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MAPERS

PENSION FUNDamentals[®]

BENEFITS ADMINISTRATION

Trustee Development Seminar III

SPRING MAPERS 2009

Presented by:

Michael J. VanOverbeke

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OBJECTIVE: To provide retirement system trustees and plan professionals a general overview regarding the administration of service and disability pension benefits.

I. FIDUCIARY RESPONSIBILITY OF RETIREMENT BOARD

A. LEGAL DUTY

Board of Trustees is vested with the administration, management and operation of the Retirement System.

Trustees must “act with the same care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims”.

Board must act in the BEST INTEREST OF THE FUND.

B. BALANCING ACT

Ensure members receive all entitled benefits: *No More, No Less.*

C. AUTONOMY

Board has specific duties, responsibilities and authority.

Board’s ability to act independently (fair and impartial) is paramount.

Board’s responsibilities may not always align with objectives of: employer, union or individuals.

II. SERVICE RETIREMENT

Illustration 1.

EMPLOYEES RETIREMENT SYSTEM SERVICE RETIREMENT PROCEDURES

1. Upon meeting the age and service requirements for retirement, a member may retire upon submission of a written application to the Retirement Board setting forth at what time, not less than thirty days nor more than ninety days prior to the date he/she desires to be retired. All members are required to submit a letter of intent to retire to their department head a minimum of 30 days prior to the date he/she desires to be retired. The letter of intent becomes binding in the event a replacement is hired. An application and retirement procedures may be obtained from the Board's Secretary.
2. Finance Department verifies member's eligibility for retirement and forwards a copy of the notification of intent to retire to the Retirement Board.
3. Employee completes and files service retirement application with Retirement Board.
4. Retirement Board resolves, at its next meeting following notification of the member's intent to retire, to process the application for retirement. A copy of a notice and a copy of the resolution is forwarded to the member.
5. After applicant's last day on the payroll and upon receipt of final payroll information from Finance Department, the Board Secretary will complete and forward the member's data to the actuary.
6. Actuary completes benefits report and mails data to Board Secretary who reviews same and then forwards the information to applicant with an Option Election Form to be completed by member.
7. Member completes and submits Option Election and Annuity Withdrawal Forms to Retirement Board.
8. Subject to all requirements being met, Retirement Board resolves at its next meeting to accept the calculations and approve payment of retirement benefits to member as of the effective retirement date. Upon approval of the Retirement Board, a retiree may no longer change his retirement elections.
9. The Payroll Department processes pension checks on a monthly basis. A retiree should anticipate that benefit and/or annuity withdrawal payments will commence within forty-five (45) days after the member's effective date of retirement. Any retroactive benefits will be included with their first pension check.
10. Retirees and/or beneficiaries will annually receive Verification of Retiree and Beneficiary Data Form to be executed and returned to the Retirement System.

EMPLOYEES RETIREMENT SYSTEM

Application for Service Retirement Benefits or Vested Benefits

To: Board of Trustees of the Employees Retirement System

From: _____ Social Security Number XXX-XX-_____

Date: _____

I, _____, a member of the Employees Retirement System, employed in the _____ department, do hereby apply for:

- A)___ Service Retirement Benefits
- B)___ Vested Benefits
- C)___ Military Service Credit Purchase (must submit separate application for purchase of military service time)

___ I am covered by the _____ collective bargaining agreement.

___ I am not covered by a collective bargaining agreement.

I request that my retirement become effective on: month _____, day _____, year _____

My date of birth is: month _____, day _____, year _____

Please provide me with a retirement estimate/calculation/option sheet.
Upon receipt, I will indicate the manner in which I wish to receive my retirement allowance.

Please place this matter as an agenda item for next meeting.

Full Signature of Member

Address: _____ Street: _____

City: _____ State: _____ Telephone No. _____

DO NOT WRITE IN THIS SPACE

Membership No. _____ Date of Hire: _____

Years of Service: _____

EMPLOYEES RETIREMENT SYSTEM

R E S O L U T I O N

**Adopted:
Resolution No.**

Re: Retirement Application of [Member's Name]

WHEREAS, the Board of Trustees is in receipt of an application for retirement from [Member's Name] requesting an effective retirement date of [Date], and

WHEREAS, [Member's Name] has a date of birth of [Date] and has been credited with [#] years, [#] months and [#] days of service credit, and

