

**BAY COUNTY EMPLOYEES' RETIREMENT SYSTEM**  
**DISABILITY RETIREMENT PROCEDURE**

**Adopted by Resolution 2015-35, amended by Resolutions 2016-30, 2016-49, 2021-3<sup>i</sup>.**

1. The Member shall submit a written application approved by the Retirement Board ("Board") to the Retirement Administrator ("Administrator") requesting a disability retirement. The Member shall submit to the Administrator:
  - (a) a list of all treating physicians for the past five years;
  - (b) a copy of the Member's job description (as created or provided by the County employer); and
  - (c) an Authorization to Release Medical Records and Information form; and
  - (d) a Physician Form stating that the Member is:
    - a. mentally or physically incapacitated for continued employment in the same or substantially similar position in which the applicant was previously employed; and
    - b. the incapacity is likely to be permanent; and
    - c. the Member should be retired.

The Administrator shall encourage the Member to submit all medical and/or other information in support of the application. The Administrator shall not process any request for the disability retirement until he or she receives the application, list of treating physicians, job description and authorization for release of medical records. The Member shall submit his or her application while the Member remains in the employ of the County employer.

2. The Retirement Board shall receive the application at its next regularly scheduled meeting and shall move that:
  - (a) the Administrator request from the Member and the County Employer all medical records and/or incident reports on file with the employer relative to the disability claim and from the Member's physician's all medical records relevant to the disability claim;
  - (b) the Member provide to the Administrator any additional information relevant to the Member's claim for disability retirement as determined necessary by the Board;
  - (c) the Member's application be referred to the Medical Director for consideration,
  - (d) the Member be personally examined by the Medical Director or that such personal examination requirement be waived; and
  - (e) the County Employer be notified of the Member's application and the Board's referral.

All reasonable costs for the duplication of records (other than medical records) requested by the Board shall be paid from assets of the Retirement System.

3. The Retirement Administrator shall provide to the Medical Director for his or her consideration all information received by the Administrator related to the Member's disability retirement claim, and shall assist the Member in scheduling an appointment with the Medical Director if such examination is required by the Board. The Member shall not be responsible for the cost of the examination, but may be responsible for a cancellation fee due to his or her failure to keep a scheduled appointment. The Member shall be responsible for travel costs to the initial examination by the Medical Director and any additional examinations deemed necessary by the Medical Director.
4. The Medical Director may, at his or her discretion, refer the Member for an examination by a specialist if the Medical Director determines the he or she lacks the specialized expertise to make a determination as to any Member's disability retirement claim. The Medical Director shall notify the Administrator within seven (7) days of such referral, who shall notify the Board at its next regularly scheduled meeting. The cost incurred as a result of such a referral shall be paid with assets of the Retirement System.
5. It shall be the Member's responsibility to ensure that the Medical Director has received all medical information and/or records that the Member wishes the Medical Director to consider at or prior to the Member's examination (if required). Medical records are to be provided at the Member's expense.
6. The Medical Director shall forward to the Administrator his or her written medical report and certification on a form approved by the Board which shall:
  - (a) identify what records were reviewed by the Medical Director;
  - (b) state whether, in the Medical Director's (or specialist's) opinion, the Member is mentally or physically incapacitated from continued employment with his or her employer;
  - (c) the nature of the incapacity;
  - (d) a short narrative of the basis for the opinion or determination of incapacity;
  - (e) state whether the incapacity is likely to be permanent;
  - (f) state whether, in the Medical Director's (or specialist's) opinion, the Member is totally and permanently disabled while in the employ of his or her employer as a result of causes directly related to his or her actual performance of duty while an employee; and
  - (g) recommend whether, in the Medical Director's (or specialist's) opinion, the Member should be retired.

Incapacity for duty shall mean that the Member is mentally or physically incapacitated from further performance of duty in the service of the County Employer in the same or similar position the Member held at the time of the claimed disability. All claims for

disability retirement must be fully and completely established by or on behalf of the applicant and certified by the Medical Director prior to the Board's grant of a disability retirement. Final determinations as to disability retirement of any kind (with the exception of a Third Party Physician referral on appeal) are expressly reserved to the Board.

