

**BOARD OF TRUSTEES OF THE
CHAMPAIGN POLICE PENSION FUND**

***General Guidelines for Processing Disability Applications**

- A) An officer inquiring about a disability shall be provided the following:
1. An Application for Disability Benefits form (copy attached).
 2. A copy of these “Guidelines for Processing Disability Applications”.
- B) The Application shall be fully completed including, but not limited to, identifying the nature of the benefit requested, the accident, illness or injury, the date of the accident, illness or injury, and a short statement respecting the manner in which the accident, illness or injury occurred.
- C) The burden of proof is upon the applicant (officer) to establish entitlement to the benefit, as may be requested (i.e. “not on duty” or “line of duty” disability, etc.).
- D) After completing the Application for Disability Benefits, the same must be filed immediately with the Board and the Board shall provide a copy of the same to the Board’s attorney.
- E) The Board and/or its attorney may request the applicant to respond to interrogatories and/or requests to produce documentation, as may be required. Said “interrogatories/request” shall require applicant to provide the Board with the names, addresses and telephone numbers of any and all medical providers and/or entities including, but not limited to, physicians, chiropractors, psychologists, psychiatrists, sociologists, therapists, and other medical personnel who may have treated, tested and/or examined applicant, for any period of time, as the Board may deem appropriate.
- F) The reply to the interrogatories/request shall be timely provided to the Board and/or its attorney, as directed in said documentation.
- G) Upon receipt of the response to the interrogatories and request, the Board may subpoena and/or request copies of any and all of applicant’s medical records, personnel files, departmental records, worker’s compensation records and other documentation, as the Board may deem necessary to process the application.
- H) After receipt of the necessary documentation, including medical records, the Board shall exercise its authority under Section 3-115 of the Pension Code (40 ILCS 5/3-115), and select three (3) physicians for examination of applicant.
1. The Board’s physician selection process may include (at the Board’s sole discretion), the selection of one or more of applicant’s treating/examining physicians. It is noted that the selected physicians shall likely require a complete copy of all of applicant’s past medical records for review, prior to scheduling examination appointments.
 2. Pursuant to Section 3-115 of the Pension Code (40 ILCS 5/3-115), the Board may exercise its discretion in utilizing the services of a “physician’s selection/referral service”

in order to assist the Board in providing a recommendation of independent physicians for examination of the applicant, who retain the required specialization for examination of applicant. Such a service, which the Board may avail itself for physician referral, may include “INSPE Associates”, 39 S. LaSalle St., Chicago, IL 60603.

3. Section 3-115 of the Pension Code further provides that the Board may require other evidence of disability. Such other evidence may include, but not be limited to, other medical reports provided by reason of applicant’s collateral claims including, medical reports provided through worker’s compensation claims, etc.
- I) The “selected” physicians shall be provided a correspondence from the Board and/or its attorney, requesting a detailed medical report providing history, examination, review of medicals and detailed diagnosis, as the same may pertain to applicant’s application for disability and the injury, sickness or illness allegedly sustained.
 - J) Applicant may provide any other medical and/or other documentation for the benefit of the Board, for its review.
 - K) The Board, in its sole discretion, may request and/or require additional medical examination or evidence.
 - L) Either the Board or the applicant may request evidence depositions to be taken of the physicians who have rendered reports and/or treated or examined applicant respecting the injury, accident or illness which is the subject matter of the application. The cost of evidence depositions, including those costs associated thereto (i.e. court reporter, travel expenses, etc.), shall be borne by the party requesting the deposition. The Board’s attorney may appear and represent the Board respecting said evidence depositions.
 - M) In the event applicant is represented by counsel, the Board and the Board’s attorney shall be notified of the same immediately, in writing. In the event either the Board and/or applicant are represented by counsel, and an adequate notice, in writing, is provided of the same, any and all further communication and/or correspondence respecting said application, shall be addressed by and through the attorneys representing the respective parties. Upon filing of the application and notification of representation by legal counsel, applicant shall have no further contact with the Board, nor shall the Board have contact with the applicant.

HEARING

- N) The Illinois Police Pension Code specifically provides that the Board trustees are comprised of the following

Two members of the board shall be appointed by the mayor or president of the board of trustees of the municipality involved. The 3rd and 4th members of the board shall be elected from the active participants of the pension fund by such active participants. The 5th member shall be elected by and from the beneficiaries. 40 ILCS 5/3-128.

While serving as trustees of the Pension Fund Board and during the hearing process, the trustees have a duty of loyalty to the Pension Fund and its vested members. Said trustees shall serve the Board (during the hearing process), as impartial trustees and decide any application for benefits solely upon the evidence, as may be presented. The trustees shall not be influenced or prejudiced by reason of any personal knowledge which they may have of the applicant, his/her association or employment.

Provided, however, that in the event an applicant's employment records or personnel information are admitted into evidence in the cause, then the Board may consider the same in rendering its decision.