WHEREAS, it appears, based on preliminary information provided, that [Member's Name] meets the retirement eligibility requirements of the Retirement System and any applicable collective bargaining agreement, therefore be it

RESOLVED, that the application of [Member's Name] for retirement is preliminarily approved subject to the Board's approval of the final actuarial calculations and receipt of all necessary forms, and further

RESOLVED, that the actuary prepare and submit a retirement estimate to the Retirement System as soon as possible, and further

RESOLVED, that upon receipt of the retirement calculation form from the actuary, a copy of the estimate be sent to [Member's Name], along with an option election form, and further

RESOLVED, that following [Member's Name]'s last date on the active payroll, a retirement data sheet be completed by the employer and submitted to the Retirement System's actuary, and further

RESOLVED, that upon receipt of the completed election form by [Member's Name] and the final actuarial calculations, the Board of Trustees will consider adoption of a resolution approving payments of the applicable benefit amounts subject to correctness of calculations and data.

Illustration 4.

**EMPLOYEES RETIREMENT SYSTEM
ELECTION OF RETIREMENT ALLOWANCE OPTION AND
NOMINATION OF BENEFICIARY FOR REFUND OF ACCUMULATED CONTRIBUTIONS**

TO: BOARD OF TRUSTEES OF THE EMPLOYEES RETIREMENT SYSTEM

FROM: _____

DATE: _____

I, _____, have received the completed calculation of benefits form provided by the Retirement System's actuary. I have reviewed the compensation amounts used and agree that they are correct. I understand that I may elect a straight life retirement benefit (in which case no further benefits are payable after my death) or an option form of retirement (in which case benefits would be paid after my death to my option beneficiary for his/her lifetime provided he/she survives me).

I hereby elect the following form of retirement:

(WRITE IN EITHER: "STRAIGHT LIFE," "OPTION I," OR "OPTION II")

CHECK OPTION ELECTED:

- STRAIGHT LIFE- Terminating at death of member.
- OPTION I- 100% Survivor Pension.
- OPTION II 50% Survivor Pension.

NOTE: Only complete the following section if an OPTION form of retirement allowance is elected. THIS OPTION BENEFICIARY CANNOT BE CHANGED AFTER YOU START DRAWING YOUR PENSION. Do not complete the following if straight life form of retirement allowance is selected.

If I elected an option form of retirement as indicated above, my option beneficiary is:

Name _____	Relationship _____	Social Security No. _____	
Street Address _____	City _____	State _____	Zip _____
Telephone Number _____	Date of Birth _____		

NOMINATION OF BENEFICIARY FOR REFUND OF ACCUMULATED CONTRIBUTIONS

In the event of my death after retirement, I, _____, hereby direct the Employees Retirement System, to pay the amount of any refund of accumulated contributions which might become payable in the event of my death (as provided by the provisions of the Retirement System, as amended by any applicable Collective Bargaining Agreement relating to this Retirement System) to my

Full Name of Beneficiary _____	Relationship of Beneficiary _____	Social Security No. _____
Date of Birth _____	Address _____	City _____ State _____ Zip _____

if he/she is eligible to take proceeds as a beneficiary and has not been disqualified by the terms of a court order or other applicable law, otherwise to my Contingent Beneficiary(ies) as follows:

_____	_____	_____
Full Name	Relationship	Address
_____	_____	_____
Full Name	Relationship	Address

(in equal shares) if living; otherwise to my legal representatives.

Dated at _____, this ____ day of _____, 20__.

Signature of Witness

Signature of Member

EMPLOYEES RETIREMENT SYSTEM

R E S O L U T I O N

**Adopted:
Resolution No.**

Re: Approval of Service Retirement- [Member's Name]

WHEREAS, [Member's Name] has submitted an application for service retirement to the Board of Trustees requesting an effective retirement date of [Date], and

WHEREAS, [Member's Name] has a date of birth of [Date] and has been credited with [#] years, [#] months and [#] days of service credit, and

WHEREAS, the Board has verified that [Member's Name] has met the eligibility requirements to retire pursuant to the provisions of the Retirement System and any applicable collective bargaining agreement, and

WHEREAS, the Board has provided all the necessary personal and financial information to the Board's Actuary relating to [Member's Name] and the necessary reports have been reviewed and completed by the Actuary, which includes [a copy of marriage license and spouse's full name], birth certificate[s] and social security number[s], and

