

# Fire and Police Pension Fund

## San Antonio



DEDICATED TO PROVIDING RETIREMENT SECURITY FOR  
FIRE FIGHTERS AND POLICE OFFICERS  
PAST, PRESENT, AND FUTURE

## Summary Plan Description

Effective September 1, 2023

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# **FIRE AND POLICE PENSION FUND**

## **SAN ANTONIO**

**2023**

### **Summary Plan Description**

This Summary Plan Description is an overall summary of the statutory law governing the Fund, and provides general information concerning the operations and administration of the Fund. It is not intended to be a comprehensive analysis or explanation.

**THE STATUTE GOVERNING THE FUND AND THE POLICIES AND PROCEDURES ADOPTED BY THE BOARD OF TRUSTEES OF THE FUND TAKE PRIORITY OVER THIS SUMMARY.**

The governing statute and other useful information are available for viewing at the Fund's website: [www.safppf.org](http://www.safppf.org). Members and beneficiaries are encouraged to visit the website or contact the Fund office for further assistance and information. The Fund does not provide legal or tax advice. Questions concerning legal or tax matters should be directed to a qualified professional.

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<b>TOPIC</b>	<b>PAGE</b>
I. GENERAL INFORMATION	
A. Background .....	1
B. Board Operations .....	1
C. Investment Philosophy .....	2
D. Legislative Changes since 2009 .....	2
E. Fund Website .....	3
F. Plan Revision by Resolution .....	3
G. Pre-retirement Seminars.....	3
II. SERVICE RETIREMENT	
A. Retirement Pension Eligibility .....	3
B. Application Procedure .....	4
C. Retirement Pension Computation .....	4
D. Sick Leave.....	5
E. Backward Deferred Retirement Option Plan (BackDROP).....	5
III. DISABILITY RETIREMENT	
A. Disability Pension Eligibility .....	6
B. Application Procedure .....	7
C. Process .....	8
D. Disability Pension Computation .....	8
1. Regular Disability .....	8
2. Catastrophic Injury Disability.....	9
E. Outside Income Pension Suspension or Reduction .....	9
F. Medical Re-Examination and Disability Benefit Adjustment .....	9
G. Reinstatement Procedure .....	10
IV. DEATH BENEFITS	
A. Death Benefit Pension Eligibility .....	10
1. Death of Active Member .....	10
2. Death of Active Member Killed in the Line of Duty .....	10
3. Death of Regular Disability Retiree.....	11
4. Death of Retiree .....	11
5. Division of Death Benefits.....	11
6. Benefits to Dependent Children of Deceased Members: Guardianship ...	11
7. Child Born or Adopted After Retirement .....	11
8. Marriage After Retirement .....	12
9. Denial of Benefits – Death Caused by Survivor.....	12
B. Application Procedure .....	12
1. Surviving Spouse with Minor Children .....	12

2.	Surviving Spouse with No Minor Children .....	13
C.	Remarriage: Benefits After Termination of Marriage .....	13
1.	Remarriage on or after October 1, 1995 .....	13
2.	Remarriage before October 1, 1995.....	13
D.	Limitation on Benefits for Multiple Marriages.....	13
E.	Benefits to Dependent Parents .....	13
F.	Benefits to Estate .....	14
V.	DECISIONS ON BENEFITS	
A.	Administrative Process .....	14
B.	Denial by Board - Rehearing .....	14
VI.	DISBURSEMENT OF 13TH AND 14TH PENSION CHECKS.....	15
VII.	COST OF LIVING ADJUSTMENTS.....	15
VIII.	EXCESS BENEFIT PLAN.....	16
IX.	REFUND OF CONTRIBUTIONS .....	17
X.	MISCELLANEOUS PROVISIONS	
A.	Common Law Marriages .....	17
B.	Mentally and Physically Dependent Children .....	18
C.	Family and Medical Leave Act.....	18
D.	Uniformed Service .....	18
XI.	ADMINISTRATIVE INFORMATION	
A.	Payroll Deductions.....	19
1.	Insurance .....	19
2.	Income Tax .....	19
3.	Deferred Compensation .....	19
B.	Direct Deposit .....	19
C.	Change of Address and/or Status.....	19
D.	Beneficiary Designation.....	20
E.	Divorces and Qualified Domestic Relations Orders.....	20
F.	Disclosure of Member Information .....	20
G.	Overpayment of Benefits .....	20
H.	Robert's Rules of Order.....	21

# I GENERAL INFORMATION

## A. Background

The Fire and Police Pension Fund, San Antonio (the "Fund"), was created to protect the pensions for San Antonio fire fighters and police officers and their beneficiaries because of the hazardous nature of their professions. The Fund is dedicated to providing retirement security for fire fighters and police officers--past, present and future. It is a statutory trust providing a defined benefit plan for retired police officers and fire fighters (and their beneficiaries), and disability and death benefits for current police officers and fire fighters (and their beneficiaries) employed by the City of San Antonio. It is governed by Article 6243o of Vernon's Texas Civil Statutes (the "Act") and the provisions of the Texas Government Code. (Article 6243o was most recently amended effective September 1, 2023.)

The members of the Fund contribute a percentage of their total salary to the Fund, and the City of San Antonio double matches this amount. The employee's contribution is 12.32% of total salary.

The Executive Director serves as the person who oversees the administrative operations of the Fund and is the principal point of contact for the Fund. All notices concerning any Board action should be addressed to the attention of the Executive Director, 11603 W. Coker Loop, Suite 201, San Antonio, Texas 78216.

