

FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM

DISABILITY COMMITTEE CHARTER

(ADOPTED APRIL __, 2023)

INTRODUCTION

WHEREAS, the Board has established a standing Disability Committee to assist the Board in carrying out its duty to administer disability benefits.

WHEREAS, on May 16, 2017, the City of San Jose ("City") adopted Ordinance No. 29904, which, among other things, amended Section 3.28.150 to the San Jose Municipal Code, mandating the creation of an independent medical panel of three (3) medical professionals ("medical panel") to evaluate and adjudicate all disability applications made by Plan members, in lieu of the Board.

WHEREAS, in compliance with San Jose Municipal Code § 3.28.150(b), the Board and/or the City twice solicited medical professionals to serve on the medical panel and twice failed to obtain any responses to its solicitation, thus making it impossible to carry out the mandate of Section 3.28.150(b).

WHEREAS, in lieu of establishing the medical panel mandated by Section 3.28.150 of the San Jose Municipal Code, the City and the Board have agreed that the Board shall continue to evaluate and adjudicate all disability applications made by Plan members.

WHEREAS, pursuant to San Jose Municipal Code § 3.28.150(a), the Board has entered into contractual arrangements for Board Medical Advisors and Independent Medical Examiners ("IME") to evaluate applicants' records and advise the Board, which is adjudicating disability retirement applications in the absence of the medical panel.

WHEREAS, the Board has secured the advice of Board-certified physician(s) as independent medical examiners the Board deems necessary to assist the Board in evaluating and adjudicating all disability applications made by Plan members, and continues to perform such services in lieu of the appointment of a medical panel.

WHEREAS, the Board wishes to modify its current practices for evaluating and adjudicating disability applications and to document the process it will employ for the benefit of all interested parties.

WHEREAS, the duties of the Disability Committee and the manner in which it will operate are set out below.

COMMITTEE OPERATIONS

- 1) The Disability Committee shall operate in accordance with applicable statutes, San Jose Municipal Code, City requirements, and Board policy, unless it is impossible to do so. These include but are not limited to the following:

- a) The Disability Committee shall consist of three Board members and one Alternate member selected by the Board Chair, and approved by majority vote of the Board. There will be at least one member on the Disability Committee from each group of Board members: the public appointee group and the Plan member group.
- b) The Board shall annually appoint a Chair of the Disability Committee by majority vote, on the recommendation of the Board Chair.
- c) The Chair of the Disability Committee shall preside over meetings of the Committee.
- d) The Vice-Chair of the Disability Committee shall be determined by majority vote of the members of the Committee, and the elected Vice-Chair shall assume the role of Disability Committee Chair in the event the Disability Committee Chair is unavailable.
- e) The presence of two members of the Disability Committee shall constitute a quorum, and the Alternate member may substitute in for one of the sitting members of the Committee if the sitting member is absent from the meeting. Where the Alternate member substitutes in for an absent sitting member of the Committee, the Alternate member shall have the same authority as the absent sitting member.
- f) All actions and/or recommendations of the Disability Committee shall be by affirmative vote of the majority if all three Disability Committee members are present. If there are only two members of the Disability Committee present, the action and/or recommendation must be made by unanimous affirmative vote of both members present. Alternatively, the Committee may refer a matter to the full Board without a recommendation.
- g) All recommendations of the Disability Committee must be approved by the Board to be effective. The Board may take whatever action or no action on disability applications as it deems appropriate under the circumstances.
- h) The Disability Committee shall meet monthly, as needed.
- i) Meetings of the Disability Committee shall be held in accordance with the Ralph M. Brown Act (Govt. C. §54950 et seq) and City Sunshine Ordinance requirements.
- j) The Disability Committee shall keep minutes of its public meetings.

COMMITTEE RESPONSIBILITIES

- 2) The Disability Committee shall administer the process for considering disability applications in accordance with applicable law.
- 3) For every disability application submitted, the Disability Committee shall:

- a) Receive and review materials and preliminary recommendations prepared by Department Staff, a Board-certified Physician, retained outside disability counsel ("Advocate Counsel") and any materials provided by the Applicant regarding whether to grant or deny the disability application, or take other appropriate action. The Committee shall consider each of the required elements of proof and any presentations by Staff, the Board-certified Physician or Advocate Counsel, and/or the Applicant.
 - b) Direct Department Staff to prepare for the Board a summary indicating the Committee's findings, conclusions, and recommendations.
 - c) Perform any additional follow-up reviews that may be requested by the Board of any application and develop further findings, conclusions and recommendations for the Board's consideration.
- 4) The Disability Committee shall:
- a) Review the Disability Application Procedures at least every three years, and provide any recommendations to Department Staff and the Board, including the adoption of additional policies and procedures necessary to effectuate the process set out in the Disability Application Procedure.
 - b) Review service and operational statistics tabulated and reported by Department Staff regarding the disability application process and advise the Board, as appropriate.
 - c) At the request of the Board, advise the Board regarding the appointment of Board-certified Physicians and Advocate Counsel (and any alternates).
 - d) Review the Disability Committee Charter every three years and submit any recommendations for change to the Governance Committee.
- 5) The Disability Committee will report to the Board on its activities after each of its meetings.

POLICY REVIEW & HISTORY

- 6) The Board will review this policy at least every three years.
- 7) This Updated Charter was adopted by the Board on April __ 2023.