

PENSION ADVISORY COMMITTEE



Policies and Procedures Manual

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Introduction to Pension Advisory Committee Policies and Procedures Manual

Effective Date: January 1, 1996

Revision Date: September 8, 2016

Approved by PAC: October 13, 2016

Policy: The City of Clearwater Pension Advisory Committee (PAC) shall develop and maintain a Policies and Procedures Manual as a means of providing information to all parties interested in the Employees' Pension Plan and to guide the PAC in administering the Plan.

Procedures:

- A. Purpose: This Manual contains statements of PAC policies and procedures. It is intended to serve as a reference document and working guide for PAC members in the conduct of their responsibilities and will help to assure uniformity of action by the PAC.

It will also serve to assist City employees in understanding how the PAC functions and the various processes by which employees may apply for pension benefits.

- B. Procedures Manual, Revisions, and Supplements: Subject to approval of the Pension Plan Trustees, the PAC may establish rules and procedures as are necessary to administer the Plan. From time to time new policies or procedures may be required or existing policies or procedures may be amended. In such an instance, a new or revised PAC Policies and Procedures Manual will be prepared and issued, providing for an effective or revised date.
- C. Distribution: A copy of this Manual shall be provided to each member of the PAC, the Pension Plan Attorney, City Clerk, the Pension Trustees, the City Manager, Assistant City Managers, City Attorney, Human Resources Director, Finance Director, and Payroll Services Manager.

A copy of this Manual shall be posted on the City's Intranet site.

A copy of this Manual shall be provided to the President of the bargaining unit for each Union representing members employed by the City of Clearwater.

Section I: Pension Advisory Committee--Organization

Effective Date: January 1, 1996
Revision Date: November 14, 2019
Approved by PAC: January 9, 2020

Policy: The Pension Advisory Committee (PAC) shall be organized pursuant to provisions of the Code of Ordinances of the City of Clearwater governing the Employees' Pension Plan.

Procedures:

- A. **Members:** The PAC shall consist of seven (7) members: three (3) active City employees who are participants in the Plan, three (3) City Council members or appointees, and one (1) resident of the City of Clearwater. (2.413(d)(1))
- B. **Election/Appointment Process:** Members of the PAC representing the employees shall be elected by majority vote of the active employees of the City of Clearwater who are participants in the Pension Plan and who vote in a scheduled, announced election. (2.413(d)(2))

At the PAC meeting each March, the existing employee-elected Committee members shall appoint a five- person nominee group made up of employee Plan participants to conduct the election process with the assistance and in accordance with the written procedures of the Department of Official Records and Legislative Services. The group shall appoint a Chair and advise ORLS of the Chair's name.

Members of the PAC representing the City Council shall be appointed by a majority vote of the City Council. (2.413(d)(2))

The seventh member of the PAC shall be appointed by a majority vote of the other six (6) members of the PAC. (2.413(d)(2))

- C. **Terms of Office:** Terms of office of the PAC members shall overlap as prescribed by the Pension Ordinance. Basic terms shall be two (2) years. (2.413(d)(3))

Any vacancy on the PAC shall be filled for the remainder of the term in the same manner as the original member who vacated the position. (2.413(d)(5))

The Department of Official Records and Legislative Services may provide necessary assistance to the employees for administration of elections to elect their designees.

- D. PAC Meetings and Public Notice: The PAC shall meet at such times as it may designate and as may be required to carry out its responsibilities as defined by the provisions of the Pension Ordinance. Generally, such meetings of the PAC shall be scheduled for the second Thursday of every other month, provided, however, that the PAC may schedule special meetings as needed. Special meetings may also be called by the Chair of the PAC.

The Human Resources Director will notify the PAC members should a monthly meeting not be required. Meetings will only be canceled if supported by a majority of the members.

Appropriate public and employee notice of meetings of the PAC shall be provided and business of the PAC shall be conducted in compliance with provisions of Article I, Section 24 of the Florida Constitution and the State of Florida "Government-in-the-Sunshine Law," FS 286 and related statutes.

- E. PAC Chair Selection: At the 3rd meeting of the year, the PAC shall nominate and select by a simple majority vote members to serve as Chair and Vice Chair for the year.
- F. Voting: The Chair shall not make or second a motion. Each PAC member shall be entitled to one vote. Four affirmative votes shall be necessary for any decision by the PAC at any meeting {Section 2.413(d)(7)}.
- G. Financial Disclosure: PAC members, as provided by law, shall file the required State of Florida Financial Disclosure Statement pursuant to law along with any required City of Clearwater Financial Disclosure Statement.
- H. Prudent Person Rule: PAC members shall exercise their responsibilities with the care, skill, prudence and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a similar character and with similar aims under the circumstances then prevailing.
- I. For purposes of the business of the PAC, the Human Resources Director and staff of the Human Resources and Finance departments shall be designated as PAC support staff.
- J. Independent counsel shall serve as legal adviser to the PAC.
- K. In the event of a conflict of interest, a PAC member shall declare the conflict, abstain from voting on the matter, and file a memorandum of voting conflict with the City Clerk.
- L. The Human Resources Director, subject to approval of the City Manager, is authorized to utilize legal counsel to represent the City before the PAC.
- M. In certain contested benefit applications, including forfeitures and disability cases, it may be necessary to engage an attorney to act as an advocate on behalf of the Pension Fund. Appointment of the advocate shall be authorized by the PAC with the selection to be made by the PAC counsel. Where possible, the advocate shall be an attorney operating within the Clearwater/Tampa/Saint Petersburg/Sarasota area with expertise in dealing with public retirement plans.