## B. Board Operations

The Fund is governed by a nine-member Board of Trustees (the "Board"). The Board is composed of the Mayor (or the Mayor's representative), two City Council members, two active fire fighter representatives, two active police officer representatives, one retiree fire fighter representative, and one retiree police officer representative. The fire and police representatives are elected to four-year terms by majority vote of the membership of their respective departments. Officers of the Board are determined through election by the members of the Board.

The Trustees play a challenging and fiduciary role in their supervision of the Fund. The issues they address are numerous and varied. They serve strictly on a voluntary basis, yet the requests of their time are very demanding. The Board is there to serve and represent the members and the beneficiaries by protecting the Fund. The Board normally meets at 9:30 a.m. on the last Tuesday of every month at the offices of the Fund. The Fund operates on a fiscal year basis beginning on January 1 and ending on December 31 each year.

**C. Investment Philosophy**

The Fund manages a large investment portfolio to meet the needs of its members. The portfolio is diversified across various asset classes including cash and cash equivalents, equity and fixed income marketable securities, private equity, private debt, real estate and real assets. This diversified approach is designed to maximize returns while minimizing risk and it has historically yielded successful results.

The investment strategy is important because the returns achieved are the Fund's principal source of asset growth, rather than employer or employee contributions. Investment returns impact the actuarial soundness of the pension system significantly. Accrued unfunded liability may be reduced if investment returns exceed the assumed rate of return.

**D. Legislative Changes since 2009**

In the 2023 Legislative Session, the Fund was able to make a number of important changes to the Act. Prior to the 2023 changes, the last time the Act had been changed was in 2009. The changes to the Act made during the 2023 Legislative Session include the following: (i) increasing the minimum death benefit for the beneficiaries of active members who die from 50% to 75% of the member's Average Total Salary (as defined in the Act); (ii) clarifying which active member deaths will be considered "killed in the line of duty" for death benefit purposes; (iii) adding a "Slayer" provision to prevent someone who wilfully causes a member's death from receiving survivor benefits; (iv) removing the requirement that an adult disabled child have been claimed as a dependent on the member's tax return to be considered a "dependent child" under the Act; and (v) clarifying that 13th and 14th checks can be paid to an individual's estate in certain circumstances.

In addition, several changes also were necessary for the Fund to retain its tax-qualified status. These changes include: (a) clarifying that total salary includes amounts "picked up" by the City pursuant to Section 4.04(b) of the Act and amounts that would have been included in salary but-for elections made under certain provisions of the IRS Code; (b) clarifying that election for rollover of any portion of an eligible rollover distribution may be made to an eligible retirement plan; (c) providing for increase in the maximum total salary for any member to the dollar limit established from time-to-time under Section 401(a)(17) of the IRS Code and as adjusted annually for cost-of-living increases; (d) clarifying that full vesting may also be established as of the date the member attains normal retirement age; (e) clarifying that distribution of benefits must conform to regulations issued pursuant to 401(a)(9) of the IRS Code; (f) clarifying that benefits that exceed the maximum permitted, shall be adjusted to the extent permitted by federal COLA increases each year; and (g) as required by the HEART Act, clarifying that in the case of any member who dies while performing qualified military service, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided if the member had returned to active duty in the department and then immediately died.



**E. Fund Website**

A helpful resource for members and other beneficiaries of the Fund is the Fund's website: [www.safppf.org](http://www.safppf.org). The website includes general information about the Fund as well as other useful content such as a "Steps to Retirement" guide, current news pertaining to the Fund, Board agendas and minutes, Fund annual reports, legal and legislative information, and a calendar of events. The answers to many questions concerning Fund operations and member benefits can be quickly obtained by visiting the Fund's website. The website also has password-protected access for members to more specific information and tools such as a benefit calculator.

**F. Plan Revisions by Resolution**

Section 5.10(k) of the Act provides that the Board may revise any provision of the Act to the extent necessary for the Fund to retain tax-qualified status. On May 25, 2012, the U.S. Internal Revenue Service (IRS) issued a favorable determination letter with respect to the Fund's tax-qualified status; however, the IRS required that the pension plan be amended in certain respects. The Board implemented the required changes by Resolution until the changes could be made to the Act. Those changes were included in the 2023 Legislative Changes, as described in Section D above.

**G. Pre-retirement Seminars**

As a service to the members, the Fund offers informative seminars to help members and beneficiaries with retirement planning. The Fund offers an all-day seminar twice a year, covering a wide variety of topics such as social security, review of benefits, financial and legal planning, tax issues, health and wellness, psychological, and medical insurance. Fund staff also conducts an abbreviated version of the all-day seminar that covers financial planning, medical insurance and review of benefits. The abbreviated seminar is usually offered on the first Friday of every month. Specific seminar dates can be found on the Fund's website.

**II  
SERVICE RETIREMENT**

**A. Retirement Pension Eligibility [Section 5.01 (a)]**

Whenever a Fund member contributes the appropriate portion of his or her salary and serves the minimum vesting period of twenty (20) years, the Board shall, upon application, authorize that a retirement pension be paid. If a member qualifies for a retirement benefit and then ceases to be a member of the Fund, that person continues to be entitled to benefits that accrued as of the date of termination of employment.

**B. Application Procedure**

In order to effectuate a smooth transition from active duty to retirement, every prospective retiree should notify his or her department superiors and the Fund office well in advance of the actual retirement date (a minimum of thirty days). Fund staff will advise the member of all of the necessary steps that the member will need to take to secure his or her retirement benefits in a timely and efficient manner. In addition, in order to assist a member with retirement planning, Fund staff is available to review the member's options under the Act, and provide estimated benefit payments for both straight annuity and BackDROP scenarios.