WHEREAS, [Member's Name] has reviewed this data and has elected to receive a [regular] [Option _ form of retirement benefit naming (Name of Beneficiary) as option beneficiary], and

WHEREAS, [Member's Name] has requested an annuity withdrawal under the provisions of the Retirement System and applicable collective bargaining agreement, and

WHEREAS, the Retirement Board is in receipt of the final actuarial data, therefore be it

RESOLVED, that the Retirement Board hereby acknowledges receipt of the final actuarial data, and further

RESOLVED, that [Member's Name] is hereby granted a service retirement effective [Date], and further

RESOLVED, that [Member's Name] shall be paid an annuity withdrawal of [Dollar Amount] and a retirement benefit in the amount of [Annual Dollar Amount/Monthly Dollar Amount], and further

RESOLVED, that benefits be paid consistent with the foregoing, and further

RESOLVED, that copies of this resolution shall be forwarded to [Member's Name] and other appropriate parties.

OTHER SERVICE RELATED ISSUES

A. 402 NOTICE

Plan administrators are required to furnish distributees a written explanation of rollover rules. IRC § 402(f) outlines the contents of the written explanations that must be provided to recipients of distributions eligible for rollover treatment. See also Treas. Reg. § 1.402(f)-1 Q&A-1.

B. ELIGIBLE DOMESTIC RELATIONS ORDERS

C. VERIFYING INFORMATION

D. RE-EMPLOYMENT OF RETIREES

E. DEATH RECORDS SEARCH

F. BASIS RECOVERY - TAX REPORTING/WITHHOLDING

COMMENTS:

III. DISABILITY RETIREMENT

1. STANDARDIZING THE DISABILITY CLAIM PROCESS

A. Time is money:

Efficient administration reduces cost
Reduces member questions: mutual benefit

B. Establish written guidelines:

Consistency of administration
Promotes effective/efficient processing of benefits
Supports proper payment of benefits
Ensures members are afforded due process
Protection against challenges of arbitrary/capricious action

C. Document each step or phase

Board Resolutions
Proof of Notice
Legal Protection

D. Protection Against Fraud/ Bad Publicity

2. WHEN DOES THE DISABILITY PROCESS START? - DAY ONE

A. Establish a “pro-active” policy on Retirement System membership.

B. Board may request prior medical/ employment records and/or require pre-membership examinations.

- * Ensures that medical review process is consistent
- * Establishes baseline of medical condition (pre-existing injury)

C. Board may wish to incorporate pre-employment medical reports.

- * Cost savings
- * Applicant’s time and privacy

3. EFFECTIVELY PROCESSING DISABILITY CLAIMS

A. Policies, Procedures and Forms

**EMPLOYEES RETIREMENT SYSTEM
DISABILITY RETIREMENT PROCEDURE**

1. Member or his/her department head submits a written application to the Retirement Board requesting a non-duty/duty disability retirement.
2. The Retirement Board: a) accepts the application, b) designates its physician to serve on the medical committee and c) requests that the member designate a physician to serve on medical committee.
3. The Retirement Board shall forward the resolution, a request for medical information and a copy of medical authorization to member.
4. The Retirement Board requests copies of medical records and/or incident reports on file with department head and/or personnel department.
5. The Retirement Board sends a notice to the member's physician and the Board's physician of their designation to medical committee and requests that each conduct an examination of the member.
6. Examination of member by physicians.
7. Physicians forward to Retirement Board their medical reports on the issue of whether member is disabled.
8. If the physicians are unable to agree as to whether member is disabled, then the physicians must mutually select a 3rd physician and notify the Board of their selection.
9. The Retirement Board sends a notice to the mutually selected physician of his/her designation to medical committee and requests examination.
10. Examination of member by third physician (if applicable).
11. The medical committee renders its decision as to whether the member is disabled according to appropriate guidelines. The medical committee, by majority opinion, certifies in writing whether the member is mentally or physically incapacitated for the further performance of duty in the service of the municipality; and whether the incapacity is likely to be permanent.
12. For duty-disability applicants, the Retirement Board decides the issue of whether a member's disability occurred as the natural and proximate result of causes arising out of and in the course of the member's employment by the municipality.
13. The Retirement Board, based upon: a) medical committees findings and recommendations; b) their review of the member's records; and c) any other evidence deemed appropriate and relevant by the Board; resolves to grant or deny the disability retirement.
14. Disability benefits are paid consistent with Retirement System provisions.