Members of the PAC who wish to have the advocate pursue a particular course of inquiry shall make such request at a PAC meeting, who shall in turn present them to the advocate. The PAC counsel may, for the purposes of clarity, rephrase a request to address the legal or evidentiary issue presented, but shall not offer an opinion to the advocate regarding the request presented. The PAC counsel shall review the billing invoiced by the advocate to ensure any fees are consistent with the work performed.

Section II: Powers and Duties of the Pension Advisory Committee

Effective Date: January 1, 1996

Revision Date: August 8, 2019

Approved by PAC: September 12, 2019

Policy: The Pension Advisory Committee (PAC) shall exercise the powers and duties as outlined in the City of Clearwater Employees' Pension Plan Ordinance.

Procedures:

The PAC shall have the authority to:

- A. Arrange for the necessary physicians to pass upon all medical examinations required under the Pension Plan and review such physician's reports. The PAC may delegate responsibility for the ministerial part of these functions to an appropriate designee. (2.413(e)(1)a.)
- B. Establish, in conjunction with the City and medical consultants, the scope of medical exams and medical standards to be used for the purpose of determining the existence of pre-existing medical conditions and eligibility for disability pensions and to assist examining physicians in reaching conclusions and recommendations. Annually the PAC and the City shall review the scope of the medical exam which is used for such purposes and make such modifications, if any, as are deemed appropriate.
- C. Investigate and recommend to the Trustees, in conjunction with actuaries, such mortality/service and other tables needed to operate the Plan. (2.413(e)(1)b.)
- D. Make recommendations to the Trustees for improvements or changes to the Plan. (2.413(e)(1)c.)
- E. Receive all applications for pension benefits from employees and determine all facts necessary to establish the right of an applicant to Plan benefits. (2.413(e)(1)d.) City staff shall have the authority to process all benefit and other applications, which applications shall be ratified by the Pension Advisory Committee at their next meeting.

The term "employee" shall not include persons hired by the City on a contractual basis or persons hired in regular part-time, emergency, seasonal, or provisional positions or persons hired in positions exempt from the City classified civil service system (except that if a person was already a Plan participant prior to promotion to an exempt position, such person shall continue to be an "employee" and Plan participant).

- F. Investigate and determine the eligibility of participants for disability pension consistent with provisions of the Pension Plan. (2.413(e)(1)f.)

- G. Submit recommendations to the Trustees as to rules, procedures, forms, and general administrative procedures relating to PAC responsibilities, and for improvements or changes in the Plan. (2.413(e)(1)c.)

Section III: Processing Normal Retirement ("Years of Service") Pension Requests

Effective Date: January 1, 1996

Revision Date: September 10, 2020

Approved by PAC: November 12, 2020

Policy: It shall be the policy of the Pension Advisory Committee (PAC) to review all requests for normal retirement ("years of service") pensions pursuant to the provisions of the Pension Ordinance and make recommendations to the Pension Plan Trustees.

Procedures:

- A. Employees electing to retire consistent with the "Normal Retirement Benefit" eligibility provisions of the Pension Plan shall complete and submit the following documents to the support staff of the PAC:
1. Pension Entitlement Option Request Form: This form shall note that the request is for a regular pension based on years of service. This form must be filled out completely by the employee and must be notarized.

If the employee is extending his/her retirement date as referenced in paragraph 3. below, the employee may submit all required paperwork in the pension application process but will not be required to designate a beneficiary, if applicable, until thirty (30) days prior to the effective date of the pension.
 2. Resignation Form: Employees must submit a signed resignation indicating the date of resignation (retirement) as computed by the Human Resources Department in accordance with the employee's last day of work and election of any available option for use of applicable accrued leave time.
 3. Other Forms: Such other forms as may be required by the City relating to the use of benefits in extending an employee's retirement date beyond the employee's last day of actual work. The use of benefits to extend the retirement date is generally based upon and applied consistent with the provisions of respective applicable employee collective bargaining agreements or manuals.
- B. PAC support staff shall review all documentation submitted by the employee in support of the employee's request for normal retirement benefits and confirm eligibility of the employee for pension based on his/her years of service, age, or other applicable criteria and shall provide such documentation as necessary to the PAC as part of an agenda packet.