**C. Retirement Pension Computation [Section 5.01 (f-1)]**

The pension of a member is computed on the basis of (i) the member's allowable service credit, determined under Section 5.01 (g) , and (ii) the member's Average Total Salary, which is the average of the member's Total Salary (see below) for the highest three years of the last five years (computed from the date of retirement). Fractional years of service are prorated based on full months served as a contributing member. In no event can the annual pension exceed 87.5% of the member's Average Total Salary as of the date of retirement.

A member's Total Salary is all salary of a member except:

- a. Overtime pay, field training officer's pay, bomb squad pay, SWAT team pay, K-9 pay, and hostage team pay; and
- b. Pay for unused accrued vacation and sick leave, holiday pay, compensatory time pay, and bonus days leave, or any similar items of compensation that may be paid in the future. [See Section 1.02 (17)]

The following table shows how a retirement pension is currently calculated:

**RETIREMENT PENSION COMPUTATION**

<b>Years of Service (regardless of age)</b>		<b>Percentage of Average Total Salary</b>
20	+2.25% per year	45.0
21	+5.0%	50.0
22	+5.0%	55.0
23	+5.0%	60.0
24	+5.0%	65.0
25	+5.0%	70.0
26	+5.0%	75.0
27	+5.0%	80.0
28	+2.0%	82.0
29	+2.0%	84.0
30	+2.0%	86.0
31	+0.5%	86.5
32	+0.5%	87.0
33	+0.5%	87.5

The maximum allowable pension is 87.5% of a member's Average Total Salary.

**D. Sick Leave [Section 5.01(g)]**

The respective personnel departments will provide a "Statement of Verification" of accrued sick leave as of the date of retirement. Upon retirement, all full months of unused sick leave in excess of ninety days will be included as service credit for purposes of determining the amount of the pension annuity. However, pay for unused sick leave is not included for purposes of determining Total Salary [Section 1.02 (17)].

**E. Backward Deferred Retirement Option Plan (BackDROP) [Section 5.015]**

Some members prefer to obtain part of the pension as a lump sum payment that can be used for investment or other purposes. The BackDROP option permits a retiring member to elect a lump sum payment together with a reduced annuity payment. In determining the amount of the lump-sum payment and reduced annuity when a BackDROP is elected, the amount of service credit and Average Total Salary are calculated differently than is the case with a regular (straight) annuity. The BackDROP Average Total Salary is computed as if the member's retirement date were the actual retirement date less the number of BackDROP months elected (up to 60 months). For purposes of the *lump-sum payment*, service credit is calculated as follows:

Lump-sum service credit = Straight annuity service credit, less:

- service credit in excess of 34 years, other than credit for unused sick leave as of the date of actual retirement;
- service credit for unused sick leave as of the date of actual retirement; and
- the number of BackDROP months elected

The lump-sum payment is then computed as follows:

- An annuity amount is calculated using the lump-sum service credit and the BackDROP Average Total Salary; then
- Divided by twelve; then
- Multiplied by the number of BackDROP months elected

For purposes of the *reduced annuity*, service credit is determined in the same manner as is the case for the lump-sum calculation, except that the amount of sick leave unused on the date of actual retirement is not deducted. The reduced annuity is computed using the reduced annuity service credit and the BackDROP Average Total Salary. The reduced annuity may not exceed the maximum allowable pension under Section 5.01 (87.5% of a member's straight annuity Average Total Salary).

Payment of the lump sum may be deferred for up to twelve months following the date of actual retirement, and can usually be "rolled over" into a qualified retirement account (such as an Individual Retirement Account) without creating a taxable event. The lump-sum payment may also be paid to the member directly, in which event the payment may be taxable. Members should consult their tax advisors prior to electing how the lump-sum payment is to be made.

### **III DISABILITY RETIREMENT**

Members who are permanently disabled may be eligible to retire and receive a disability retirement pension. The Act provides two types of Disability Pensions: Regular Disability Pensions and Catastrophic Injury Disability Pensions.

#### **A. Disability Pension Eligibility [Section 5.03]**

A Regular Disability Pension is for members who cannot perform the duties of any available position in their department because of a permanent disability (caused by injury or disease). [Section 5.03(a)]

A Catastrophic Injury Disability Pension is for members who have sustained irreparable physical bodily injury (other than heart/lung disease caused by occupational exposure, anxiety disorders or soft-tissue back, neck or spine injuries) while performing those job duties of a firefighter or police officer which involve an extraordinary degree of risk of bodily injury or death, and as a result of that injury, are unable to secure and maintain any type of employment or self-employment which earns an annual income at or above the poverty level, as set out in the U.S. Federal Poverty Guidelines established by the U.S. Department of Health and Human Services. [Section 5.03(a-1)]

Every member considering applying for a disability pension should carefully read Sections 5.03 through 5.08 of the Act, which govern disability retirement situations, and review the Pension Fund's Disability Policy and associated Procedures.

To be eligible for a disability retirement pension, members must have had all required contributions made and must be in good standing in the department (not indefinitely suspended or terminated) both at the time of application and at the time the Board considers the application. For Regular Disability Applications, members must also have been off active duty because of the disability for the 30 days before filing the written application, unless the Board waives this requirement.

