

## DISABILITY CLAIMS PROCEDURES

### **I. Commencement of Claim**

- A. A member who believes he or she is eligible for a disability pension ("Applicant") shall apply therefore on a form made available by the Board of Trustees ("Board") or a form otherwise acceptable to the Board ("Application").
- B. The Applicant shall also execute such releases, authorizations or other documents deemed necessary for the Board to obtain a complete file of relevant documentation.
- C. The Applicant shall fully cooperate with the Board to assist the Board in obtaining such complete file.
- D. The Applicant shall have the right to be represented by legal counsel at any and all stages of the claims procedure.

### **II. Informal Hearing**

- A. At the informal hearing, the Board shall consider only the documentary evidence contained in the file and any evidence received pursuant to paragraph B below.
- B. Other than answers to questions from members of the Board or from the Board's attorney, the Board will take no additional evidence at the informal hearing, although the Applicant or his legal counsel may make a short presentation, limited to comments or arguments as to the evidence contained in the file.
- C. Upon completion of review of the Application at the informal hearing, the Board shall render a decision unless it finds that the file is incomplete or that additional information should be obtained. In the latter case, the Board may defer ruling and continue the informal hearing to such time as the Board finds that the file is complete.
- D. The Board shall decide the merits of the Application by motion duly adopted and shall subsequently furnish a copy thereof to the Applicant. In addition, the Board shall provide a written explanation of the right to a formal hearing on the Application and the time limit within which a formal hearing must be requested in writing.
- E. The decision of the Board after the informal hearing shall not be final until after the time has expired to request a formal hearing, or, if a full hearing is timely requested, until the Board makes a decision following the formal hearing.

### III. Formal Hearing

- A. An Applicant may request a formal hearing on the Application upon which the Board has made a decision on the merits following an informal hearing.
- B. The request for a formal hearing must be in writing and must be physically received by the Board within 30 days of service of the Board's written decision on the merits after the informal hearing. Service by the Board will be deemed to have been made on the date of mailing by the Board to the Applicant.
- C. After the Applicant has timely begun the process for a formal hearing, the Applicant or the Applicant's legal counsel must notify the Board's attorney in order to work out mechanics such as discovery and a mutually convenient time for the formal hearing. However, in all cases, at least sixty (6) business days prior to the formal hearing, the Applicant or the Applicant's legal counsel must (1) provide Board and the Board's attorney with copies of all medical reports or other relevant documentary evidence in the Applicant's possession or of which the Applicant has knowledge, (2) provide the Board's attorney a list of names, addresses and telephone numbers of each and every witness the Applicant claims has knowledge relating to the Application and (3) provide the Board's attorney with a short statement or summary of the testimony of each and every witness. If the foregoing period is not sufficient, the Board's attorney will advise the Board that the formal hearing should be postponed to a later date. If the Applicant or the Applicant's legal counsel does not comply with this paragraph, the Applicant may be precluded from offering the testimony or evidence at the formal hearing.
- D. Except for discovery requested by the Board of the Board's attorney, all costs of discovery, including the compensation of professional and lay witnesses, shall be borne by Applicant.
- E. The Applicant shall be responsible to obtain the attendance of the Applicant's witnesses at the formal hearing. Upon timely written request by the Applicant, the Board shall issue subpoenas for the attendance of witnesses at depositions and at the formal hearing. The Board may charge a reasonable fee for issuance of subpoenas to the extent permitted by law. If provided in accordance with these procedures, transcripts of depositions shall be made part of the file. Although such transcripts will not necessarily be read into the record, any portions thereof may be read into the record by any party and may be referred to in argument. In all cases, the Applicant shall bear the burden of proof to show entitlement to the benefits sought.
- F. Should the Applicant decide to appeal a decision made by the Board with respect to any matter considered at the formal hearing, the Applicant will need a record of the proceedings, and, for such purpose, the Applicant may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

- G. Decisions of the Board after a formal hearing shall be final and binding, subject to judicial review. Such decisions shall set forth the specific reasons for denial as provided in Section 112.66(7), Florida Statutes.
- H. The Board shall decide the merits of the Application by motion duly adopted and shall subsequently furnish a copy thereof to Applicant. Service by the Board will be deemed to have been made on the date of mailing by the Board to the Applicant.
- I. Judicial review of decisions of the Board shall be had in the manner prescribed by law.

#### **IV. Miscellaneous**

- A. Informal hearings and formal hearings will be held during regular Board meetings as part of the regular Agenda. No Applicant has the right to demand or to receive a special setting upon the Application.
- B. Applications will generally be heard in the order filed. However, in some cases a later-filed Application will be ready for hearing before an earlier-filed Application. In such a case, the Application first ready to be heard will be heard first.
- C. If more than one Application is ready for formal hearing, the earliest-filed Application shall be heard first and other Applications which are ready shall be heard in the order filed. However, in fairness to the Applicant and to the Board, the Board may limit the number of formal hearings heard on any single Agenda.
- D. Testimony of all witnesses shall be under oath or affirmation.