C. The PAC shall consider the appropriate documentation provided in support of the employee's request for a regular years of service pension based on the following eligibility requirements:

1. Non-Hazardous Duty Regular Pension (2.412)

a. If pension entry date is prior to January 1, 2013:

- i. Twenty (20) years of pension creditable service and at least fifty-five (55) years of age.
- ii. Thirty (30) years of pension creditable service regardless of employee age.
- iii. Ten (10) years of pension creditable service and at least sixty-five (65) years of age.

b. If pension entry date is on or after January 1, 2013:

- i. Twenty-five (25) years of pension creditable service and at least sixty (60) years of age.
- ii. Ten (10) years of pension creditable service and at least sixty-five (65) years of age.

2. Hazardous Duty Regular Pension (2.412)

- a. Twenty (20) years of pension creditable service in a hazardous duty designated job classification, regardless of employee age.
- b. Ten (10) years of pension creditable service in a hazardous duty designated job classification and at least fifty-five (55) years of age.

Note: Hazardous duty pension eligibility is accrued only for creditable service in a hazardous duty position. An employee with other pension creditable service time in a non-hazardous duty position must accrue a full twenty (20) years of pension creditable service in a hazardous duty position to be eligible to retire under this provision. Hazardous duty positions shall be defined as full-time sworn and certified Police Officers and certified Firefighters as defined in the Pension Plan Ordinance and any other job class designated by the Trustees as hazardous duty.

3. Early Retirement--Hazardous Duty Only (2.417(3))

- a. Ten (10) years of pension creditable service in a hazardous duty designated job classification and at least age fifty (50) with a corresponding 3% reduction in the amount of the pension benefit for every year or portion thereof below the age of fifty-five (55) upon retirement, to a maximum reduction of 15%.

D. Employees must elect the form in which their retirement benefits will be paid. No change to the option elected is permissible once an employee receives their first retirement benefit payment.

Section IV: Processing Disability Pension Requests

Effective Date: January 1, 1996

Revision Date: September 10, 2020

Approved by PAC: November 12, 2020

Policy: It shall be the policy of the Pension Advisory Committee (PAC) to review in a thorough and impartial manner all requests for disability pensions to ensure that the employee receives an appropriate review and that the integrity of the Pension Plan and Pension Fund is protected.

A copy of this policy shall be provided to each Plan participant who requests a disability pension.

Eligibility for Disability Pension:

- A. **Non-hazardous Duty Disability:** A non-hazardous duty employee as defined under the Pension Plan shall be considered disabled for purposes of the Plan if the PAC determines based on the information available that the participant is disabled due to sickness or injury, such disability is likely to be continuous and permanent from a cause other than those listed in 2.418d(3), and such disability renders the participant unable to perform any useful, meaningful, and necessary work for the employer in an available position for which the participant is reasonably qualified or for which the participant may be reasonably trained to perform, with or without a reasonable accommodation. (2.418b)
- B. **Police Officer/Firefighter Hazardous Duty Disability:** A hazardous duty employee as defined under the Pension Plan shall be considered disabled for purposes of the Plan if the PAC determines based on the information available that the participant is totally and permanently disabled to the extent that he or she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer or firefighter respectively, with or without a reasonable accommodation. (2.418(2)a.)
- C. **General Disability Exclusions:** A participant shall not be eligible for disability pension when such participant's disability was occasioned primarily by the excessive or habitual use of drugs, intoxicants, or alcohol; or from an injury or disease sustained while willfully and illegally participating in fights, riots, or insurrections; or while committing a crime; or while serving in the armed forces; or while working for anyone other than the City; or from disability that results from willful, wanton, or gross negligence of the participant; or that occurred after employment with the City was terminated. (2.418d(3))
- D. **Pre-existing Injury/Impairment Exclusion:** A participant who is not a Police Officer or Firefighter shall not be entitled to a disability benefit because of or due to the existence or aggravation of a specific injury, impairment, or other medical condition pre-existing the employee's participation in the pension plan. (2.418(2))

Procedures:

A. A participant requesting a disability pension (job-connected or non-job-connected) must first complete and submit the documents indicated in 1. and 2. below to the Human Resources Department. The application and documents must be filed by the employee, except where the employee has been deemed mentally incompetent, in which case the application may be filed by a guardian, relative, or other interested party who has appropriate legal authority to act for the participant. A disability application must be filed while an employee is still a participant in the Pension Plan.

1. Application for Disability Retirement: The Application Form provides for background information relating to the basis for the disability claim and includes a medical waiver and authorization for release of medical records.

a. Participants shall attach to the Application Form copies of all medical records and other relevant information which forms the basis for the disability claim. The Application Form and attachments must document the following:

i. The diagnosis by a licensed physician of an identifiable medical condition.

ii. A deficiency in service with respect to performance, conduct, or attendance.

iii. A relationship between the service deficiency and the medical condition such that the medical condition has caused the service deficiency.

iv. The duration of the medical condition, both past and expected.

v. The participant's inability to render useful and efficient service which arose during the course of current employment with the City.

b. Attachments must include letters from at least two (2) licensed medical doctors. The letters required from medical doctors must:

i. Be obtained from medical doctors (MD or DO) who are specialists in the area in which the disability exists (e.g. cardiologist for heart condition, etc.).

ii. Not be obtained from doctors associated with each other in practice.

iii. Not be obtained from a doctor or a doctor's practice with which the employee or a member of the employee's immediate family or household is associated (e.g., through employment or marriage).

iv. Provide the following information:

- (a.) The specific nature of the injury or illness upon which the disability claim is based;
- (b.) The medical opinion of the doctor as to the permanency of the injury or illness;
- (c.) The medical opinion of the doctor as to whether or not improvement in the employee's condition and/or ability to work is expected to occur;
- (d.) The extent to which the injury or illness renders the employee unable to perform any useful, meaningful, and necessary work for the City by referring to essential job functions which are limited or precluded with respect to the employee's job performance and essential job functions which the employee can perform with or without a reasonable accommodation (e.g., can lift, can't lift; can drive, can't drive; etc.).