**B. Application Procedure**

A member applying for a disability retirement pension must comply with the following procedures:

1. Contact the Fund office and schedule an appointment.
2. Make a written application for disability retirement.
3. Execute an Authorization for Release of Medical Information form for all medical records dated after the member's initial employment application with the department.
4. Provide the Fund letters from two (2) personal physicians which state that the member meets the applicable criteria in the Act for a disability pension. (For Regular Disability Applicants, that the member is permanently disabled so as to be unable to perform the duties of any available position in the department; for Catastrophic Injury Disability Applicants, that the member is permanently disabled as a result of an irreparable physical bodily injury suffered while performing his or her job duties and as such, is unable to secure and maintain any type of employment or self-employment.)
5. Provide the Fund copies of all relevant medical records (including treatment notes, diagnostic studies, etc.).
6. Catastrophic Injury Disability Applicants also should provide the Fund copies of all relevant workers compensation records.

At the time of the initial appointment, Fund staff will assist the member in completing the applicable forms and will provide the member with a general overview of disability retirement benefits that may be available under the Act, examination criteria, medical re-examination provisions, the annual income review process, and the reinstatement process.

For regular disability applicants, Fund staff will also request a written determination from the respective department Chief stating (i) whether the department is or is not able to provide the member employment within the department commensurate with the member's physical or mental capabilities, and (ii) describing any available positions that are commensurate with the member's disabilities. Such determination lies solely within the discretion of the department Chief. If a position is available but is refused by the applicant, then the disability retirement may not be granted.

A disability retirement will be discontinued with respect to a disability retiree who, after retirement, has been offered a position commensurate with the retiree's disability by the Chief of his or her respective department and who refuses the position.

### **C. Process**

Once a member has submitted the required application materials (including all necessary medical documentation), the Disability Committee of the Board will review the matter. Upon the Disability Committee's Recommendation, the Board will determine whether the applicant has met all application requirements. If the Board determines the application requirements have been met, the Board will order one or more independent medical evaluations to assess whether the disability applicant meets the criteria for a disability retirement pension as set out above.

Once the independent medical evaluations have been received, the Disability Committee will again review the matter. Upon the Disability Committee's Recommendation, the Board will consider all documents, medical reports and other information it considers relevant and determine whether the applicant meets the Act's requirements for a disability retirement pension. The applicant (or his or her designated representative) is entitled to present evidence and/or question witnesses at the Committee and Board Meetings, or may waive this right.

Additional details regarding this process can be found in the Board's Disability Policy and associated Procedures.

### **D. Disability Pension Computation [Section 5.04]**

#### **1. Regular Disability:**

When a member is granted a regular disability retirement pension, such member shall be entitled to receive from the Fund (i) if the member has served at least three years before the date of retirement, 50% of the member's Average Total Salary, computed from the date of retirement; or, (ii) if the member has served less than three years but more than two months before the date of retirement, 50% of the member's average monthly salary multiplied by 12; or, (iii) if the member has

served less than two months before the date of retirement, 50% of member's average daily salary multiplied by 360. All disability retirement benefits are paid on a monthly basis.

2. Catastrophic Injury Disability:

When a member is granted a catastrophic injury disability retirement pension, such member shall be entitled to receive from the Fund (i) if the member has served at least three years before the date of retirement, 87.5% of the member's Average Total Salary, computed from the date of retirement; or, (ii) if the member has served less than three years but more than two months before the date of retirement, 87.5% of the member's average monthly salary multiplied by 12; or, (iii) if the member has served less than two months before the date of retirement, 87.5% of the member's daily salary multiplied by 360. All disability retirement benefits are paid on a monthly basis.

**E. Outside Income Pension Suspension or Reduction [Section 5.07]**

All disability retirement pensioners younger than 65 years old are required to provide the Fund a true and complete copy of the retiree's income tax return every year. Tax returns are due no later than May 1 for the previous year's return. Disability retirees who do not submit the required tax returns may have their retirement annuity suspended until the required tax return has been submitted. Disability retirees who are 65 years old or older as of December 31 of the previous year no longer have to submit their tax returns to the Fund.

If a regular disability retiree received income from other employment (including self-employment) during the preceding year, the Fund may reduce the retiree's disability retirement benefits by \$1 for each \$2 earned, on a monthly basis, but not below the minimum monthly pension as stated in Section 5.05(c) of the Act. If the income the disability retiree received from other employment is later reduced or discontinued, the disability retiree's annuity may be restored to the amount it was prior to the reduction or discontinuation, plus any applicable cost-of-living increases. Further information regarding this process can be found in the Pension Fund's Disability Policy and associated Procedures.

**F. Medical Re-Examination and Disability Benefit Adjustment [Section 5.05]**

After a disability retirement pension has been granted, the Board may require the disability retiree to be medically re-examined by physician(s) selected by the Board. Based on the examination(s), the Board shall determine whether the disability retirement benefit shall be continued, decreased, restored to the original amount if it had been previously decreased, or discontinued. If the Board determines to continue the disability retirement benefit at a decreased amount, the annuity may not be reduced to less than an annuity calculated based on (i) the retiree's service credit, (ii) an annual multiplier of 2.25%, and (iii) the member's Average Total Salary, computed from the date of retirement.

A disability retiree who, after notice, fails to undergo a medical examination required by the Board may have his or her disability retirement benefit reduced or totally discontinued.

**G. Reinstatement Procedure [Section 5.06]**

A disability retiree who applies for reinstatement to active duty must, in addition to complying with applicable civil service laws, file a written application with the Board to discontinue the disability pension, subject to medical examination, indicating that the retiree has recovered from the disability and certifying that the Chief of the applicable department has approved the reinstatement.

