

CITY OF DES PLAINES POLICE PENSION BOARD

REVISED RULES AND REGULATIONS REVISED [2009]

**The Board of Trustees of the
City of Des Plaines Police Pension Fund**

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JIM SALAS, Vice-President
LARRY MARKS, Secretary and Participant Member
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**THE BOARD OF TRUSTEES OF THE CITY OF DES PLAINES, ILLINOIS
POLICE PENSION FUND**

To the Pensioners and Members of the City of Des Plaines Police Pension Fund:

Pursuant to the authority vested in the Board of Trustees by 40 ILCS 5/3-140, the Board hereby promulgates these rules and regulations for the information and guidance of all beneficiaries and members of the Police Pension Fund.

All previous rules and regulations in conflict are hereby abrogated and repealed. Where a state statute conflicts with these rules, the statute shall govern.

Chapter 1. Definitions and Terminology

Section

- 100 The following words and phrases, when used in this manual, shall have the meaning ascribed to them in this Chapter, except when the context otherwise requires.
- 101 Application. The forms or set of forms which are required and approved by the Board for purposes herein described.
- 102 The Board. The Board of Trustees of the City of Des Plaines Police Pension Fund.
- 103 Beneficiary. A retired member of the fund, the retired member's surviving spouse, children and certain other dependents, as described in sections 3-101 through 3-151 of the Pension Code, who may be entitled to receive benefits from the Fund.
- 104 Child or Children. A police officer's natural children and the officer's legally adopted children.
- 105 Creditable Service. The time served by a police officer as a member of a regularly constituted police force as defined by applicable Illinois law.
- 106 The Fund. The City of Des Plaines Police Pension Fund.
- 107 Municipality. The City of Des Plaines, Illinois.
- 108 Pension. The regular payment of benefits described in Section 3-111 of the Pension Code.
- 109 Pension Code. The Illinois Pension Code, as currently promulgated and as hereafter amended. (Chapter 40 ILCS).

Chapter 2. Functional Responsibility and Authority

201 Board Composition.

- 201.1 The Board is composed of five (5) Members. The Board's function is to administer the Fund.
- 201.2 Two (2) Members of the Board are appointed by the Mayor of Des Plaines. The third and fourth Members of the Board are elected by the active participants of the regular police force from among the active participants. The fifth Member is elected by and from the beneficiaries of the Fund of legal age.
- 201.3 Each Board Member shall serve for a term of two (2) years or until his/her successor is appointed and qualified. The terms of the two (2) Board Members elected by the active participants and one (1) of the Board Members appointed by the Mayor shall expire in each even-numbered year. The terms of the Board Member elected by the beneficiaries of the Fund and the other Board member appointed by the Mayor shall expire in each odd-numbered year.
- 201.4 Upon the death, resignation or inability to act of any Member of the Board appointed by the Mayor, the Mayor shall appoint a successor to the deceased, resigned or disabled Board Member as soon as practicable. The successor Board Member shall serve to complete the term of the Board Member whom he/she replaces and until his/her successor is appointed and qualified.

202 Conduct of Elections. The elections provided in Section 201.2 shall be held as follows:

- 202.1 [Blank]
- 202.2 Ballots shall be mailed or delivered to each voter on or about March 1 of each election year, along with a self-addressed mailing envelope, a card identifying the voter and an envelope for the secret ballot itself. The beneficiary will be directed to indicate a choice of candidate on the ballot, to seal the ballot in the secret ballot envelope and to insert the secret ballot envelope and identification card in the self-addressed mailing envelope. The ballot must be returned to the Board prior to the second Monday of the following April. (See Form 3).
- 202.3 Names of members and beneficiaries who have indicated in writing to the President his/her interest in serving as Board members, or who shall be nominated by another member or beneficiary and shall accept said nomination in writing, shall be placed on the ballots. However, each person voting may also write in a vote for

an eligible person of his/her choice. The notification for candidacy must be made no later than February 25th of each election year. Candidates' names shall be listed in the order their candidacy forms were received. (See Form 6).