Note: The PAC may review and consider findings and recommendations of licensed chiropractors, physical therapists, and other medical related practitioners; however, appropriate weight shall be given to such findings and recommendations.

- c. Copies of the Application/medical release form will be submitted, as necessary, to physicians and other medical personnel in custody of medical and other records relating to the participant which are deemed relevant to the participant's request for disability pension for the purpose of being provided as part of the background information for the PAC's review.

- 2. Independent Medical Examination (IME)/Functional Capacity Evaluation (FCE) Consent Form: This form provides for the employee's consent to an Independent Medical Examination/Functional Capacity Evaluation, including necessary diagnostic tests as may be required by the IME/FCE physician(s), and must be notarized. (2.418(4))

The IME/FCE shall be conducted by one or more specialists in the field of the employee's alleged disability.

A copy of this form shall be provided to the IME/FCE physician(s) as needed

- B. Upon the receipt of the items described in Item A. above, the application and attachments will be forwarded to the outside counsel representing the PAC.
- C. The counsel representing the PAC shall forward one or more sets of interrogatories to the applicant. The interrogatories shall be returned to the PAC attorney upon completion. The responses shall be notarized. The original set of interrogatories may be expanded and additional interrogatories required at any time based on the review of the original set of interrogatories, IME/FCE results or other medical information, or for other reasonable cause as determined by the PAC attorney.

- D. Upon receipt of the interrogatory responses, counsel shall request copies of all medical records from doctors and institutions listed in the interrogatories. Additionally, counsel will request copies of the applicant's personnel records and workers' compensation records, if applicable.
- E. Once all the records are received, counsel will schedule the applicant for an IME/FCE. The IME/FCE physician(s) may request that the applicant undergo specialized diagnostic tests as deemed necessary to reach a conclusion; however, the physician shall give due consideration to not repeating invasive type tests that have already been undergone by the applicant, provided the results of such tests are available and, in the judgment of the physician, current. The physician may reevaluate diagnostic tests or have them reevaluated by other specialists as deemed appropriate.

The cost of the IME/FCE and any specialized tests required as a part thereof shall be borne by the Pension Fund.

- F. Upon receipt of the IME/FCE report(s) from the examining professionals, the PAC staff will provide the application and related forms, all records of treating physicians, relevant Workers' Compensation records, the IME/FCE, answers to interrogatories, deposition transcripts, and all other relevant documents to the PAC for inclusion in the pension application file.

The PAC shall review each application and determine if the claim meets the criteria for awarding of a pension benefit. The PAC will then set a preliminary disability hearing date to review and rule on the application. Notice of the hearing shall be given to the applicant. The PAC may determine that the applicant is entitled to a disability benefit at the preliminary hearing. The preliminary hearing shall be limited to a review of the application, interrogatories, medical records and other relevant documents. The applicant and/or his or her representative may make a brief presentation. There shall be no testimony from witnesses at the preliminary hearing. If the PAC members determine that it is unclear as to whether disability benefits should be awarded at the preliminary hearing, the PAC may set the matter for a formal hearing. If this occurs, outside counsel may be retained to serve as the advocate for the pension plan and the PAC will provide all of the records to said counsel, as well as to the applicant and/or the applicant's representative, if applicable. The pension plan advocate and applicant's representative shall advise when the matter is ready to be set for formal hearing.

The PAC shall schedule hearings in a timely manner, considering, however, the need for a fully developed record for PAC review. The costs of any discovery requested by the PAC, the appearance of witnesses at the hearing, and the making of a verbatim record of the proceedings shall be the responsibility of the applicant. The hearing shall generally occur at the next regularly scheduled meeting of the PAC following receipt of the full record; provided, however, that such meeting shall be scheduled at least ten (10) workdays after receipt of all required information. This will allow time for staff to provide copies of and/or electronic access to all materials to the PAC members for their review prior to the scheduled meeting. The PAC, at its discretion, may schedule a special meeting to conduct the hearing.