**IV  
DEATH BENEFITS**

**A. Death Benefit Pension Eligibility**

1. Death of Active Member [Sections 6.02(a) and (b) and Section 6.14]

If a member dies leaving a surviving spouse or one or more dependent children, and the member was not killed in the line of duty (as defined by the Act), the surviving spouse and the children are entitled to receive, at the election of the surviving spouse, an aggregate death benefit annual pension equal to either (i) 75 percent of the member's Average Total Salary, or (ii) the same percentage of the member's Average Total Salary that the member would have been entitled to receive as a retirement pension if the member could have retired on the date of death, except that the percentage may not exceed the percentage to which a member with 27 years of service would be entitled.

Under certain circumstances, the surviving spouse of an active member who dies may elect to receive death benefits in the form of a lump-sum payment and reduced annuity. The lump-sum payment and reduced annuity are calculated similarly as is the case with a BackDROP election by a retiring member provided for in Section 5.015 of the Act. Please consult Fund staff to determine eligibility for this option and for assistance in calculating available benefits.

2. Death of Active Member Killed in the Line of Duty [Section 6.03]

If a member's death resulted from a traumatic injury (severe physical injury of sudden onset and life-ending or life-threatening nature) sustained while engaging in law enforcement or fire suppression activity, rescue, hazardous material response, emergency medical services, disaster relief or emergency response activity, the member's surviving spouse and dependent children are entitled to an annuity equal to the total salary the member received during the 12 month period before the date of death. The annuity is subject to the same cost-of-living adjustments that apply to pensions for service retirement. The benefits paid may be exempt from federal income taxation. Beneficiaries should consult a tax advisor in this regard.



3. Death of Regular Disability Retiree [Sections 6.02(c-1)]

If a regular disability retiree dies leaving a surviving spouse or one or more dependent children, the surviving spouse and the children are entitled to receive an aggregate death benefit annual pension equal to 50 percent of the retiree's Average Total Salary at the date of retirement.

4. Death of Retiree [Section 6.02(c)]

If a retiree other than a regular disability retiree dies leaving a surviving spouse or one or more dependent children, the aggregate death benefit is equal to the lesser of (i) the retirement annuity a retiring member would receive who had the same Average Total Salary as the deceased retiree and 27 years of service credit, or (ii) the retirement annuity the deceased retiree was receiving at the time of his or her death.

5. Division of Death Benefits [Sections 6.02(d), (d-1), (e), (f), (h) and (i)]

If there is a surviving spouse and one or more dependent children, the benefit is awarded 75% to the surviving spouse and 25% to the dependent children. The benefit awarded to the spouse will be increased from 75 percent to 100 percent once all children reach adulthood. Likewise, if the surviving spouse dies, the amount awarded to the children will be increased from 25 percent to 100 percent.

If there are no dependent children, the entire benefit is paid to the surviving spouse. If there is no surviving spouse, the entire benefit is awarded to the children. Any award to more than one dependent child is divided equally among them. The benefits paid to a minor child cease at age 18 (except in the event the child is disabled and is wholly dependent).

6. Benefits to Dependent Children of Deceased Members: Guardianship [Section 6.13]

Payments of benefits to a dependent child must be either (i) paid to a guardian of the *estate* (property) of the child, or (ii) in case of a minor child, accrued by the Fund and paid to the child upon reaching age eighteen. While a parent is considered the "natural guardian" of his or her child (guardian of the person), a parent is not legally the guardian of the *estate* of the child unless and until the parent is appointed as guardian of the estate by court order. The guardian of a child's estate has the legal right to manage the assets of the child in accordance with the provisions of the Texas Estates Code.

7. Child Born or Adopted After Retirement [Section 6.02 (g)]

A child who is born after the date of retirement of a member is not entitled to a death benefit pension unless the member was married to the other biological parent of the child on the date of retirement. A child who is adopted after the date of the member's retirement is not entitled to a death benefit pension.

8. Marriage After Retirement [Section 6.02 (d-2), (g), (g-1) and (g-3), and Section 6.08]

A surviving spouse who was not married to the retiree at the time of the retiree's retirement but was married to the retiree for at least five consecutive years preceding the retiree's death is entitled to receive the entire death benefit of a surviving spouse, provided that the surviving spouse is at least 55 years old. If the surviving spouse is not at least 55 years old on the date of the retiree's death, he or she will be entitled to no benefits from the Fund until age 55. In such event, the entire benefit is awarded to the dependent children (if any) until the surviving spouse reaches age 55.

A surviving spouse who was not married to the retiree at the time of the retiree's retirement and was married to the retiree less than five consecutive years preceding the retiree's death is entitled to receive a lump sum death benefit of \$15,000, unless there is a dependent child of the retiree who is entitled to a death benefit, in which case, the surviving spouse is not entitled to a death benefit.

9. Denial of Benefits – Death Caused by Survivor (Slayer Provision) [Section 6.15]

An individual who would ordinarily receive a pension benefit or benefit increase upon the death of a member or beneficiary will not receive that pension benefit or benefit increase if he or she wilfully caused the death of the member or beneficiary. The Board will decide whether an individual wilfully caused the death, and the Board's decision is not controlled by any other finding in any other forum, including civil or criminal legal proceedings.

**B. Application Procedure**

1. Surviving Spouse with Minor Children

- (a) The applicant must bring the following documentation to the Fund:
  - (1) A certified copy of the decedent's death certificate.
  - (2) A certified copy of the applicant's marriage certificate.
  - (3) A certified copy of each minor child's birth certificate.
  - (4) If a marriage after retirement is involved, a copy of the applicant's valid driver's license, or other credible evidence of age.
  - (5) A Letter of Guardianship (contact the Fund office for assistance).
  - (6) A copy of the social security card for the surviving spouse and each minor child.
  - (7) Documentation of any mental or physical disability of any child, if applicable.
- (b) The applicant must complete and file a notarized application for a beneficiary pension with the Fund.
- (c) Once all application requirements have been met, action on the application will be conducted at the next regularly scheduled Board meeting.