7. The Administrator shall place on the Board's agenda an executive session during a regular open meeting of the Board to discuss the Member's disability application, medical reports, opinions and certifications and all other pertinent information related to the Member's disability retirement application. Following that executive session, the Board shall resolve to grant or deny the disability retirement. The Administrator shall notify the Member of the meeting at least seven (7) days prior to the date of the meeting.
8. The Administrator shall notify the Member and the County Employer of the Board's grant or denial of the disability retirement benefit, in writing, within 30 days of the official Board action.
9. Upon approval by the Board, a Member's effective date of disability retirement shall be the later of:
  - a. The date of application for disability retirement; or
  - b. The date the Member actually last received compensation from his or her employer.
10. The Board may require members receiving a disability pension, in years for which it is suggested that they submit for reexamination as set forth in Section 4.044(a) of the Bay County Retirement Ordinance, to submit to the Administrator no later than July 1 of each calendar year (or the first business day following the 1<sup>st</sup> if the same falls on a Saturday Sunday, or County Holiday) the following:
  - (a) A statement, completed in the last twelve months, from their personal physician on a "Physician Reexamination Update" form approved by the Board; and
  - (b) A "Member Work History Update" form approved by the Board and signed under oath by the Member.
11. The Administrator shall submit the updated forms to the Board in executive session during the regularly scheduled open meeting in July of each year. The Board shall make determinations in regular session as to which Member(s), if any, may be subject to reevaluation by the Medical Director.
13. The Administrator shall place on the Board's agenda in November of each year an executive session during a regular open meeting of the Board to discuss the Member's updated reevaluation, which may include medical reports, opinions and certifications and

all other pertinent information to determine if the Member is no longer mentally or physically incapacitated for continued employment by the County. Following that executive session, the Board shall resolve to continue or discontinue the disability retirement. The Administrator shall notify the Member of the meeting at least seven (7) days prior to the date of the meeting.

14. If the Member refuses to comply with the terms of this Policy and/or submit him or herself for reevaluation/reexamination, payment of any existing retirement benefit may be suspended by the Board. If the Member refuses to comply with the terms of this Policy and submit him or herself for reevaluation/reexamination for a period of one year, the Board may permanently revoke the Member's disability retirement benefit. The Board will not receive nor consider an application for disability retirement that does not comply with the terms of this Policy.
15. The Member may appeal a decision by the Board to deny a request for a disability retirement pursuant to the Appeal Procedure found at Section 4.055 of the Bay County Retirement Ordinance. However, the Member, *at the Member's option*, may select the following alternative appeal (which shall be considered an alternative benefit in lieu of the traditional appeal process available to the Member):
  - (a) The Member may submit to the Administrator, in writing, a request for their application to be submitted to an independent, third party physician for review. This physician shall be agreed upon and selected by the Medical Director and the Member's personal physician. Such a request must be made within 90 days of the date of the notification of denial.
  - (b) The Administrator shall present the appeal to the Board for receipt and the Board shall direct the Administrator to coordinate the selection of the third party physician.
  - (c) All documentation previously reviewed and/or considered by the Medical Director or specialist previously utilized by the Medical Director shall be forwarded to the Third-Party Physician for his or her review. The Third Party Physician shall conduct a physical examination of the Member and shall fill out and forward to the Administrator his or her written medical report and certification on the same form approved by the Board for use by the Medical Director.
  - (d) The Board shall receive and adopt the opinion and certification of the Third Party Physician regarding disability within 60 days of receipt of the Third Party Physician's medical report and certification. The Board shall not revisit the issue of the Member's Disability Pension (if the same is recommended by the Third Party Physician and therefore granted by the Board) until the Member is subject to reexamination/reevaluation as set forth in Section 4.044 of the Bay County

Retirement Ordinance. All costs associated with the examination by the Third Party Physician shall be paid from assets of the Retirement System.

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<sup>i</sup> Paragraphs 10-13 were amended to reflect the language in Section 4.044 of the Retirement Ordinance