- G. The applicant or his/her representative or the PAC may use the deposition procedure in order to obtain discovery and/or to perpetuate testimony. All depositions shall be completed no later than fifteen (15) days prior to the date of the PAC hearing. Such depositions shall be conducted generally pursuant to the provisions of the Florida Rules of Civil Procedure, with the exception that process is not available through the PAC to compel the attendance of witnesses and review by the PAC of questions which a witness declines to answer.
- H. Each participant who makes application for a disability pension, or the representative thereof, shall be entitled to a hearing before the PAC and to make a presentation to the PAC. The burden of proof shall be on the applicant to show entitlement to disability pension benefits. If the applicant is to be represented by legal counsel, such attorney must file a Notice of Appearance with the Pension Plan attorney not less than ten (10) days preceding the scheduled hearing. All hearings will be conducted in public in accordance with Florida Statutes regarding public meetings.
1. Copies of all documents to be offered into evidence by the applicant and by the pension plan advocate at the hearing, including depositions and a complete witness list with names and addresses of witnesses expected to be called, shall be furnished to the PAC by the parties at least ten (10) days prior to the hearing. Documents not furnished to the PAC within the prescribed time limit may be excluded from evidence at the hearing if a reasonable explanation is not provided for the delay in providing the documents.
 2. Testimony at the hearing may be offered in the form of depositions. Depositions furnished to the PAC by the parties at least ten (10) days prior to the hearing will become a part of the record before the PAC at the hearing and need not be read into the record; however, the parties or their representatives may read or refer to depositions in closing arguments.
 3. The file maintained by the PAC, including but not limited to the medical reports and other information contained therein, shall become part of the record before the PAC at the hearing.
 4. Although the hearing shall not be controlled by strict rules of evidence and procedure, the PAC shall attempt to limit evidence or testimony which is hearsay, irrelevant, repetitive, unduly cumulative, or unfounded in law or fact. The Chair, any PAC member, the applicant, or the Plan advocate may raise an objection to the proposed evidence on the bases listed above. The Chair shall rule on such matters and may request advice from the Pension Plan counsel as to the propriety and admissibility of evidence presented at the hearing. The Chair's rulings shall stand unless overturned by a majority of the PAC members present. Statements of counsel or agents/representatives of the applicant or the Pension Plan shall be considered only as argument and not as testimony, unless based on actual, personal knowledge of the matters which are the subject of the statements.

Should an applicant requesting a hearing decide to appeal any decision made by the PAC with respect to any matter considered at such hearing, the applicant requesting a hearing may require a record of the proceedings and to ensure that a verbatim record of the proceedings is made. The applicant requesting a hearing will be responsible for obtaining a court reporter or otherwise making a record of the proceedings before the PAC and for paying the costs thereof.

5. Testimony of witnesses at the hearing shall be under oath or affirmation. Affidavits shall be admissible. Generally, such time limits shall be:

Opening statement by Applicant's Representative	(5 minute maximum)
Opening statement by Pension Plan Advocate	(5 minute maximum)
Presentation of evidence by Applicant's Representative	(30 minute maximum)
(Cross examination, redirect examination, questions by PAC members)	
Presentation of evidence by Pension Plan Advocate	(30 minute maximum)
(Cross examination, redirect examination, questions by PAC members)	
Rebuttal by Applicant's Representative	
Closing statement by Applicant's Representative	(5 minute maximum)
Closing statement by Pension Plan Advocate	(5 minute maximum)
Comments by the Public	(3 minutes per person maximum)
Discussion and vote by the PAC	

The PAC may amend time limits during the hearing as it deems necessary in the interest of fairness and due process.

The PAC may adjourn the hearing to a later date if it deems that such is necessary.

6. At the conclusion of the presentations by the applicant and the Plan advocate, the PAC shall make a determination as to the request for disability pension. The PAC may approve or reject the disability pension based on its review. In reaching its decision, the PAC may consider only evidence presented at the hearing or in the PAC's applicant case file and shall base its decision on the competent substantial evidence of record.

If the PAC is to determine that the applicant is entitled to a disability pension, it shall so determine consistent with the Pension Ordinance provisions in 2.418:

- a. The applicant is disabled due to sickness or injury; and
- b. Such disability is likely to be continuous and permanent; and
- c. Such disability renders the applicant unable to perform any useful, meaningful, and necessary work for the City in an available position for which the applicant is reasonably qualified or for which the applicant may be reasonably trained to perform or, if a police officer or firefighter, the applicant is unable to perform the essential functions of a police officer or firefighter, with or without a reasonable accommodation; and

- d. With respect to the availability of alternate positions to which the applicant may be assigned by the City for the purpose of performing useful, meaningful, and necessary work, the City shall be provided the opportunity to make available such position(s) for the applicant.

Additionally, prior to the approval of a disability pension, the PAC shall determine that the disability is not the result of an injury, impairment, or medical condition pre-existing the applicant's participation in the Pension Plan; that it is not inconsistent with the forfeiture of benefits provisions of Section 2.423 of City Ordinance 8333-12; and that the disability was not occasioned primarily by factors referenced in Section 2.418(3) of such Ordinance, such as excessive or habitual use of any drugs, intoxicants, or alcohol.

For job-connected disability applications, the PAC shall make the further determination that performance of the job is the factual causation of the applicant's disability.