## 2. Surviving Spouse with No Minor Children

- (a) The applicant must submit the following documentation to the Fund:
  - (1) A certified copy of decedent's death certificate.
  - (2) A certified copy of applicant's marriage certificate.
  - (3) If a marriage after retirement is involved, a copy of the applicant's valid driver's license, or other credible evidence of age.
  - (4) A copy of the social security card for the surviving spouse.
- (b) The applicant must complete and file a notarized application for a beneficiary pension with the Fund.
- (c) Once all application requirements have been met, action on the application will be conducted at the next regularly scheduled Board meeting.

### C. **Remarriage: Benefits After Termination of Marriage [Section 6.04]**

#### 1. Remarriage on or after October 1, 1995:

If a surviving spouse or dependent child marries on or after October 1, 1995, the individual's pension payments are not affected.

#### 2. Remarriage before October 1, 1995:

If a surviving spouse or dependent child married before October 1, 1995, pension payments were discontinued under prior law. Current law now provides that if the marriage of that beneficiary widow/widower or dependent child terminates on or after October 1, 1995, that person may reapply for benefits. The applicant must be alive at the time of application and must submit to the Fund a certified copy of the divorce decree or a certified copy of the spouse's death certificate. Upon approval, the applicant shall be entitled to 100% of the pension that was in effect on the date of termination of benefits plus any applicable cost-of-living increases that occurred after the date the marriage terminated, payable prospectively only, from the date the marriage was terminated.

### D. **Limitation on Benefits for Multiple Marriages [Section 6.07]**

A surviving spouse who has been married to more than one deceased member or retiree shall only be entitled to the highest death benefit pension payable by virtue of one marriage.

### E. **Benefits to Dependent Parents [Section 6.09]**

If a member or retiree dies leaving no spouse or child, but at the time of death had a surviving father and mother wholly dependent on that person for support, the mother and father are entitled to receive one-third of an annuity computed based on the decedent's Average Total Salary,

the decedent's service credit, and the formula set out in Section 5.01 (f-1) of the Act, which is divided equally between the father and the mother. If there is only one surviving parent, the parent is entitled to one-fourth of such annuity.

An application for benefits must be accompanied by a copy of the deceased member's or retiree's tax return filed for the last year ending before the member's or retiree's death, or an explanation satisfactory to the Board of why the tax return cannot be provided.

**F. Benefits to Estate [Sections 6.11 and 6.115]**

If an active member dies and does not leave any surviving beneficiaries, the estate of the deceased member is entitled to a death benefit payment from the Fund in an amount equal to the greater of (i) ten times the amount of the annual annuity computed in accordance with Section 5.01 (f-1) of the Act using the deceased member's service credit and Average Total Salary as of the date of death, or (ii) the refund of the member's contributions that were picked up by the municipality. If a retiree dies leaving no surviving beneficiaries, the estate of the retiree is entitled to a death benefit payment in an amount equal to ten times the amount of the annual annuity awarded by the Board effective on the retiree's date of retirement, less any retirement or disability payments and any lump-sum BackDROP payment which was paid to the retiree.

**V**

**DECISIONS ON BENEFITS**

**A. Administrative Process [Section 3.02]**

An application for benefits will be reviewed by Fund staff and a Committee of the Board (if appropriate), with the final decision made by the Board. All benefits decisions are the exclusive jurisdiction of the Board. Staff will assist members by providing information regarding benefits and the overall process. Committees of the Board may review certain matters and provide recommendations to the Board. The Board (and any Committee) has complete authority to conduct any investigations and to consider or require any evidence it considers necessary or appropriate in reaching a determination. The determination of any fact by the Board and the Board's interpretation and application of the Act are final and binding. Matters considered by the Board will be placed on the Board Agenda and considered at a Board Meeting. Staff shall notify the applicant of the date, time and location of the meeting. Applicants may be represented at any Committee and Board meetings by legal counsel (at the applicant's expense), but it is not required. The Board's presiding officer has broad authority to issue subpoenas to witnesses to appear and provide sworn testimony on matters involving benefits under the Act.

**B. Denial by Board - Rehearing**

In the event the Board rules unfavorably on the applicant's claim for benefits, the applicant may, within 30 days after the announcement of the denial of the claim, request in writing to the Fund

that the Board formally reconsider the matter. The request should specify the reason(s) for which a rehearing is requested. If the presiding officer of the Board determines that the applicant will present new and compelling evidence not previously considered by the Board, the presiding officer will place the matter on the agenda to be reconsidered by the Board. If the matter will be reconsidered by the Board, the procedures above regarding notice to the applicant and the conduct of the meeting will be applicable.

**VI**  
**DISBURSEMENT OF 13TH AND 14TH**  
**PENSION CHECKS**  
**[Sections 5.11, 5.12 and 6.12]**

After the end of each fiscal year, the Board may (i) authorize the disbursement of a 13th monthly pension check for that year if the average annual yield on the Fund's investments exceeded the actuarial projections for the preceding five-fiscal-year period by at least 100 basis points, and (ii) authorize the disbursement of a 14th monthly pension check for that year if the average annual yield on the Fund's investments exceeded the actuarial projections for the preceding five-fiscal-year period by at least 300 basis points. Authorization of a 13th or 14th check for any year is subject to the discretion of the Board. Authorization for one year does not obligate the Board to authorize a 13th or 14th check for any other year.

