

SAN JOSE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

DISABILITY COMMITTEE CHARTER

(ADOPTED SEPTEMBER __, 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 February 28, 2017, the City of San Jose ("City") adopted Ordinance No. 29879, which, among other things, amended Section 3.36.380 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 § 3.36.380(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 3.36.380(b).

WHEREAS, in lieu of establishing the medical panel mandated by Section 3.36.380 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 § 3.36.380(a), the Board has entered into contractual arrangements for Independent Medical Examiners ("IME") to evaluate applicants' records and advise the Board, which is continuing to adjudicate 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 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, applicable 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 two Regular members and two Alternate members selected by the Board Chair from among the Board members and approved by majority vote of the

Board. One Regular member and one Alternate member shall be active or retired members of the Plan and the other Regular member and Alternate member shall be public members of the Board.

- b) The Board shall annually appoint a Chair of the Disability Committee from among the Regular members 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 a Regular member other than the Chair and the Vice-Chair shall assume the role of Chair in the event the Chair is unavailable.
- e) The presence of two voting members of the Disability Committee shall constitute a quorum. One or more of the Alternate member(s) may substitute in for one or more of the Regular members of the Committee if the Regular member(s) is/are absent from the meeting. Where an Alternate member substitutes in for an absent Regular member of the Committee, the Alternate member shall have the same authority as the absent Regular member. If the Chair and Vice Chair are absent from a meeting, the Alternate members jointly shall select one of them to serve as Chair of that meeting.
- f) All actions and/or recommendations of the Disability Committee shall be by affirmative vote of the two Disability Committee members present, and such vote shall be recorded in the Committee's minutes and made known to the Board when final Board action is to be taken. 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 (except the month of July), as needed, and may also meet more often than monthly if needed.
- i) The Disability Committee is a standing committee of the Board. 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 relevant

materials provided by the Applicant. The Committee shall consider each of the required elements of proof and such evidence and argument that is presented by Staff, the Board-certified Physician, Advocate Counsel, and/or the Applicant.

- b) Direct Disability Counsel to prepare for the Board a summary indicating the Committee's findings, conclusions, voting 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 these 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 September __, 2023.