- I. During the pendency of the application process, an applicant who otherwise meets normal retirement eligibility, may commence receipt of his/her normal retirement benefits pending final resolution of their disability application.
- J. The decisions of the PAC regarding applications for disability pension benefits shall be final and binding. The PAC shall enter a final order setting forth its findings and conclusions, and a copy of the order shall be provided to the applicant. Judicial review of decisions of the PAC shall be sought by the filing of a timely petition for writ of certiorari pursuant to Florida Rule of Civil Procedure 1.630 in the Circuit Court for the Sixth Judicial District.
- K. No person shall interrupt or disrupt an individual who is addressing the Committee or use loud, offensive, disorderly, threatening, insulting, abusive, or foul language, or behave in an offensive, disorderly, threatening, abusive, or insulting manner, or make personal, impertinent, slanderous, or profane remarks during the meeting. To maintain decorum and order, individuals who disturb the conduct of meetings, or who refuse to conform their discussion to items set in the agenda, may be ejected by the Chair or presiding officer. All remarks shall be addressed to the Committee as a body and not to any member thereof. No person other than a Committee member or the person having the floor shall be permitted to enter into any discussion, without the permission of the Chair or presiding officer. All questions to the Committee shall be directed through the Chair or presiding officer.

Section V Pension Entitlement, Reexamination and Recall from Disability

Effective Date: **January 1, 1997**
Revision Date: **September 8, 2016**
Approved by PAC: **October 13, 2016**

Policy: It shall be the policy of the PAC to periodically determine the continuing eligibility of all disability pensioners for pension disability benefits and to periodically review physical and medical information relating to the status of each pensioner awarded a disability pension on or after January 1, 1996, to determine if any such pensioner may be returned to employment with the City in an available position for which the pensioner is reasonably qualified, and, if any such pensioner is reasonably qualified to return to employment, to then require such return subject to forfeiture of disability benefits. (2.418(4)b1)

Procedures:

Pension Entitlement Review and Re-examination Procedure:

- A. On an annual basis an Annual Certification of Pension Entitlement Form shall be mailed by staff of the PAC to each plan participant.
- B. The pensioner shall be required to complete and return the sworn Annual Certification of Pension Entitlement Form to the PAC within sixty (60) days of the mailing date of such affidavit.
- C. If the Annual Certification of Pension Entitlement Form is not returned within sixty (60) days, a second mailing shall be made advising the pensioner that he/she shall be allowed an additional fifteen (15) days to return the form or the pension benefits will be discontinued until the form is received. Such notice shall be sent via certified mail.
- D. The Annual Certification of Pension Entitlement Form shall include a disability section for the purpose of indicating the status of the pensioner's disability and his/her current employment status, if applicable.
- E. The PAC's administrative staff shall review the completed certification returned by each pensioner and shall determine whether eligibility requirements for continuation of the pension have been met. If the requirements have been met, distribution of pension benefits shall continue.
- F. If after review of the certification it is determined that standards relating to continuing eligibility for any pension benefits have not been met or are otherwise in question, the PAC shall advise said pensioner(s) of such determination. If the issue of concern is the pensioner's medical status, the Committee shall require that the pensioner submit to an Independent Medical Examination (IME) by a physician designated by the PAC and at a time and date set by the PAC or staff.

- G. The cost of any IME required by these procedures or otherwise by the PAC shall be paid for by the Pension Fund. IME physician(s) who perform Independent Medical Examinations may request that the pensioner undergo specialized diagnostic tests as deemed necessary to reach a conclusion as to the continued existence of the disability; however, the physician(s) shall give due consideration to not repeating invasive type tests that have already been undergone by the employee, provided the results of such tests are available and, in the judgment of the IME physician(s), current. The IME physician(s) may reevaluate diagnostic tests or have them reevaluated by other specialists as deemed appropriate.
- H. If the PAC after its review as provided in G. above believes the entitlement to pension benefits may be in question, whether because of possible recovery of the pensioner from the disability, employment by the pensioner in a position similar to that previously held with the City, or other reason as defined in the Pension Plan Ordinance, it shall schedule a hearing on the issue of the pensioner's eligibility for continuance of the pension benefit. Such hearing shall be generally consistent with the provisions outlined in the PAC Policies and Procedures Manual in the section titled "Processing Disability Pension Requests."

Failure to Comply with Pension Entitlement Requirements

- A. If a disability pensioner, regardless of the date of award of his/her pension, engages in employment with another employer in an occupation or line of work similar to the occupation or line of work that resulted in the pensioner being deemed eligible for a disability benefit, the pensioner shall forfeit the right to the disability benefit as provided by the Pension Ordinance.
- B. If a non-hazardous duty disability pensioner who was awarded a disability pension on or after January 1, 1996, is no longer disabled or is deemed capable of returning to employment with the City in a position for which he/she is able to perform any useful, meaningful, and necessary work for the City with or without a reasonable accommodation and fails to return to employment in such a position when available and upon the request of the Pension Advisory Committee, he/she shall forfeit the right to the disability benefit.
- C. If a sworn police officer or firefighter hazardous duty disability pensioner who was awarded a disability pension between January 1, 1996, and December 31, 1999, is no longer disabled or is deemed capable of returning to employment with the City in a position for which he/she is able to perform any useful, meaningful, and necessary work for the City with or without a reasonable accommodation and fails to return to employment in such a position when available and upon the request of the Pension Advisory Committee, he/she shall forfeit the right to the disability benefit.
- D. If a sworn police officer or firefighter hazardous duty disability pensioner who was awarded a disability pension after December 31, 1999, is no longer disabled or is deemed capable of returning to employment as a sworn Police Officer or Firefighter with or without a reasonable accommodation and fails to return to employment in such a position when available and upon the request of the Pension Advisory Committee, he/she shall forfeit the right to the disability benefit.

