

# **Chattanooga Fire and Police Pension Fund**

## **Disability Benefit Policy**

### **SCOPE**

The Board of Trustees (the "Board") of the Chattanooga Fire and Police Pension Fund (the "Fund" or "CFPPF") understands and acknowledges the importance of providing benefits for actively employed Firefighters and Police Officers who become disabled in accordance with the provisions of Section 2-410 of the Chattanooga City Code. The Board further recognizes its duty to act on behalf of the Fund in the best interest of all Participants. Therefore, the Board establishes this policy to guide the Board, its members ("Trustees") and employees of the Fund ("Staff") when receiving, processing and hearing applications for disability benefits by sworn Members.

### **DEFINITIONS**

Capitalized terms used in this Policy shall have the meaning given them in the Policy Definitions document, which is attached hereto and made a part hereof, unless clearly indicated otherwise in this Policy.

### **INITIAL ELIGIBILITY**

All Members who are eligible to participate in the Fund are eligible to be considered for a disability benefit. Notwithstanding the foregoing, Members who are Actively Working, who are not sworn, or who are not an Active Employee of the Fire or Police Departments are not eligible to apply for disability benefits.

### **PRE-APPLICATION**

From time to time, Members or other interested persons will inquire about eligibility for disability benefits and the application process. Fund Staff should document in writing placed in the Member's file when Members or other interested persons inquire about disability for themselves or specifically for another Member. The Trustee or Staff member receiving the inquiry should ask about the nature of the illness or injury to determine if it is related to the performance of the Member's duties as a firefighter or police officer. Upon inquiry for a disability, the Staff member should provide the inquiring person with the Member's Guide to Disability Benefits containing the criteria that must be met before an application for disability benefits can be approved; as well as pertinent legislation and a copy of the Disability Benefit Policy if requested. Even if not asked, the Staff member may provide this information if s/he thinks that providing the information is appropriate. Trustees and Staff shall not advise or discuss with any Member the likely disposition of the application. A Staff member should provide a Member or other interested person with an application form upon request.

### **PRESENTATION OF APPLICATION**

Any Actively Employed Member seeking to complete an application for disability benefits will be given the opportunity to do so. The Member (hereinafter "Applicant") must submit his/her written application to a Trustee or Staff member. The application must be notarized and

include a written physician's statement declaring that the Applicant can no longer perform his/her duties as a firefighter or police officer and a statement from the City of Chattanooga stating they can no longer accommodate the disabling condition. The application date is the date that the completed application is received by a Trustee or Staff member. The Applicant must also physically present his/her application to the Board at a regularly scheduled meeting within two months of the date of application or by the third regularly scheduled meeting of the Board, whichever comes first. In the event that an Applicant's injury or illness is such that it prevents him/her from appearing before the Board in the allotted time, then the Applicant may request that a Staff member present the application on his/her behalf. Any application that is not presented to the Board in accordance with this Policy and in a timely manner will be deemed void and will not be processed. The Board shall determine if the Applicant meets the required criteria to file the application for disability benefits and notify the Applicant in writing, as soon as practical, if s/he does not meet the criteria. The Board will not accept the disability application of any Applicant: who is no longer Actively Employed on the date of application; or who is Actively Working on the date that the application is presented to the Board during a meeting. Upon the Board's determination that an Applicant meets the criteria, the Staff will request an authorization from the Applicant and begin collecting the pertinent medical records, employer records and any other documentation needed to make a determination of the Applicant's disability (the "Pertinent Records"). The Board will authorize payment for all reasonable fees incurred during the collection of the Pertinent Records. The Board has the right to refuse to process an incomplete application and to void any application that omits material evidence after giving the Applicant an opportunity to provide the missing evidence. If the Applicant refuses to cooperate with the Board and Staff to gather the Pertinent Records, the Board may cease to process the application.

