to an IME for those disability applications related to psychiatric, back-related, or carpal tunnel syndrome.

The Executive Director shall schedule, usually on a monthly basis, a meeting of the Committee.

The completed application will be submitted to the Committee for their review and recommendation. The Applicant will be notified in writing of the time and place of the Committee meeting and advised of the right to be present. Applicant may bring representation, legal or otherwise, and be heard. If an Applicant requires a bilingual representative at the Committee meeting, it is the responsibility of the Applicant to have such a representative present. Applicant will be furnished copies of all documents and may submit any additional evidence at the Committee meeting. After the Committee meeting, the Applicant will be advised of the recommendation that the Committee will provide to the Board ~~of Trustees~~, the time and place where the Board will consider the application, and the Applicant's right to be present.

Discussion of disability retirement applications by the Committee is closed to the public pursuant to Section 551.078 of the Texas Open Meetings Act.

ACTION BY THE BOARD

The disability hearing by the Board is closed to the public. The Applicant shall be notified of the time and place of the hearing by the Board ~~and of the right to be present and to bring a representative~~.

At the Board's disability hearing, the Applicant shall have the same right to bring representation and be heard as at the Committee meeting. The Board shall review the application for disability pension and the recommendation of the Committee. The Board may (1) approve the application for a disability pension, (2) defer the application, or (3) deny the application. The decision of the Board is final. The applicant will be notified in writing of the Board's decision.

EFFECTIVE DATE OF DISABILITY BENEFIT

The disability benefit may not be effective prior to the later of the ninetieth (90th) day after the last working day of the Active or Inactive Member or the date the application is made to the Fund.

REVIEW PROCESS FOR DISABILITY CONTINUATION

1. The Board may direct that any disability retiree be re-examined at any time. ~~Any pensioner who receives a pension greater than his or her earned pension is subject to periodic recalls. The standard recall is one year. Should circumstances warrant a shorter or longer period, this is permissible, but recalls may not be less frequent than every three years.~~ Further recall ~~is~~ may be necessary if the disability retirement benefit was calculated under the 10-year minimum service rule and the benefit amount is greater than the disability retiree's earned pension amount at the time of the ~~review~~ re-examination process. The standard recall is two years. Should circumstances warrant a shorter or

longer period, this is permissible, but recalls may not be less frequent than every three years. ~~Further recall is necessary if the disability retirement benefit was calculated under the 10-year minimum service rule and the benefit amount is greater than the retiree's earned pension amount at the time of the review.~~

2. ~~Disability pensioners will be required to submit an "Attending Physician's Statement" to the Executive Director from their physician, pursuant to a timeframe to be established by the Board.~~ No medical re-examination will be required of disability retirees over sixty (60) years of age if;

   A. they are receiving no more than their earned pension; or
   B. the pension was computed under the ten (10) year minimum service rule and the ~~pensioner~~ disability retiree has been receiving disability retirement benefits for at least *five* (5) years.

3. The Disability Retiree must complete the entire medical review process which consists of:

   A. Providing an Attending Physician's Statement completed by a M.D. or D.O. and supporting documentation and/or medical records from the last review date until current period;
   B. Providing the Fund a Request for Transcript of Tax Return (IRS Form 4506 T);
   C. Providing Information Release form; and
   D. Scheduling and attending a medical examination by the Fund's Medical Officer and/or occupational specialist. The appointment must be scheduled within 10 business days after notification and, without action, may result in suspension or termination of benefits approved by the Board.

4. Any Disability Retiree subject to review shall again be required to provide the Fund a Request for Transcript of Tax Return (IRS Form 4506 T) and an Attending Physician's Statement along with medical records evidencing status of disability. This documentation may be required up to the normal retirement age or as deemed by the Board.

5. ~~If the applicant fails to file the "Attending Physician's Statement" with the Fund within thirty (30) days prior to the expiration of disability benefits, the disability benefits will be suspended until such time as the applicant files the appropriate documentation, unless the Executive Director waives such suspension in writing.~~ If the Disability Retiree fails to complete the entire medical review process, the disability benefits may be suspended until such time as the Disability Retiree files the appropriate documentation and completes the review process. The Executive Director has the right to waive such suspension in writing.

6. ~~Pensioners~~ Disability Retirees will be reimbursed for up to a maximum of $~~35~~100 (previous rate $35) to defray the cost of completion of the Fund's medical forms by their physician. This amount may be paid only once per continuation review.

7. Disability recalls are reviewed by the Committee in the same manner as initial

applications for disability pensions. The rights of the Disability Retiree ~~pensioner~~ to attend the Committee meeting and Board meeting that will consider their recall and to representation are the same as for applicants who are making an initial application for a disability pension.

PROCEEDINGS FOR REVOCATION OR SUSPENSION OF BENEFITS

1. The Board may require any person receiving a disability benefit to appear before a Board Hearing during a regular Medical Committee meeting and show cause why such benefit should not be discontinued, suspended, or revoked: (a) for failure to comply with any directive to submit to a medical examination by a doctor approved by the Board, when requested, (b) because the Disability Retiree ~~pensioner~~ is allegedly no longer totally and permanently disabled, or (c) because the Disability Retiree ~~pensioner~~ will not submit a sworn affidavit stating his earnings from any gainful activity and IRS Form 4506T when requested by the Executive Director, (d) is found to be earning or be capable of earning compensation in an amount greater than $250 per month, whether or not such position is available, or (e) is found to be involved in any gainful activity not commensurate with health limits imposed by the attending physician.

2. No revocation, suspension, or discontinuance of any benefit for any reason shall be taken by the Board unless, prior to institution of proceedings, the Fund shall first give notice by personal service or by registered or certified mail to the Disability Retiree ~~pensioner~~ of the facts or conduct alleged to warrant the intended action, and the Disability Retiree ~~pensioner~~ is given a reasonable opportunity to show compliance with all requirements of the ordinance for retention of the benefits. If delivery attempts are unsuccessful, the Board will ordinarily rule on the benefit at the next available Board meeting.

3. The Board delegates to the Executive Director the ability to suspend disability payments for: (a) for failure to comply with any directive to submit to a medical examination by a doctor approved by the Board, when requested, (b) because the disability retiree is allegedly no longer totally and permanently disabled or, (c) because the Disability Retiree will not submit a sworn affidavit stating his earnings from any gainful activity and IRS Form 4506T when requested by the Executive Director.

4. A Disability Retiree ~~pensioner~~, whose benefit has been terminated, may apply for a refund of any unused contributions to the Fund or an age retirement pension, if and when eligible.

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John D. Jenkins, Chair
Board of Trustees
Employees' Retirement Fund

Date