**EMPLOYEES RETIREMENT SYSTEM
DISABILITY RETIREMENT RE-EXAMINATION PROCEDURE**

1. At least once each year during the first five years following a member's retirement on account of disability, and at least once in every three-year period thereafter, the Retirement Board may require any disability retiree who has not attained 55 years of age to undergo a medical examination made by or under the direction of a physician designated by the Board.
2. The Retirement Board has determined that the month of _____ of each year shall be the month that medical re-examinations are conducted by the Board's authorized physician.
3. The Retirement Board shall annually review the files of all disability retirees to determine what disability retirees must undergo medical re-examination.
4. The Retirement Board (unless otherwise determined by the Board based on reasons that support a disability retiree's exclusion from re-examination requirement) shall require such disability retirees to undergo medical re-examination for purposes of determining continued eligibility to receive disability retirement benefits.
5. The Retirement Board shall notify disability retirees to make arrangements, with the assistance of the Board's secretary, for the scheduling of such medical re-examination by a physician duly appointed by the Retirement Board.
6. The Retirement Board shall notify physician of re-examination of disability retiree.
7. Physician shall notify the Retirement Board of the disability retirees current mental and/or physical condition.
8. Upon receipt of certification and statement of re-examining physician, the Retirement Board shall determine the continued eligibility for disability retirement.
9. If such retiree refuses to submit to such medical examination in any such period, his or her pension may be discontinued by the Board until his or her withdrawal of such refusal. If such refusal continues for one year, all his or her rights in and to benefits may be revoked by the Board.
10. If, upon such periodic medical examination, the physician reports to the Board that the retiree is physically able and capable of resuming employment with the municipality, his or her pension shall be discontinued.
11. The disability retiree who has been or shall be returned to employment shall again become a member of the retirement system. His/her credited service in force at the time of his/her retirement shall be restored to his/her credit. He/she shall be given service credit for the period he/she was in receipt of a duty-disability benefit paid by the retirement system.
12. Retirement System benefits are offset by worker's compensation benefits. NOTE: If a disability retiree waives his/her rights to seniority and employment as part of a worker's compensation redemption, he/she will have no rights to re-employment in the event it is determined that the retiree is no longer eligible to receive disability retirement benefits and benefit payments will cease.

B. Comprehensive Application

Illustration 3.

EMPLOYEES RETIREMENT SYSTEM

APPLICATION FOR DISABILITY RETIREMENT

(To be filled out in ink)

MEMBERSHIP NUMBER

Submitted by: ___ Member

___ Department Head

1. Claimant's Name	8. State the nature of your disability?
2. Residence Address	9. What duties can you not perform.
3. Date of Birth ____ Month ____ Day ____ Year	10. Is your disability duty related? Please explain.
4. Department employed in	11. When did you first notice your disability (Give date)
5. Division	12. When did you first consult a physician about your disability?
6. Title on payroll	13. Are you receiving worker's compensation benefits?
7. Date you last attended to your duties	14. If your disability is the result of an accident, give names and addresses of witnesses.

15. Give full explanation of the nature and causes of your disability

16. Name and addresses of physicians you have consulted in connection with your disability

NAME	ADDRESS	DATES OF ATTENDANCE

The undersigned member hereby makes claim to the Employees Retirement System for disability benefits and authorizes the above named physicians who have attended him to report directly to the Medical Director of the Retirement System regarding his physical condition. The undersigned member agrees that the furnishing of this form or other forms supplemental thereto by the Retirement System is not to be considered nor constitute an admission of liability by the Retirement System.

Dated at _____ This _____ Day of _____ 20 _____

Signature of Witness

Signature of Member

C. Authorization to Obtain Medical Records (Written Release)

Illustration 4.

MEDICAL AUTHORIZATION

TO: ANY HOSPITAL OR PHYSICIAN:

This authorizes you to permit the Board of the Employees Retirement System or its legal advisor(s) to examine information contained in the patient records concerning treatment or hospitalization accorded to the applicant below, Social Security no. _____. This authorization is for examination and treatment including history, diagnosis, course of treatment, and X-rays, as well as alcohol and drug abuse records protected under the regulations in 42 Code of Federal Regulations, Part 2, if any, social service records, if any, and psychological services records, if any, including my communications to a social worker or psychologist.

This also authorizes you to furnish the Board of the Employees Retirement System with a copy of records, medical reports, and X-rays relating to the above-mentioned treatment. Thank you.