- O) The applicant is entitled to a due process hearing, as may be provided by law. Thus, he or she may be represented by counsel, produce evidence, witnesses and to cross-examine the Board's witnesses.
- P) After all documentation has been received by the Board and its attorney including, reports of medical examinations, depositions, and other evidence, the application shall be set for hearing, at a mutually convenient time for the Board and the applicant. The Board desires that a hearing be commenced at the earliest possible date, however, the Board shall consider an applicant's request for continuance in the event the same is reasonable and based upon justifiable need. The Board is not required to "stay" any hearing and/or procedure in anticipation of hearing, during the period of time which the applicant may be negotiating a worker's compensation claim or any other benefits, nor during the period of time where any action, either Administrative, State or Federal action, may be pending.
- Q) In advance of hearing, the Board's attorney shall prepare exhibits to be introduced into evidence, which the Board deems appropriate. On preparation of said exhibits, a copy of the same shall be submitted to each Board Trustee and applicant and/or his/her attorney, for review in advance of hearing. Further, the Board members are cautioned that the review of exhibits (in advance of hearing), is intended to expedite the hearing process, in order that Board members may mitigate the time at hearing in which to review the same. The Board members are cautioned that exhibits tendered are not considered "evidence" in the cause until such time as they are properly introduced by stipulation of the parties or by providing the necessary legal foundation for admission of the same. Board members shall not discuss the substance of any exhibits with any other party including, their fellow trustees, in advance of the hearing process and until such time as the same are admitted into evidence.

Any exhibits prepared and reviewed which are not tendered into evidence and admitted into evidence for the Board's consideration, shall not be considered by the Board and its trustees in rendering their decision on the merits of the application.

At the inception of the hearing, the Board desires that the parties stipulate to the admission of the exhibits into evidence in lieu of live testimony and without the need of further authentication. It is the intention of the hearing process that all of applicant's medicals which may be available and material to the application, including those medicals of applicant's treating physicians and/or medical providers, be admitted for the Board's consideration.

- R) The rules of evidence apply throughout the hearing process including, the "hearsay" rule.

- S) Examination and cross-examination – Each party has the opportunity to present testimony, evidence and witness during the hearing process. On behalf of the Board, the Board’s attorney may present evidence, testimony and cross-examine witnesses.
- T) Hearing shall be conducted as an “open meeting”, transcribed by a court reporter, and shall be conducted pursuant to the requirements of the Open Meetings Act, 5 ILCS 120/1 et seq. In the event of executive session for deliberation, the Board may so move pursuant to the requirements of the Open Meetings Act (and the exceptions therein), during which time only the Board members and the Board’s attorney shall be present.
- U) Applicant retains the burden of proof to establish, by a preponderance of the evidence, his entitlement to the requested disability.
- V) After conclusion of evidence, applicant or applicant’s attorney may provide a “closing argument” summarizing the facts and the law as may be applied in support of the application. Provided, however, closing arguments or comments shall not exceed twenty (20) minutes.
- W) General Conduct of the Hearing – The hearing process is not intended to be adversarial, but rather a “fact finding” mission. However, in its mission to resolve the facts of the case, in order to render a decision, the Board and/or its attorney, may present testimony, review necessary evidence, take depositions and exhaust any necessary cross-examination of applicant and/or witnesses.

During the hearing process, the Board, applicant and their respective representatives, shall, at all times, conduct themselves professionally and respectfully and courteous of the other party.

- X) After the close of all evidence, the applicant may, at his election, file a post hearing brief setting forth his argument in support of the application. In the event the applicant desires to file a post hearing brief, the Board shall provide applicant with a reasonable time for filing and shall continue deliberations until such time as the Board has had an opportunity to review applicant’s post hearing brief. Applicant shall be notified of the date for the continued hearing and/or deliberations after filing the post hearing brief.
- Y) On conclusion of the evidence, the Board may elect to deliberate the application in executive session. During the executive session, in the event the Board determines that additional evidence may be required and/or deliberations continued, the Board may move to come-out-of executive session and so note its request on the record. No decision on the merits of the application shall be rendered during executive session; however, said decision may be rendered once the Board returns to open session, pursuant to motion.

During executive session, the Board’s attorney shall provide guidance to the Board in advising the Board respecting legislation and case law which may apply to the facts of the case. The Board members shall fully review the evidence admitted and the Board trustees are charged with exclusive authority to evaluate the facts of the case. It is noted that the Board’s attorney shall not encourage the Board respecting the manner in which the facts of the case shall be weighed or decision on the facts rendered.

Z) The Board decision respecting the merits of the application shall, thereafter, be reduced to writing and submitted to the Board for entry and served upon the applicant certified mail, return receipt requested, as required by Statute. Said written decision shall incorporate therein; identification of the nature of the case, the Board's finding of facts, the evidence considered, applicable case law, the Board's analysis and application of the law to the facts and decision in said case. In the event the Board's decision may neglect to reference any supporting evidence in the record, then said written decision shall impliedly incorporate therein, any supporting evidence which may be found in the record of proceedings in said cause.

FINALITY

AA) The Board decision on an "application for benefits" shall not be considered "final", until such time as the same is served upon the applicant and/or his or her attorney, certified mail, return request requested, as required by law. Thus, consistent with the Illinois Administrative Review Law, the statutory period for review of a Board's administrative decision shall not commence to run until thirty-five (35) days from the date said decision is served upon the applicant.

BB) Applicant's full cooperation and timely response throughout these proceedings is required. Applicant's failure to cooperate and/or respond in the processing of an application may result in a dismissal of an application and/or a denial of benefits.

*These Guidelines are not intended to limit the Board's authority to conduct business or a hearing, as may be authorized by Statute or applicable law. These Guidelines are intended only to supplement the Board's quasi-judicial authority, as may be provided.