#### PERTINENT RECORDS

Applicants for disability must give written authorization for the release of information. This authorization must cover any records that the Board deems necessary to review the application for disability, including, but not limited to, employer and medical records. Any application will be deemed void if the Applicant refuses to give the necessary authorization. Pertinent Records shall be collected by the Staff as soon as practical after obtaining the necessary authorization for all cases in which the Board examines evidence for a disability. Pertinent Records shall be treated with reasonable care to protect the privacy and dignity of the Applicant. Medical records to be collected will include a minimum of a 10-year history, if available. When possible, Fund Staff should request records that pre-date the injury/illness for which the applicant is claiming disability even if the condition occurred more than 10 years prior to the application. Once all of the Pertinent Records are collected by the Staff, they will be made available to the following:

- Applicant
- Board of Trustees
- Fund Attorney
- Independent Medical Exam (if applicable)

## MENTAL HEALTH DISABILITY

To qualify for a job-related disability based on a mental health disorder, including but not limited to Post Traumatic Stress Disorder ("PTSD"), Applicants must provide evidence satisfactory to the Board, which shows:

1. that the Applicant is permanently mentally or physically incapacitated from performing his/her usual duties or any other duty in their respective department;
2. that the disability is a direct result of a traumatic event that is
  - a. identifiable as to time and place
  - b. undesigned and unexpected, and
  - c. caused by a circumstance external to the member (not the result of pre-existing disease that is aggravated or accelerated by the work);
3. that traumatic event occurred during and as a result of the Applicant's regular or assigned duties;
4. symptoms that have arisen in response to that traumatic event are aggravated by performing a Participant's regular or assigned duties;
5. that the disability was not the result of the Applicant's willful negligence; and
6. that an Applicant who is a member of the Police Department shall acknowledge in writing that s/he will surrender his/her POST certification if s/he is approved for a mental health disability.

If the Applicant is seeking a disability retirement based on a mental health disability caused by a mental stressor without any physical impact or injury, the Applicant must establish that the disability result(s) from direct personal experience of a terrifying or horror-inducing event that involves actual or threatened death or serious injury, or a similarly serious threat to the physical integrity of the Applicant or another person.

Applicants seeking a disability for PTSD must have obtained sufficient treatment for a minimum of six (6) months prior to application. If such minimum has not been met, the application will be void. Applicants whose disability benefits are approved by the Board are also required to maintain appropriate treatment after approval for a minimum of one (1) year. If Applicant fails to maintain treatment for the required amount of time, the Board can terminate disability benefits.

## INDEPENDENT MEDICAL EXAM

An independent medical exam ("IME") may, at the discretion of the Board, be scheduled for disability Applicants unless the injury or illness is shown by evidence satisfactory to the Board to be catastrophic and/or the existing medical evidence collected by the Staff clearly shows that the Applicant is not disabled; the Applicant has a stated disability, but the stated disability is not related to the performance of the Applicant's duties as a sworn Firefighter or Police Officer (for a Job Related Disability request); the stated disability does not prevent the Applicant from performing his or her duties as a sworn Firefighter or Police Officer; or the Applicant cannot continue performing the duties of a sworn Firefighter or Police Officer. Notwithstanding the

foregoing, the Board reserves the right, at its discretion, to schedule an IME for any disability Applicant, or any Participant currently receiving disability benefits. The IME shall be conducted by a physician chosen by the Board and with whom the Applicant is not a patient or personal acquaintance. The cost of the IME shall be paid by the Fund.

Applicants seeking a mental health related disability may be requested to submit to psychological testing, including but not limited to, the Personal Assessment Inventory (PAI). Additionally, the Minnesota Multiphasic Personality Inventory (MMPI), a Mental Health Functional Capacity Evaluation, and any other testing the physician performing the IME deems appropriate may be administered.