Notary Public, _____ County

Applicant

**D. Obtain Relevant Records/ Information:
(Medical and Employment Files; Interrogatories)**

**E. Fact Finding - Independent Investigation,
Witness Interviews, Background Checks, Video Tapes**

F. Appoint Examining Physician or Medical Review Board

- Independent Medical Examinations (IME)
- Specialist/expert in field of claimed disability
- Responsibility of Medical Advisor/Committee
 - * Duty is to the Board;
 - * Shall arrange for and pass upon all medical examinations;
 - * Investigate all essential matters of a medical nature; and
 - * Report in writing conclusions, recommendations and opinions.

Illustration 5.

EMPLOYEES RETIREMENT SYSTEM

DECISION OF EXAMINING PHYSICIAN

RE: WHETHER _____ IS DISABLED
(name of applicant)

The undersigned state that they have reviewed the available medical information regarding the application for disability retirement of the foregoing individual.

I/We find that the applicant IS (1) mentally or physically totally incapacitated for service in the employ of the Municipality, (2) that such incapacity will probably be permanent, and (3) that such applicant SHOULD be retired.

Signature

Date

I/We find that the applicant IS NOT (1) mentally or physically totally incapacitated for service in the employ of the Municipality, (2) that such incapacity will probably NOT be permanent, and (3) that such applicant SHOULD NOT be retired.

Signature

Date

**PLEASE COMPLETE, SIGN AND RETURN THIS FORM TO THE
BOARD OF TRUSTEES OF THE EMPLOYEES RETIREMENT SYSTEM**

G. Review of Medical Reports and Presentation of Testimony

* Formal/Informal Hearing

H. Frequency and/or Waiver of Re-Examinations

NOTES:

4. STANDARDS OF REVIEW

A. Burden of Proof

* **Burden** of proving entitlement to disability benefits is **ON THE APPLICANT**.

STANDARD **“PREPONDERANCE OF THE EVIDENCE”**

MORE LIKELY THAN NOT

Generally, it is the applicant’s responsibility to prove disability by a preponderance of the evidence. Thus, if an applicant seeks permanent occupational disability benefits, it is the member’s burden to provide that it is “more likely than not” (i.e., greater than 50%) that member is permanently disabled and that it is “more likely than not” that the disability is work related (i.e., occurring as the natural and proximate result of causes arising out of and in the course of employment with the Municipality).

B. Eligibility requirements are those established in the plan document.

* The fact that the applicant obtained benefits under workers’ compensation law does not automatically entitle applicant to benefits under the pension plan.

C. Board decisions are reviewed by the Courts using an **“ARBITRARY AND CAPRICIOUS”** standard. (i.e., Court will review to ensure procedural due process, essential requirements of law observed, and whether there is substantial competent evidence to support the Board’s findings). Reviewing courts will not re-weight the disputed evidence or substitute its judgment for the trustees.

D. **Employment Standard: “. . . for duty in . . . “**

Illustration 6.

Retirement Ordinance provides in pertinent part:

Upon the application of a member or his/her department head, a member who (1) is in the employ of the Municipality, (2) has ten or more years of credited service, and (3) has become or becomes **totally and permanently incapacitated for duty in the employ of the Municipality**, may be retired by the Retirement Board. Provided, that after a medical examination of the member made by or under the direction of the medical director, the medical director certifies to the Retirement Board (1) that the member is mentally or physically **totally incapacitated for duty in the employ of the Municipality**, (2) that such incapacity will probably be permanent, and (3) that the member should be retired.

* * *

At least once each year during the first five years after the retirement of a member with a disability retirement allowance, and at least once in each three year period thereafter, the Retirement Board may require said retiree to undergo a medical examination by or under the direction of the medical director ... If upon such medical examination of a retiree, the medical director reports to the Retirement Board that the retiree is **physically able and capable of resuming employment with the Municipality**, and his/her report is concurred in by the Retirement Board, the disability retirement allowance shall terminate.

Certain questions have arisen as to the appropriate standard of review and whether the disability applicant is totally and permanently incapacitated **for duty in the employ of the Municipality** means: (1) in the service of the municipality within the department (a "Department" standard); (2) in the service of the municipality in the capacity of the job description at the time of disability (a "Job Classification" standard); or (3) in the service of the municipality in any capacity (a "Municipal-wide" standard).