The 13th and 14th pension checks are in an amount equal to the pension check paid in the last month of the preceding fiscal year except that the following individuals will receive a prorated check: retirees who received less than one year of benefits in the preceding fiscal year, beneficiaries of a member who died during the preceding fiscal year, and beneficiaries of a retiree who retired and died during the preceding fiscal year.

The 13th and 14th pension checks are paid to each retiree and beneficiary entitled to receive a pension in the last month of the preceding fiscal year. If a retiree or beneficiary is entitled to receive a 13th or 14th check but dies before such check is issued, the check will be paid to the retiree's or beneficiary's estate (as applicable).

**VII**  
**COST OF LIVING ADJUSTMENTS**  
**[Section 5.09]**

After the end of each calendar year the Board increases all annuities based on the percentage increase in the Consumer Price Index for All Urban Consumers, U.S. City Average (CPI) commonly referred to as a Cost of Living Adjustment (COLA). The COLA for a retiree who retired during the previous calendar year is prorated based on full months of retirement. All calculated COLA increases are rounded to the nearest one-tenth percentage point. There are three categories of Cost of

Living Adjustments which apply to pensioners and beneficiaries, depending on the date of retirement, disability or death, as follows:

Before 8/30/71: Member's retirement, disability or death before retirement occurred before August 30, 1971 - member or beneficiary will receive 100% of the CPI increase.

After 8/30/71 and Before 10/1/99: Member's retirement, disability or death before retirement occurred on or after August 30, 1971, but before October 1, 1999 - member or beneficiary will receive:

(1) If the increase of the CPI is 8% or less, 100% of the CPI increase; or

(2) If the increase of the CPI is more than 8%, 100% of the CPI increase up to and including 8%, and 75% of the CPI increase in excess of 8%.

After 10/1/99: If the member's retirement, disability, or death before retirement occurred on or after October 1, 1999 - member or beneficiary will receive 75% of the CPI increase.

For example, assume that the CPI increase for calendar year 2023 is 4.5%. If you retired in 2010, effective January 1, 2024 you will receive a COLA equal to 75% of 4.5%, or 3.4%. If you retired in 1998, effective January 1, 2024 you will receive a COLA equal to 4.5%. Assume that the CPI increase for calendar year 2023 is instead 9.75%. If you retired in 2010, effective January 1, 2024 you will receive a COLA equal to 75% of 9.75%, or 7.3%. If you retired in 1998, effective January 1, 2024 you will receive a COLA calculated as follows:

$$\text{COLA} = 8\% + [75\% \times (9.75\% - 8\%)] = 9.3\%$$

## **VIII**

### **EXCESS BENEFIT PLAN**

#### **[Section 8.01]**

Effective October 1, 1997, a separate, non-qualified, unfunded excess benefit plan exists outside the Fund. This plan is intended for very limited situations that apply only to highly compensated employees.

An excess benefit participant is any member whose retirement benefits exceed the maximum benefit allowable under the United States Internal Revenue Code of 1986. As permitted under Section 415(m) of IRS regulations, this plan is intended to be a "qualified governmental excess benefit arrangement."

A member eligible to receive benefits under the excess benefit plan will receive an amount

equal to the lesser of:

- (1) the member's unrestricted benefit less the maximum benefit; or
- (2) the amount by which the member's monthly benefit from the Fund has been reduced because of limitations by IRS.

In the case of the death of an excess benefit participant whose spouse, dependent child, or dependent parent is entitled to pre-retirement or post-retirement death benefits under the Fund, the spouse, dependent child, or dependent parent is entitled to a monthly benefit under the excess benefit plan equal to the benefit determined by the Fund's dependent's benefits without regard to the limitations under IRS rules, less the maximum benefit.

Benefits payable under the Excess Benefit Plan will be paid at the same time and in the same manner as the benefit would have been paid from the Fund. The Board shall administer the excess benefit plan with the same rights, duties and responsibilities as the Board has for the Fund.

The City will make separate contributions to the Fund and to the Excess Benefits Plan that totals the amount that satisfies the obligation to the eligible member. City contributions made to provide retirement benefits under the Excess Benefit Plan may not be commingled with the money of the Fund.

## **IX**

### **REFUND OF CONTRIBUTIONS**

**[Section 4.07]**

A member who has contributed to the Fund for less than twenty years, and who is terminated or resigns from employment as a police officer or fire fighter for reasons other than to obtain a disability pension, may apply for a refund for the contributions which he or she has made. Contributions will be refunded without interest. A person's acceptance of a refund pursuant to the Act precludes that person from obtaining any other right or benefit under the Act.

A person who has vested, or who terminates employment to obtain a disability pension from the Fund, is not entitled to a refund of contributions.

## **X**

### **MISCELLANEOUS PROVISIONS**

#### **A. Common Law Marriages [Section 6.06]**

Common-law marriages are not recognized under the Act and benefits may not be granted to common-law spouses as beneficiaries unless the parties recorded a Declaration of Informal Marriage

with the County Clerk (in accordance with Texas Family Code § 2.404) prior to the member's death. For benefits purposes, the date of the marriage will be considered the date the Declaration of Informal Marriage is recorded with the County Clerk. A copy of the recorded Declaration should be provided to the Fund office, and any changes should be reported to the Fund office.