202.4 To be valid, a ballot must be accompanied by an identification card or other information sufficient to identify the voter, so that the voter can be checked off as having voted. After this check is made, the identification card and ballot envelope, shall be separated. The sealed ballot envelopes shall be thoroughly mixed before being opened. Votes shall be totaled by the Board President or Secretary and witnessed by an uninterested command officer on a specified date after the date of the election, but prior to the fourth Monday in April. Only the ballots submitted in proper form by eligible voters shall be counted. The ballots shall be divided from the names of the individuals voting in the election and shall be counted separately by both the Board Representative and command officer. The Board President shall declare the person or persons receiving the highest number of votes be elected to the Board.

202.5 All active pension fund participants are eligible to vote one ballot, casting up to two votes thereon, for the two positions on the Board held by active pension fund participants. All beneficiaries of legal age are eligible to vote one ballot for the one position on the Board held by a beneficiary.

202.6 Upon the death, resignation or inability to act of any elected Member, a successor shall be elected for the unexpired term at a special election. The Board President shall call and conduct the special election in the same manner as the regular election described above, modifying the time frames as suitable. The election shall be held within forty-five (45) days of the death, resignation or inability to act. In the case of an election by mail, the ballots shall be mailed within thirty (30) days after the death, resignation or inability to act. The votes shall be tallied in the manner set forth above in § 202.4 within seven (7) days after the deadline for submission of ballots. (See Form 4).

203 Board Meetings/Structure.

203.1 The Board shall hold regular meetings at 9:00 a.m. in Room 101 of City Hall, on the second Tuesday of February, April, June, August, October and December or on such other dates as are called. Special meetings may also be called by the Board President or two board members. The Board may agree to hold more frequent regular meetings if deemed necessary to consider all pending matters. Agendas and Notices of all meetings shall be posted in a

conspicuous location on the Board web site and at the municipal administration building.

203.2 At the regular June meeting, the Board shall select from its members a President, Vice President, Secretary and Assistant Secretary to serve for the period of one (1) year and until their respective successors are elected and qualified.

203.3 The President is the Chief Executive Officer of the fund. The President shall see that the resolutions and directions of the Board are carried into effect, except in those instances in which that responsibility is specifically assigned to some other person by the Board. The President shall preside at all meetings of the Board. Unless otherwise delegated by the Board, the President shall execute all orders, certificates and other documents on behalf of the Board.

203.4 The Vice President of the Board shall perform the duties of the President during any vacancy in that office, or during such time as the President is disqualified or is unable to perform his/her duties.

203.5 The Secretary shall: (a) record the minutes of the Board meetings in permanent books; (b) see that all notices are duly given in accordance with the law; (c) be custodian of the Board's records; (d) sign with the President, or Vice-President, or any other officer authorized by the Board any instruments which the Board has authorized to be executed, according to the requirements of the form of the instrument, except when a different mode of execution is expressly prescribed by the Board; (e) have authority to certify resolutions of the Board and other documents as true and correct copies thereof; (f) prepare meeting agendas; and (g) perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board. The Secretary may delegate any duties to a Recording Secretary, if one is hired by the Board.

203.6 The Assistant Secretary shall act for the Secretary whenever necessary to discharge the functions of such office.

203.7 The Treasurer or ex-officio Treasurer of the Municipality shall act as Treasurer of the Fund and all assets of the fund must be placed in the custody of the Treasurer for the credit of the Fund.

204 Conduct of Meetings.

204.1 A majority of the Board shall constitute a quorum for the conduct of Board business. Any action may be taken by the majority of the members present.