For purposes of discussion, the following optional provisions are presented to illustrate the various standards:

Departmental Standard:

... ..that the member is mentally or physically incapacitated for the further performance of duty in the service of the municipality in the same department in which said member was employed prior to disability.

- ___ a. A copy of a departmental job description shall be forwarded to the Board's designated Medical Advisor in a given matter and to the Board.
- ___ b. The Municipality shall certify that no jobs are available in the department in the same job classification for which the applicant is qualified.
- ___ c. No consideration shall be given to any job position which would be inconsistent with the current collective bargaining agreement restrictions with respect to job transfers.
- ___ d. In returning said member to active service, reasonable latitude shall be allowed the Municipality in placing said member in a position commensurate to the type of work and rate of compensation at the time of disability retirement.

Job Classification Standard:

.....that the member is mentally or physically incapacitated for the further performance of duty in the service of the municipality in the same or similar position said member held at the time of disability.

- ___ a. A copy of the applicant’s job description in effect at the time of the alleged disability shall be forwarded to the Board’s designated Medical Advisor in a given matter and to the Board.
- ___ b. The Municipality shall certify that no other, same or similar job, is available for which the applicant is qualified.
- ___ c. No consideration shall be given to any job position which would be inconsistent with the current collective bargaining agreement restrictions with respect to job transfers.

Municipal Wide Standard:

...that the member is mentally or physically incapacitated for the further performance of duty in the service of the municipality.

- ___ a. A copy of a job description shall be forwarded to the Board’s designated Medical Advisor in a given matter and to the Board.
- ___ b. The Municipality shall certify that no jobs are available in the Municipality for which the applicant is qualified.
- ___ c. No consideration shall be given to any job position which would be inconsistent with the current collective bargaining agreement restrictions with respect to job transfers.
- ___ d. In returning said member to active service, reasonable latitude shall be allowed the Municipality in placing said member in a position commensurate to the type of work and rate of compensation at the time of disability retirement.

E. Permanent vs. Temporary

- * What is permanent?
- * Ability of Board to require reasonable medical treatment/therapy.
- * Re-examination period.

F. Total vs. Partial

- * Reasonable Accommodations: Americans with Disabilities Act (ADA)

G. Duty vs. Non-duty

- * Determination vested in the Board.
- * “In the performance of duty”
“Natural and proximate result of causes arising out of and in the course of employment”
- * Worker’s Compensation Presumptions - Heart and Lung Act

5. DISABILITY BENEFIT OFFSET

A. Worker's Compensation Offset

Illustration 7.

Section 6(2)(f) of Public Act 345 provides in pertinent part:

Amounts paid under Act No. 317 of the Public Acts of 1969 to a retired member shall be offset against and payable in place of benefits provided under this act. If the benefits under Act No. 317 of the Public Acts of 1969 are less than the benefits payable under this act, the amount to be paid out of the funds of the retirement system shall be the difference between the benefits provided under Act No. 317 of the Public Acts of 1969 and the benefits provided in this act. Upon the termination of benefits under Act No. 317 of the Public Acts of 1969, the benefits shall be paid pursuant to this act.

B. Worker's Compensation Offset Policy/Procedure

Illustration 8.

EMPLOYEES RETIREMENT SYSTEM

WORKER'S COMPENSATION PROCEDURE

1. Upon retirement of a member who retires on account of a disability and who is in receipt of worker's compensation on account of a disability arising out of and in the course of employment, the Board shall pay disability pension benefits in accordance with Retirement System provisions.
2. While retiree is receiving worker's compensation benefits, his/her pension benefits shall be offset by his/her weekly worker's compensation award converted to a monthly amount.
3. Upon termination of the workers' compensation period or attainment of age 60, which ever occurs first, the Board of Trustees shall grant the retiree service credit for the period the disability retiree was in receipt of a pension and workers' compensation benefits.
4. If a duty disability retiree is in receipt of a worker's compensation redemption settlement amount, his "workmen's compensation period", in accordance with Retirement System provisions and past practice, shall be the period, if any, he was in receipt of (a) weekly workmen's compensation plus (b) the period arrived at by dividing the said single sum by his weekly workmen's compensation award. **The redemption settlement amount for purposes of calculating additional service credit shall be the settlement amount excluding amounts paid for attorney fees and past, present and future medical benefits.**
5. If a disability retiree waives his/her rights to seniority and employment as part of a worker's compensation redemption, he/she will have no rights to re-employment in the event it is determined that the retiree is no longer eligible to receive disability retirement benefits.