#### HEARING

Unless waived, the Applicant has the right to receive written notification, at least five days prior to the hearing date, of the hearing of the disability application. Disability hearings are to be conducted by the sworn Trustees of the Board. Notwithstanding the foregoing, the President of the Board reserves the right to request the presence of the Mayor's appointee and/or the City Council appointee at the hearing. If either or both of those Trustees attend the hearing, they shall have all the rights and responsibilities of a sworn Trustee, including, but not limited to the right to vote on the disability application. Applicants have the right to have an attorney and/or a spouse/ or other person not a sworn member of either department present at the hearing. An employee group representative may also attend at the request of the Applicant. All other guests must remain in the lobby during the hearing. Members who intend to ask a witness or witnesses to testify on the Member's behalf must complete a witness form describing those witnesses a minimum of five (5) days prior to their scheduled hearing, or such witnesses may not be permitted. Such form shall be provided by the Staff. Persons attending the hearing to give testimony or present evidence will not be permitted to sit in on the hearing other than to provide their testimony. A court reporter will be present to record and transcribe all disability hearings. Notwithstanding the foregoing the Board reserves the right to waive the requirement of a court reporter in disability cases in which overwhelming medical evidence permits a decision to be made without a transcribed hearing or during a regularly scheduled Board meeting. All witnesses will be sworn in by the court reporter. The Applicant will be asked to describe his or her condition and the circumstances that led him or her to believe that he or she is disabled and why they believe their condition is either job or non-job related and/or permanent and total in nature. The Board may direct its attorney to question the Applicant about the disability and each Trustee may ask the Applicant questions about the disability. If any other witnesses attend, they will be questioned by the Board's attorney and by Trustees. If the Applicant has an attorney present, that attorney may also question any of the witnesses. Once the Board has received and reviewed all of the evidence and heard all of the testimony, the President may call for a recess to discuss any legal issues. At that time, the court reporter will be asked to go off the record and the Applicant and any guests and witnesses must leave the hearing room. The Board may ask its attorney any legal questions regarding the evidence but may not make a determination regarding the disability. The Applicant and guests will be called back into the hearing room and the hearing will go back on the record. The

President will ask for a motion to be made to grant or deny the disability. If a motion is made and seconded a roll call vote will be held.

#### OUTCOME

If the disability is granted, the Applicant will be instructed to see one of the Staff to complete the application process. The Board will make the final determination as to whether the granted disability is job or non-job related and/or permanent and total in nature regardless of the type of disability applied for by the Applicant.

If the disability is denied or an alternative type of disability is granted, there is no appeal to the Board unless the Applicant can produce new information that the Board has not considered. If the Applicant produces new information, the Board will review it and decide whether to conduct a new hearing. Any new hearing will be conducted in accordance with the terms of this policy.

#### CONFLICTS OF INTEREST

Trustees must recuse themselves from a disability hearing if a conflict of interest exists with the Applicant. Trustees who believe that they have a conflict of interest must notify the other sworn Trustees prior to the scheduling of a disability hearing. If the Trustee refuses to recuse himself, the Board will hear the evidence of any perceived conflict of interest at a regularly scheduled meeting and vote on whether to require the Trustee to recuse himself. Except as discussed above, non-sworn Trustees will not participate in disability hearings.

#### PROCEDURES


The Board reserves the right to interpret the provisions of this policy, and may on a case-by-case basis waive any portion of this policy provided that the waiver and reason(s) therefore are deliberated in an open meeting and documented within the minutes of said meeting. A separate Member Guide to Disability Benefits for the handling and disposition of disability cases with greater specificity accompanies this policy.

#### FINAL DETERMINATION


The Board's decision shall be the final determination in all disability cases.


This policy has been restated and is effective April 1, 2021, by the Board whose signatures appear below.

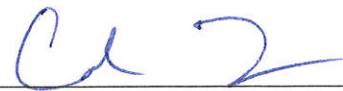
  
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Joe Shaw, President

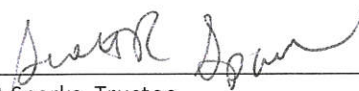
  
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Nathan Vaughn, Secretary

  
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Britt Bradshaw, Vice President

  
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Phillip McClain, Trustee

  
Chris Hopkins, Trustee

  
Cal Long, Trustee

  
Scott Sparks, Trustee