- 204.2 Copies of the minutes of all meetings, except closed sessions, shall be posted in a conspicuous place on the Board web site and at the municipal administration building.
- 204.3 The parliamentary authority of the Board shall be *Robert's Rules of Order Newly Revised*, 10th Edition, 2000 Perseus Publishing.
- 204.4. Electronic Attendance at Board Meeting
- A. A quorum of Trustees must be physically present at the location of an open or closed meeting of the Police Pension Board.
- B. Minutes of all meetings shall reflect if a Trustee was physically present or present by means of a video or audio conference. Lack of such a specification shall be deemed to indicate that the Trustee in question was physically present.
- C. As provided herein, Trustees who are not physically present may participate in open or closed meetings by means of a video or audio conference. Such electronic participation may only occur if the Trustee is prevented from physically attending by: (1) personal illness or disability; (2) employment purposes; (3) business of the public body; (4) a family emergency; or (5) another emergency. If a Trustee wishes to attend a meeting electronically, the Trustee must notify the Board President at least 48 hours before the meeting, unless advance notice is impractical. Notification may be in person or in writing, or by phone, e-mail or facsimile transmission. The notification shall include a detailed recitation of the particular circumstances why the Trustee cannot attend, and also cite one of the five above-specified categories. The notification also shall substantially follow the format laid out in Form 20 of this Rule. For purposes of this rule, the Board Secretary shall be considered, and is hereby designated, as the agent of the Board President. Notice given to the Board President or to the Board Secretary shall be sufficient. Copies of the request shall be provided to all Trustees promptly, but in no event later than the meeting in question.
- D. Upon receipt of notice of intent to participate electronically, the Board President, Board Secretary or his/her designees shall make appropriate arrangements for the Trustee to participate electronically, such as by arranging a speaker-phone for the meeting room and obtaining contact information. The equipment shall provide output sufficient for persons attending the meeting, and members of the audience, to hear the Trustee speak, and also shall allow the Trustee to hear other Trustees and any person who addresses the Police Pension Board.

- E. At the meeting, the Police Pension Board shall vote on whether to permit the Trustee to participate electronically. If the Police Pension Board votes to permit electronic attendance, the audio or video equipment shall be activated so the Trustee can participate. If the Police Pension Board votes not to permit attendance, or if there is no quorum physically present, the Police Pension Board shall designate a person to contact the Trustee and notify him/her of that fact. If more than one Trustee requests and qualifies for electronic attendance by virtue of meeting one of the qualifications listed in paragraph C, then either all of the requesting Trustees or none of those Trustees shall be permitted to attend electronically.
- F. If the Trustee who is attending electronically would normally chair the meeting, a president pro tempore who is physically present may be appointed.
- G. When a Trustee attends a meeting electronically, all votes shall be by roll call vote. An electronically attending Trustee must identify himself or herself by name and be recognized by the president before speaking.
- H. An approved request to participate electronically shall entitle the Trustee involved to attend at the subject meeting and any closed sessions called during that meeting.
- I. This rule shall apply in like manner to any subsidiary committee, subcommittee or other agency of this police pension board that is a "public body" under the Illinois Open Meetings Act.
- J. The format for submitting a request for electronic attendance shall be FORM 20

205 Powers and Duties of Board.

The Board shall have the following powers and duties in addition to the other powers and duties granted to it in the Pension Code:

- 205.1 To make necessary rules and regulations in conformity with the provisions of the Pension Code. These rules and regulations may be amended from time to time by a majority vote of the Board. For good cause shown, strict compliance with the rules may be waived by the Board. A copy of these rules and of any amendments thereto shall be furnished to all participants and beneficiaries.
- 205.2 To provide for the payment from the Fund of all necessary expenses as approved by the Board.
- 205.3 To issue subpoenas compelling witnesses to attend and testify before it, upon all matters connected with the administration of the Fund.

Subpoenas shall be issued in the manner provided by law for the taking of testimony in the Circuit Court of Cook County, including provision for witness fees. The President, or any Member of the Board, may administer oaths to such witnesses. (See Forms 1 & 2).

205.4 To collect, pay, contest, compromise or abandon any claims of or against the Fund, and to specify the procedures for any Member or Beneficiary to assert a claim against the Fund consistent with these Regulations.

205.5 To appoint a recording secretary, attorneys, auditors, actuaries, brokers, investment advisors or other agents and to pay reasonable compensation to such appointees.

206 Transfer of Service Credit. Requests for transfers of service credit, either incoming or outgoing, shall be handled in the manner required by law and regulation. (See Form 13).

207 Training and Educational Expenses. As the pension fund has millions of dollars in assets, the board recognizes the importance for pension trustees to keep current regarding the latest developments in pension laws, procedures, finance, and related topics. Accordingly, the board authorizes the expenditure of funds for the reasonable and necessary expenses incurred for trustees to attend educational conferences, seminars, meetings and similar events related to his/her duties as pension trustee. Expenses may either be paid in advance directly to the provider (i.e., hotel, airline) or reimbursed to the trustee on an after-the-fact basis. All expenditures shall be justified by the presentation of receipts sufficient to meet IRS requirements.