- E. Failure to comply with any requirement to undergo an Independent Medical Exam as required by the PAC or such other process as the Committee determines necessary to establish whether a disability continues to exist may result in appropriate action being recommended by the PAC to seek withholding of or forfeiture of the disability benefit.

Note: The Plan is specific in relating to benefit forfeiture where the disability no longer exists and where the employee accepts employment with another employer in the same line of work as that which he/she performed for the City, but caution is recommended in proceeding with withholding of or forfeiture of a pension for any other cause, e.g. failing to comply with procedural requirements. Guidance should be sought from the Plan legal counsel.

Call Back:

- A. The City Human Resources Department shall, on an annual basis and except as hereinafter noted, review the disability and employment status of disability pensioners who were awarded disability pension on or after January 1, 1996, and shall compare such disability and employment status with available positions that may allow for such pensioners to be returned to work where appropriate.
- B. Recommendations shall be provided by staff to the PAC as to those instances wherein a pensioner may be deemed employable in an available position for which the pensioner is reasonably qualified or for which he/she may be reasonably trained to perform.
- C. The PAC shall thereupon schedule a hearing on the issue of returning the pensioner to his/her former position or to some other available position. Such hearing shall be generally consistent with the provisions outlined in the PAC Policies and Procedures Manual in the Section titled "Processing Disability Pension Requests."
- D. Subsequent to the hearing process, if it is determined by the PAC, based on the IME and other documentation, that the pensioner's disability has ceased to exist or if the pensioner may be employed in an available position for which the pensioner is reasonably qualified or may be reasonable trained to perform, the PAC shall recommend to the Trustees that the pensioner be required to return to employment with the City.
- E. In the event the pensioner is no longer disabled or is deemed capable of returning to employment with the City and does not return to such employment when directed to do so by the Trustees, the pensioner shall forfeit the right to a pension.
- F. If the pensioner is returned to work, he/she shall be returned at the base rate of pay he/she was last earning while an active employee. Other conditions of employment shall be applied in the same manner as that for an employee who has withdrawn his/her resignation and returned to work. Time during which the individual received pension payments shall not be credited towards future pension credited service time.

Section VI: Vesting

Effective Date: May 1, 1998
Revision Date: September 8, 2016
Approved by PAC: October 13, 2016

Policy: It shall be the policy of the Pension Advisory Committee (PAC) and of the Pension Trustees that Plan Participants who have earned ten (10) or more years of continuous pension service credit and who by Plan provisions are vested in the Plan shall be provided with a "Request for Refund of Employee's Pension Contributions" form, the related tax notice as required by the IRS, and an "Application for Vested Rights Pension" form, within a reasonable period of time from the date of separation from employment. The former Participant shall be given an additional period of time in which to return their selected form. If no form is submitted within this timeline, the Participant's contributions will remain with the plan and the Participant will be treated as if he/she vested his/her interest. (2.412)

If an employee is not vested in the plan because he/she has earned less than ten (10) years of pension service credit and said employee separates from employment with the City, the Payroll Division will provide a "Request for Refund of Employee's Pension Contributions" form, the related tax notice as required by the IRS, and in the case of hazardous duty Participants, a "Request to Freeze Pension" form. The City's Payroll Division shall be authorized to process a refund payment to the former Participant in accordance with IRS guidelines and the procedures described below. Florida Statutes 175.032(6)(b), 185.002(7)(b)

Procedures:

- A. A Participant having a vested pension benefit right based on having earned ten (10) or more years of pension service credit who is separating from the Plan for a reason other than for a regular pension (years of service retirement), a disability pension, or a death benefit must submit a request in writing to either vest his/her pension rights or receive a return of his/her contributions to the Plan.
- B. A Participant shall complete either an "Application for Vested Rights Pension" form or a "Request for Refund of Employee's Pension Contributions" form or, in the case of hazardous duty participants not otherwise eligible to vest, a "Request to Freeze Pension" whichever is consistent with the employee's selection.
- C. Upon receipt, the Application for Vested Rights Pension form shall be forwarded to the PAC and Trustees for approval. The former Participant shall not be required to select a pension distribution option at the time of submitting the application form; however, the former Participant shall be notified at least thirty (30) days prior to the effective date of his/her distribution that he/she shall be required to select a pension distribution option. Notice of the former Participant's pension distribution option selection must be in writing.