**B. Mentally and Physically Dependent Children [Section 6.02(j)]**

A dependent child who is so mentally or physically disabled as to be incapable of being self-supporting to any extent, if otherwise qualified, and regardless of age, has the rights of a child under eighteen (18) years of age. Further, any pension paid to any mentally or physically disabled child or children may be reduced by the amount received from any state aid, including Medicaid, or any state funded assistance, regardless of whether or not the funds were made available to the state by the federal government.

**C. Family and Medical Leave Act [Section 4.02]**

A member who takes approved unpaid leave as provided by the Family and Medical Leave Act can make voluntary contributions for the leave period in the same amount that the member would have paid if the member had not taken the leave. These voluntary contributions must be made no later than the 30th day after the date the member returns from that leave. Failure to make voluntary contributions within the time noted will result in the member losing all credit toward the member's retirement pension for said unpaid leave period.

**D. Uniformed Service [Section 4.03]**

A member who enters any uniformed service of the United States may restore the pension service credit that was missed during the member's uniformed service by paying into the Fund contributions in the amount the member would have paid if the member had not been absent. To make such payments, the member must be re-employed in the fire or police department and otherwise comply with the requirements of the Uniformed Services Employment and Re-employment Rights Act.

Payment to the Fund must be made in full within an amount of time equal to three times the amount of time the member was engaged in uniformed service, but no more than five years. If the member fails to comply with these requirements, the member may lose all credit towards the member's retirement pension for the length of time the member was engaged in uniformed service, unless the Board finds there was good cause for the member's failure and the member also pays interest, as required by the Act.



## **XI ADMINISTRATIVE INFORMATION**

### **A. Payroll Deductions**

#### 1. Insurance

All deductions such as medical insurance premiums, life insurance, etc., must be initiated by the applicant and require a signed Deduction Authorization form. Any change or cancellation of a deduction may be conducted by mail or in person. A self-addressed stamped envelope will be provided by the Fund. Any changes should be made during the first week of the month. Changes received after the first week of the month may not be processed until the following month.

#### 2. Income Tax

Under most circumstances, a retirement pension is taxable income. The Fund staff will assist members in completing an IRS Form W-4P to determine the amount of withholding for federal income tax purposes. In some cases, cost of living increases do not automatically increase the withholding amount. A new Form W-4P must be submitted to initiate a change. The Fund staff mails all pensioners an IRS Form 1099R – Distributions from Pensions, Annuities, Retirement and Profit-Sharing Plans, IRAs, Insurance Contracts, etc. in January of each year.

#### 3. Deferred Compensation (457 Plan)

All questions concerning a member's interest in the City of San Antonio's 457 Plan should be directed to the City's Finance Department or to the appropriate Deferred Compensation Carrier. The Fund has no involvement in the administration of that Plan.

### **B. Direct Deposit**

All pensioners, beneficiaries and other payees must provide the Fund with bank depository information so that benefit payments can be disbursed by direct deposit [Section 3.03(c)]. A voided check contains the pertinent information required by the Fund. Also, a Direct Deposit form must be completed. The direct deposit takes effect immediately on the first benefit payment and continues for each monthly payment. The direct deposit is electronically transferred to the depository institution and a non-negotiable facsimile of a check showing the amount of the deposit is posted to a password-protected website accessible through the Fund website.

### **C. Change of Address and/or Status**

Active members and retirees should immediately notify the Fund of any status changes such as a marriage, divorce, or death of a spouse. Retirees, beneficiaries, and other payees should immediately notify the Fund in writing of any change of address.

**D. Beneficiary Designation**

Members of the Fund cannot designate any beneficiary for the purpose of receiving death benefits. Such beneficiaries are determined exclusively under the provisions of the Act. Benefits are awarded to eligible widows/widowers, children, wholly-dependent parents, and member or retiree estates under Sections 6.01 through 6.15 of the Act.

**E. Divorces and Qualified Domestic Relations Orders**

The treatment of pension benefits in divorce proceedings is a complex subject. Pension benefits may be considered community property which is subject to division in a divorce. Members who are getting divorced should contact the Fund office early in the process for information and assistance.

If pension benefits are divided in a divorce and the parties want those benefits paid directly to the retiree's former spouse, the parties will need to obtain a Qualified Domestic Relations Order (QDRO). A QDRO is a specific type of court order (usually separate from the Divorce Decree) that meets the requirements of the Fund's QDRO Policy and authorizes the Fund to pay pension benefits to the former spouse. The Fund's QDRO Policy is designed to simplify and streamline the process involved when pension benefits are divided upon divorce. Fund staff or counsel will provide the necessary forms and information to assure that the court orders contain the appropriate language that conform to the Fund's QDRO Policy, but Fund staff cannot provide legal advice.

Whenever a member gets divorced (whether pension benefits are divided or not), the member should provide the Fund a certified copy of the final Divorce Decree and any QDRO.

**F. Disclosure of Member Information [Section 3.01(h)]**

The Act prohibits the disclosure of member information except in limited circumstances. As a result, the Fund is generally unable to discuss or disclose member information with anyone other than the member or the member's duly authorized legal representative (evidenced by a valid power of attorney or letters of guardianship) without the member's written authorization.

**G. Overpayment of Benefits [Section 3.03(d)]**

In the event of an overpayment of benefits by the Fund, subsequent benefits may be reduced in order to offset the excess amount paid. If no subsequent benefits are planned, then the Fund may recover the overpayment in any manner that other debt is recovered. The Fund must follow the procedures for recovery of overpayments mandated by Section 802.1024 of the Texas Government Code.

**H. Robert's Rules of Order**

To the extent appropriate and unless otherwise required under the Act, all meetings of the Board and its Committees are conducted in accordance with Robert's Rules of Order.