Each trustee shall be permitted to incur a maximum of \$2,500.00 in such expenses per calendar year without prior board approval. However, even if incurred prior to board approval, any expense reimbursement must meet the requirements of this Rule.

208 Closed Session Recording Policy.

A. A verbatim record shall be kept of all meetings of the pension board or any subsidiary "public body" (as defined by the Illinois Open Meetings Act) of the board which are closed to the public. The verbatim record shall be in the form of an audio or video recording. In addition, minutes shall be kept of all closed meetings in the manner required by the Illinois Open Meetings Act. Minutes of closed meetings shall be placed before the pension board or the subsidiary body, as the case may be, for approval as to form and content as soon as practicable following the closed meeting. The secretary of the board, or his/her designee, shall maintain the verbatim recordings and minutes of all closed sessions of the board and all subsidiary public bodies of the board.

- B. At the beginning of each closed session, those present shall identify themselves by voice for the audio recording. If the meeting is videotaped, at the beginning of the meeting, those present shall individually appear on camera and identify themselves by voice. The chair of the meeting shall also announce the times the meeting commences and ends at the appropriate points on the recording.
- C. At the first regular board meeting following January 1 and July 1, the agenda shall include the following item: "Review of the minutes of all closed sessions that have not yet been released for public review, and determination of which, if any, may then be released." Minutes or recordings shall not be released unless the board finds that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. As to any minutes or recordings not released, the board shall find that the "need for confidentiality still exists" as to those minutes or recordings. The board attorney shall prepare a recommendation for the board regarding the release and non-release of the respective recordings and minutes. Minutes of closed sessions shall be kept indefinitely.
- D. At the same meeting, the agenda shall include the following item: "Authorization for destruction of verbatim recordings of closed sessions." The board attorney shall present a list to the board of the dates of closed sessions where:
1. A verbatim recording exists;
 2. The board has approved the minutes of the closed meeting as to form, regardless of whether the minutes have been released for public review; and
 3. There have been more than 18 months since the date of the closed meeting.

The Board shall consider whether to authorize destruction of the verbatim recordings of those meetings. When ordered by the board, the board secretary shall destroy the recording of that closed meeting in a suitable manner.

209 Freedom of Information Policy. The Board adopts the FOIA policy used by its parent municipality, with the exception that requests should be filed with the Board Secretary.

210 Indemnification. Pursuant to 40 ILCS 5/1-107, the Pension Board indemnifies and protects the trustees against all damage claims and suits, including defense thereof, when damages are sought for negligent or wrongful acts alleged to have been committed in the scope of their duties. However, the trustees are not indemnified for willful misconduct or gross negligence.

Chapter 3. Membership and Benefits.

- 301 Individuals Covered. The membership of the Fund is governed by state law. Each member of the Fund shall (a) file a written application with the Board within three months of the applicant's first appointment (if reappointed, within three months thereafter) (See Form 7); (b) provide the Board with documentation certifying (i) birth date of applicant, (ii) marital status of applicant and (iii) birth date of any dependent children; and (c) submit to any medical or psychological examination that the Board may reasonably require in connection with a proposed disability claim. Such person is herein referred to as a "Member" or "Police Officer".
- 302 Change in Family Status or Address. In the event of any change in family status (i.e., divorce, marriage, children, adoption, etc.), or change of address, a Member or Beneficiary shall notify the Board within thirty (30) days and provide the appropriate documentation. Members and Beneficiaries must provide the Board with a current street at which they will accept official notices. Post office boxes are not acceptable for this purpose. Failure to do so may result in the Member or Beneficiary not receiving official notices.
- 303 Application Requirement. All requests for pension benefits shall be submitted on the appropriate application. (See Forms 5, 8 and 9). Applicants for disability pensions must submit signed HIPPA waivers in sufficient quantity to meet the Board's needs (Form 10).
- 304 Certificate of Disability.
- 304.1 A disability pension shall not be paid unless certificates of the police officer's disability have been filed with the Board, subscribed and sworn to by the police officer, if not under legal disability, or by a representative on the officer's behalf if the officer is under legal disability, and by three (3) practicing physicians selected by the Board. The Board President is authorized, in the interest of expedition, to select examining doctors on non-controversial cases without Board approval. Each certificate shall describe the nature of the member's physical or mental condition and the reasons why the member is deemed unable to perform the duties as a police officer. The Board may require such additional evidence of disability as the Board deems pertinent. (See Forms 10 and 11).
- 304.2 (a) The Board shall schedule a hearing on the issue of the disability of the applicant, at which hearing the applicant may be represented by an attorney admitted to the bar of the Illinois Supreme Court. The Board shall send notice of the hearing to the applicant or his attorney, at least seven (7) days prior to the hearing. The hearing shall be conducted in the manner set forth in Chapter 4.