- D. A former Participant who has vested or frozen his/her pension benefit pursuant to the above procedures may, prior to the commencement of distribution of benefits, request, in writing, that the vested pension benefit be voided and that he/she receive a return of his/her contributions to the Plan. If the pension was vested on or after January 1, 1996, the former Participant shall receive a return of his/her contributions plus five percent (5%) simple interest. If the vesting occurred prior to January 1, 1996, the former Participant shall receive a return of his/her contributions without interest.
- E. If a former Participant is not eligible for freezing or vesting, and does not submit, in writing, a request for a return of contributions within a reasonable period of time after receiving the aforementioned forms, the Payroll Division shall be authorized to process a refund of the contributions in accordance with IRS guidelines.
- F. A Participant who terminates employment prior to the early retirement date or normal retirement date and who elects to receive a return of his/her pension contributions, with or without interest, forfeits his or her interest in the accrued pension benefit upon making the election pursuant to Code Section 2.419(3).
- G. A hazardous duty participant who opts to freeze his/her pension at the time of separation, has less than ten (10) years of credited service, and who does not return to eligible employment within five years, shall receive a return of contributions. Payroll Division will provide a "Request for Refund of Employee's Pension Contributions" form and the related tax notice as required by the IRS. If a former Participant does not submit a written request for a return of contributions within a reasonable period of time, the City's Payroll Division shall be authorized to process a refund payment to the former Participant in accordance with IRS guidelines.
- H. A Participant who terminates employment prior to his/her early or normal retirement date and receives a distribution of his/her contributions and therefore has no interest in the plan, may be eligible to regain said interest upon re-employment and repayment in accordance with Code Sections 2.414 and 2.419.

Section VII: Administrative Rules Governing Public Participation

Effective Date: January 1, 2013

Revision Date: September 8, 2016

Approved by PAC: October 13, 2016

PENSION ADVISORY COMMITTEE

CITY OF CLEARWATER EMPLOYEES PENSION FUND

ADMINISTRATIVE RULES GOVERNING PUBLIC PARTICIPATION

Administrative Rules Governing Public Participation:

(a) **Regular meetings.** Public comment shall be placed on each agenda at the beginning of each scheduled meeting, unless the Chair or presiding officer decides to deviate from the meeting agenda on a case by case basis.

(b) **Special meetings.** Public comments at special meetings shall be limited only to the items and matters referred to on the agenda for such special meeting. The Chair or presiding officer may disallow any and all public comments on matters not specifically referred to on the agenda for a special meeting.

(c) **Order of business for a regular meeting shall ordinarily be:**

1. Call to order
2. Minutes of previous meetings
3. Citizens to be heard regarding items not on agenda. *Limit to 15 minutes*
Each speaker will be asked to give their name and address and to limit their comments to a maximum of three minutes. The Committee, by a majority vote, may authorize the extension of time for public discussion until a "time certain." In the event that members of the public are excluded from speaking due to time limitations, such members of the public shall be entitled to address the Committee at the next regular meeting.
4. New business items
 - A. Recommend approval of new hires for acceptance into Pension Plan
 - B. Recommend approval of employee request(s) to vest pensions
 - C. Recommend approval of employee request(s) for regular pension
 - D. Continue formal hearing for disability pension
 - E. Review and action on survivor/beneficiary request for disability pension
 - F. Formal hearing for employee request for disability pension
 - G. Informal hearing for employee request for disability pension
 - H. Election of officers (annually in April)

5. Director's report
6. Committee members to be heard
7. Adjourn

(d) **Procedure for persons wanting to speak.** Members of the public who wish to speak under public discussion for either a regular or special meeting shall be asked to give their name and address. Members of the public who wish to speak on items on the agenda will be provided the opportunity to speak prior to the vote.

(e) **Time limitation.** Each speaker will limit their comments to a maximum of (3) three minutes. Public comments in support or opposition of items before the PAC shall be limited to a total of 60 minutes, which can be extended upon the PAC approval. Unless otherwise specified, persons speaking before the PAC shall be limited to three minutes per speaker. No person shall speak more than once on the same subject at the same meeting unless granted permission by the PAC. When time limits are set for speakers, unused time cannot be passed from one speaker to another. Extensions of time limits can be given if approved by the Chair.

(f) **Decorum.** No person shall interrupt or disrupt an individual who is addressing the Committee or use loud, offensive, disorderly, threatening, insulting, abusive, or foul language, or behave in an offensive, disorderly, threatening, abusive, or insulting manner, or make personal, impertinent, slanderous, or profane remarks during the meeting. To maintain decorum and order, individuals who disturb the conduct of meetings, or who refuse to conform their discussion to items set in the agenda, may be ejected by the Chair or presiding officer. All remarks shall be addressed to the Committee as a body and not to any member thereof. No person other than a Committee member or the person having the floor shall be permitted to enter into any discussion, without the permission of the Chair or presiding officer. All questions to the Committee shall be directed through the Chair or presiding officer.

(g) **Scope.** These rules shall not apply to any meeting that is exempt from Section 286.011, Florida Statutes, or to any meeting where the Committee is acting in a quasi-judicial capacity.