C. General Offset

Illustration 9.

Disability Retirement - Limitation on Pension Amount

- (a) If the straight life amount of a disability pension plus the amount of the disability retired member's **considered income** exceeds 70% of the disability retired member's final average compensation, then the straight life amount of the disability pension shall be reduced to the difference between 70% of the disability retire member's final average compensation and the amount of the disability retired member's considered income.
- (b) A disability retired member's **considered income** is the annualized sum of:
- (1) Remuneration for personal services rendered in any **gainful employment**.
 - (2) **Worker's compensation** weekly benefits, redemptions, and settlements, on account of the same disability for which retired. If there is a redemption or settlement of the worker's compensation benefit, weekly benefits at the established amount shall be considered to continue until the weekly benefits paid after the effective date of the settlement equal the amount of the redemption or settlement. Thereafter, the member will be considered to have no income from worker's compensation benefits. worker's compensation benefits for bona fide medical expenses, as determined by the Retirement Commission, shall not be considered income.
 - (3) **Payments from any program of salary continuance, sickness and accident insurance, disability benefits, or program of similar purpose, financed in whole or in part by the Municipality.** Cost-of-living increases in the amount of disability benefits paid the retired member under the federal Social Security program shall be disregarded. The Retirement System shall calculate the initial amount of disability pension on the premise that the retired member is being is being paid federal Social Security disability benefits for a single person with average monthly earnings equal to the retired member's final average compensation. The retired member may submit evidence, satisfactory to the Retirement System, of receipt of a lesser amount of Social Security disability pension or denial of a Social Security disability pension and the amount of pension shall be recalculated taking the lesser amount or denial into account.
 - (4) **Unemployment insurance** or similar payments by reason of the member's Municipality employment.
- (c) The Retirement System shall periodically request substantiated income information from retired member. Failure to provide the requested information within 90 days of the request shall cause suspension of payment of the pension until the information is received.
- (d) The provisions of this section shall apply during the period, if any, between the effective date of a disability pension and the date the disability retired member attains age 60 years. application of the limitation shall be to the amount of pension under form of payment SL. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.

D. Monitoring Policy

Illustration 10.

EMPLOYEES RETIREMENT SYSTEM

CERTIFICATION OF EARNINGS RECEIVED BY DISABILITY BENEFICIARY

To ensure the continued receipt of your monthly disability benefits, this form must be completed and returned to the Board of Trustees by _____.

I hereby certify that during the calendar year of _____, I have been paid the following amounts in addition to the disability benefits paid by the Employees Retirement System:

Worker's Compensation \$ _____

Payments from the federal social security old-age, survivors, disability and health insurance programs \$ _____

Remuneration for services rendered in gainful employment \$ _____

Payments from any salary continuance, sickness and accident benefits, disability benefits or program of similar purpose financed in whole or in part by the Municipality \$ _____

Employer Name/Address	Dates of Employment	Gross Pay
_____	_____	\$ _____
_____	_____	\$ _____
Calendar Year Total		\$ _____

I hereby certify, under penalties of perjury, that the information submitted is true, correct and complete and that the income reported by me as detailed above is in conformity with the amount of income I have reported on my annual Federal Income Tax Return and give my permission to the Board of Trustees to obtain directly from the Internal Revenue Service (via IRS form 4506) a copy of my Federal Income Tax Return for the year _____.

Name: _____ (Please Print) Social Security No. _____

Signature _____ Date: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, known to me to be the person named therein.

My Commission Expires: _____ Notary Public, _____ County, _____

6. CONFIDENTIALITY/PRIVACY

A. Board Recognition of Member's Right to Privacy.

Health Insurance Portability and Accountability Act (HIPPA)

B. Open Meetings Act/ Freedom of Information Act

*** No specific exemption: Board may consider material exempt from discussion in open meeting or disclosure on the basis of individual privacy rights under state and federal law.**

7. TAXATION OF DISABILITY BENEFITS

A. BOARD SHOULD NOT RENDER TAX ADVICE.

B. Disability Benefit Taxation is Specific to Calculation of/Entitlement to Benefits

*** If "In the Nature of Worker's Compensation Benefit": Non-Taxable**
(i.e., benefits computed by a formula that does not refer to employee's age, length of service, or prior contributions, and are provided to a class that is restricted to employees with service-incurred injuries)

8. CONCLUSION