(b) The Board shall consider the physician's reports and such testimony and other evidence that it deems pertinent.

(c) A copy of the Board's decision shall be delivered to the applicant or the applicant's attorney, if one has appeared, within thirty (30) days of the conclusion of the hearing, unless more time is required for preparation thereof.

304.3 An application for an on-duty disability pension will be automatically considered also as an application for an off-duty disability pension unless the officer specifically requests otherwise.

305 Examination and Emergency Service.

305.1 A medical examination of the police officer on disability shall be made at least once each year prior to the attainment of age fifty (50) in order to verify the continuance of disability for service as a police officer. No examination shall be required after such age.

305.11 At any time, the Board may convene a show cause hearing, to be held in the manner set forth in rule 304.2, to afford a Member the opportunity to present evidence as to why a pension should not be terminated due to lack of continued disability. The burden of proof at such a hearing shall be on the Member.

305.2 If any Member of the police force on disability, except one who voluntarily retires after twenty (20) years of service, has been found upon medical examination to have recovered from such disability, the Board shall certify to the Chief of Police that the Member is no longer disabled and is able to resume the duties of the position.

305.3 In case of an emergency, as determined by the Chief of Police, a disabled member may be assigned and shall perform such reasonable duty as the Chief of Police or Mayor may direct; and such person shall have no claim for salary against the Municipality for the duty so performed.

306 Overpayments. The amount of any overpayment of benefits to a member or beneficiary due to fraud, misrepresentation or inadvertent mistake may, if the member or beneficiary fails to repay such amount to the fund, be deducted from future payments to the member or beneficiary in any manner approved by the Board.

307 Inquiries and Requests. All inquiries, complaints or requests directed to the Board for consideration shall be submitted in written form to the City of Des Plaines Police Department Pension Fund, 1420 Miner, Des Plaines, IL 60016.

308 Additional Requirements. The Board may require any additional documentation it deems advisable to verify the eligibility of a police officer, pensioner, surviving

spouse, children or dependent parent to any benefits hereunder, including, but not limited to, certified copies of birth certificates, death certificates, marriage certificates and affidavits confirming the individual's age and/or marital status.

- 309 QILDROs. Certified copies of Qualified Illinois Domestic Relations Orders and QILDRO Calculation Court Orders shall be accepted for filing by mail or hand-delivery to the Board President at the Board's business address. The Board's blank model QILDRO and QILDRO Calculation Court Order are published as FORM 17D and FORM 17E. Every new and modified QILDRO and QILDRO Calculation Court Order must be accompanied by the nonrefundable statutory fee.

Upon receipt of an appropriate subpoena issued in a dissolution of marriage or legal separation case in which a QILDRO may be issued, or after receiving a request from a member, the Board shall, within 45 days, provide in response a statement, signed by the Board Secretary, of a member's accumulated contributions, accrued benefits, and other interests in the plan administered by the Fund based on the data on file on the date the subpoena or request was received. FORM 16. If so requested, the Board shall also provide in response general retirement plan information available to a member. 40 ILCS 5/1-119(h)(1).

A member who joined the fund before July 1, 1999 who consents to entry of a QILDRO order must submit FORM 17. This consent is irrevocable. 40 ILCS 5/1-119 (m) (1).

Upon receipt of a QILDRO, the Board shall promptly notify the member and alternate payee of the receipt by first class mail. 40 ILCS 5/1-119.

Upon receipt of a QILDRO which provides that the alternate payee is to receive a percentage of a retirement benefit (as opposed to a specified dollar amount), the Board shall provide the applicable information to the member and the alternate payee as indicated below:

- (A) If the member is a participant in the State Universities Retirement System and the QILDRO provides that the only benefit the alternate payee is to receive is a percentage of a lump sum benefit as of a specific date that has already past, then the Board shall, within 45 days after its receipt of the QILDRO, provide a statement of the lump sum amount to which the QILDRO is to be applied.
- (B) If the Board receives the QILDRO before the member's effective date of retirement, then the Board shall, within 45 days after its receipt of the QILDRO, provide all of the information set forth in FORM 17A.
- (C) If the Board receives the QILDRO after the member's effective date of retirement, then the Board shall, within 45 days after its receipt of the QILDRO, provide all of the information set forth in FORM 17B.

- (D) If the QILDRO provides that the alternate payee is entitled to death benefits, then the Board shall, within 45 days after its receipt of notice of the member's death, provide a statement of the gross amount of death benefits payable, including interest, calculated as of the date of the member's death.

Upon receipt of a QILDRO Calculation Court Order, the Board shall, within 45 days, notify the member and alternate payee of the receipt by first-class mail. If a certified copy of a valid QILDRO underlying the QILDRO Calculation Court Order has not been filed with the Board, or if the QILDRO Calculation Court Order does not clearly indicate the amount the Board is to pay to the alternate payee, then the Board shall at the same time notify the member and the alternate payee of the situation. If a valid QILDRO and QILDRO Calculation Order have been filed with the Board, they shall be implemented as soon as administratively possible once benefits are payable.

The Board shall have no obligation to make any determination as to whether the calculations in a QILDRO Calculation Court Order are accurate or whether the calculations are in accordance with the parties' QILDRO, agreement, or judgment. The Board shall have no responsibility for the consequences of its implementation of a QILDRO Calculation Court Order that is inaccurate or not in accordance with the parties' QILDRO, agreement, or judgment. 40 ILCS 5/1-119.

So long as there is in effect a QILDRO affecting a member's retirement benefit, a member may not elect a form of payment that has the effect of diminishing the amount of the payment to which any alternate payee is entitled, unless the alternate payee has consented to the election in a writing that includes the alternate payee's notarized signature, and this written and notarized consent has been filed with the Board. FORM 17C. If a member attempts to make an election that has the effect of diminishing the amount of the payment to which any alternate payee is entitled, the Board shall reject the election and advise the member of the need to obtain the alternate payee's consent. 40 ILCS 5/1-1119. FORM 17C.

- 310 Certificate of Continued Eligibility. Each beneficiary shall submit a notarized Annual Affidavit of Continued Eligibility (Form 18) on or before March 1 of each calendar year. Failure to submit the affidavit shall result in temporary cessation of benefits. Benefits shall resume retroactively when the affidavit is received.
- 311 Direct Deposit of Benefits. The Pension Board shall pay benefits as required. The form of payment shall be by direct deposit into an account specified by the beneficiary, except in the case of initial payments when direct deposit arrangements have not yet been finalized. Any request to change the address or bank account direct deposit information of a benefit recipient shall be accompanied by Form 19.

Chapter 4. Hearings.

- 401 Request for Hearing. A hearing may be requested on any contested issue(s) after informal procedures consistent with these Rules and applicable law have been exhausted and there remain differences between the Board and the person seeking pension benefits. A hearing may also be called by the Board to resolve any issue regarding a Member or Beneficiary
- 402 Request for Hearing to be Made to President. A request for a hearing shall be made in writing to the President of the Board. Such a request shall contain the reasons the hearing is being requested and other information pertinent to the request. Any request challenging a computation of benefits, as opposed to qualification for benefits, where the computation is not made as the result of a new disability hearing, shall be made in writing within thirty (30) calendar days after the person seeking pension benefits receives written notification regarding the proposed pension award. Challenges to computation of benefits resulting from a new disability hearing must be made as part of the hearing on the disability. (See Form 12.)
- 402.1 Intervention. The Municipality may seek permission to intervene in a pending disability case. Intervention may be granted in the sole discretion of the Board. If granted, the Municipality shall be considered a party to the case, and depending on the circumstances, the hearing may be treated as an adversarial one with the Municipality and Member acting as opposing parties.
- 403 Scheduling the Hearing.
- 403.1 If the Board receives and agrees to a request for a hearing, the Board, within ten (10) business days of its agreement to the request, shall:
- (A) Send a letter to all Board Members including: (i) the name, address, and telephone number of the person making the request for the hearing; (ii) the date on which the request for the hearing was received by the Board; (iii) the nature of the controversy to be resolved; and (iv) a copy of the request.
 - (B) Send a copy of the Board's notification packet by certified mail, return receipt requested (or by hand delivery) to the person requesting the hearing.
- 403.2 The hearing shall be scheduled at a time and place convenient for the Board. The hearing shall be convened within fifteen (15) calendar days of the Board's receipt of the request unless, in the judgment of the Board Chairman, extenuating circumstances warrant a delay.
- 403.3 The applicant may request a delay in convening the hearing. The applicant shall do so in writing to the President of the Board. The

applicant shall set forth the reasons for the request and the President of the Board shall, upon receiving the request, either grant or deny the request, and shall inform the applicant. If necessary, the President of the Board shall determine a new time and date for convening the hearing.

403.4 If there is no objection by the applicant, the Municipality, or a board member, these notification requirements may be waived or modified.

404 Rights Prior to the Hearing.

404.1 The applicant has the right to be represented at his/her own expense by an attorney admitted to the bar of the Illinois Supreme Court, and to be assisted by other persons having special knowledge of pension law.

404.2 The applicant may inspect and review all Board records pertaining to the applicant and may obtain copies of any such records at the applicant's own expense.

404.3 The applicant or the Board may compel the attendance, by subpoena, of any person who may have information relevant to the needs, abilities or the status of the case.

405 Rights During the Hearing.

405.1 The Board shall conduct the hearing in a fair, impartial and orderly manner consistent with due process. The rules of evidence applicable in a court will not be strictly applied. The Board shall afford the party an opportunity to present the evidence, testimony, and arguments the party believes necessary to support and/or clarify the issues in dispute and the relief requested.

405.2 The hearing shall be open to the public except as permitted by the Illinois Open Meetings Act.

405.3 The Board and the applicant shall have the right to confront and cross-examine witnesses, including those whose attendance they have compelled by issuance of a subpoena.

405.4 Except as provided in Rule 402.1, the hearing shall be non-adversarial in nature. Rulings on evidentiary objections may be made by the Board's attorney on behalf of the Board, subject to appeal to the Board.

406 Record of Proceedings. The Board shall ensure that a court reporter is present to make a record of the hearing. The Board shall also ensure that all written evidence presented at the hearing is marked to indicate the party offering the evidence and is made part of the administrative record. The applicant may obtain a transcript of the hearing at the applicant's own expense.

407 Decision of Board.

407.1 Within thirty (30) business days after the conclusion of the hearing, the Board shall issue a written decision which sets forth the issues in dispute, findings of fact based upon the evidence and testimony presented, and the Board's conclusions and orders. The Board shall determine whether the evidence establishes that the person is entitled to pension benefits and, if so, in what amount.

407.2 The Board's decision shall be sent by certified mail, return receipt requested (or by hand delivery) to the applicant.

408 Filing of Administrative Record.

If a case is appealed to the Circuit Court pursuant to the Administrative Review Law, the Board shall file with the Clerk of the Circuit Court a complete administrative record, which shall include: (i) a transcript of the hearing; (ii) records and reports presented at the hearing; and (iii) other exhibits and materials presented at the hearing.

409 Deadlines. Failure of the Board to meet any deadline imposed on it by these Rules shall not be jurisdictional, nor affect any particular result in a given case.

Chapter 5. Investments.

501 Investment Policy. The Investment Policy attached hereto as Attachment B is the Board's official investment policy and is incorporated into these Rules and Regulations by this reference.

502 Proxies. The Board Secretary is authorized to vote any proxy for stocks owned by the Fund in accordance with the recommendations of the company's Board of Directors.

503 Investment Practice. The Board will operate the Des Plaines Police Pension Fund and make all investment decisions in strict compliance with the requirements of the Illinois Pension Code, as may be amended from time to time, and in a manner consistent with the Des Plaines Police Pension Fund Investment Policy.

504 Appointment of Investment Advisors and Consultants. The Board may appoint one or more investment advisors and/ or consultant to manage assets of the Police Pension Fund.

All investment advice and services provided to the Board by an investment advisor or consultant shall only be rendered pursuant to a written contract between the advisor or consultant and the Board. All offers from an investment advisor or consultant who submits an offer to provide such services shall be accompanied by a disclosure of

the names and addresses of the offeror, any entity that is a parent of, or owns a controlling interest in, the offeror, or any entity that is a subsidiary of, or in which a controlling interest is owned by, the offeror. Any contract between the Board and an investment adviser or consultant shall include all of the following:

1. An acknowledgment in writing by the investment advisor that he or she is a fiduciary with respect to the Fund. [Applicable to investment advisor contract only].
2. An acknowledgement of the Board's investment policy.
3. Full written disclosure of direct and indirect fees, commissions, penalties, and any other compensation that may be received, including reimbursement for expenses.
4. A requirement that the investment advisor submit periodic written reports on at least a quarterly basis for the Board's review at its regularly scheduled meetings.
5. A requirement that the advisor or consultant provide the Board a full written disclosure of the direct and indirect fees that may be paid by or on behalf of the investment advisor or consultant in connection with the provision of services to the Fund, including the date and amount of each payment and the name and address of each recipient of a payment, and a requirement that the advisor or consultant update the disclosure promptly after modification of those payments or an additional payment.

The Board shall provide a copy of any contract entered into pursuant to this subsection 503(5) to the Division of Insurance of the Department of Financial and Professional Regulation within 30 days after appointing an investment adviser or consultant.

504.1. Consultant/ Advisor Contract Duration. No contract for consulting services may exceed five (5) years with any consultant, nor may a contract for consulting services be renewed or extended. The foregoing restrictions do not, however, prohibit a contracting consultant to compete for a new contract at the end of the term of a consulting contract.

504.2. Eligible Consultant/ Advisor. No person other than a trustee or employee of the Fund may act as a consultant or investment adviser to the Board unless that person is at least one of the following:

1. Registered as an investment adviser under the federal Investment Advisers Act of 1940 (15 U.S.C. § 80b-1, *et seq.*);
2. Registered as an investment adviser under the Illinois Securities Act of 1953;

3. A bank, as defined in the Investment Advisers Act of 1940; or
4. An insurance company authorized to transact business in Illinois.

505 Annual Reporting Requirements. In addition to the reports set forth in Section VIII of the Investment Policy of the Des Plaines Police Pension Fund, the Board shall, on an annual basis, and no later than [INSERT DATE] each year, certify and provide the following information about the Fund to the City Council:

1. The total assets of the Fund at the end of the fiscal year and the current market value of those assets.
2. The estimated receipts during the next succeeding fiscal year from deductions from the salaries of police officers, and from all other sources;
3. The estimated amount required during the succeeding fiscal year to pay all pensions and other Fund obligations, and to meet the annual requirements of the fund as required by the Pension Code;
4. The total net income received from investment of assets along with the assumed investment return and actual investment return received by the fund during its most recently completed fiscal year compared to the total net income, assumed investment return, and actual investment return received during the preceding year;
5. The total number of active employees who are financially contributing to the fund;
6. The total amount that was disbursed in benefits during the fiscal year, including the number of and total amount disbursed to annuitants in receipt of a regular retirement pension, recipients being paid a disability pension, and survivors and children in receipt of benefits;
7. The funded ratio of the Fund;
8. The unfunded liability carried by the Fund, along with an actuarial explanation of the unfunded liability; and
9. The investment policy of the Board under the statutory investment restrictions imposed on the Fund.

506 Prohibited Transactions and Gifts.

- 506.1 Prohibited Transactions. Trustees shall not engage in any investment transaction with any advisor with which he or she has any direct interest in the income, gains or profits of that advisor through which the investment transaction is made or has a business relationship with that advisor that would result in a pecuniary benefit to the trustee as a result of the investment transaction.

506.2 Prohibited Gifts. No trustee shall intentionally solicit or accept any gift from any prohibited source as prescribed in Article 10 of the State Officials and Employees Ethics Act.

For purposes of this policy, "gift" shall be defined in the same manner set forth in Section 1-5 of the State Officials and Employees Ethics Act, but shall not include the solicitation or acceptance of educational materials by a trustee.

A "prohibited source" is any person or entity who"

1. Is seeking official action by the Board or an individual trustee;
2. Does business or seeks to do business with the Board or an individual trustee;
3. Has interests that may be substantially affected by the performance or non-performance of the official duties of a trustee; or
4. Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act.

An entity that is not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

Attachments

- A Sample Forms
- B Investment Policy