

CITY OF SOUTHGATE POLICE AND FIRE RETIREMENT SYSTEM

POLICY RESOLUTION

Adopted: August 20, 2009

Re: Statement of Administrative Policies and Procedures - Domestic Relations Matters

WHEREAS, the Board of Trustees of the City of Southgate Police and Fire Retirement System is responsible for the proper and efficient operation and management of the Retirement System, and

WHEREAS, Public Act 46 of 1991, MCL §38.1701 et seq. mandates that all public employment retirement systems must comply with Eligible Domestic Relations Orders (“EDRO”) issued by Michigan state courts of competent jurisdiction, and

WHEREAS, the Board of Trustees is desirous of restating its various policies and procedures with regards to the Retirement System’s administration of all court orders, subpoenas and requests for information with regards to domestic relations proceedings, and

WHEREAS, the Board of Trustees had discussed this matter with its legal counsel,

THEREFORE BE IT RESOLVED, that the Board of Trustees hereby adopts the following “Statement of Administrative Policies and Procedures Regarding Domestic Relations Matters”:

I. SAMPLE EDRO

The Board of Trustees has approved the availability of a sample EDRO for use by its members and beneficiaries. The sample is a form only and the parties and/or their attorneys must conduct their own research and investigation of the plan provisions, the EDRO law and all other applicable law. A copy of the sample order is available from the Retirement Board office.

II. REQUESTS FOR INFORMATION

The Board of Trustees respects an individual member’s right to privacy and strictly construes the Freedom of Information Act as to the release of a member’s retirement data to third parties. Requests by third parties for personal retirement data must be accompanied by a signed waiver or a court entered order or subpoena.

III. PROPOSED ORDERS

The parties to a domestic relations proceeding (e.g., divorce, legal separation) are encouraged to forward their proposed EDRO or other applicable order to the Board of Trustees for review prior to entry of the order with the court. The Board of Trustees, through its legal counsel, will review the proposed order for compliance with plan provisions and applicable law. Comments and/or required amendment or additions will be forwarded to the parties.

IV. ENTERED ORDERS

- A. Upon receipt of a judgement or order purporting to be an Eligible Domestic Relations Order, the Board of Trustees is required to acknowledge receipt of said judgement or order.
- B. The Board of Trustees will notify the parties who will be affected by such order (the Plan Participant, the Alternate Payee and attorneys for said parties), and will inform them that the Board of Trustees will proceed with a determination as to whether the order is an effective Eligible Domestic Relations Order within thirty (30) days after receipt of the order. An "Acknowledgment of Receipt of Judgment or Order Purporting to be an Eligible Domestic Relations Order" form letter will be completed by the Board's Secretary and forwarded to the parties.
- C. The Board's Secretary shall forward a copy of the order and other appropriate information to the Board's legal counsel for review as to whether the order complies with the Plan's provisions and applicable law.
- D. Upon review, legal counsel will prepare and forward correspondence and/or proposed resolutions as may be applicable for forwarding to the Board and/or parties. legal counsel will forward its opinion to the Board as to compliance of the order with applicable law and Plan provisions.
- E. A copy of the order will also be forwarded to the Board of Trustees's actuary for certification (i.e., that the EDRO does not increase plan costs). Said certification will be forwarded to the Board.
- F. Upon receipt of the opinion of its legal counsel and certification of its actuary, the Board of Trustees will adopt a resolution acknowledging receipt of an entered order which complies with plan provisions and applicable law. A copy of this resolution will be forwarded to the parties and their attorneys. A copy of the approved order will be placed in the Participant's Retirement System file.
- G. The Board's Secretary will thereafter request computation of any required payroll data and service credit and complete the EDRO Information form for inclusion in the Participant's Retirement System file.

V. REQUEST FOR BENEFIT ESTIMATES AND/OR CALCULATIONS

A. Policy Statement:

The Retirement System is frequently presented with requests, court judgments and/or court orders regarding the providing of estimates and computations with respect to proposed or actual court judgments or domestic relations orders, including proposed or actual Eligible Domestic Relations Orders pursuant to Public Act 46 of 1991 of the State of Michigan statutes (MCL §38.1701, et seq.) Said estimates and calculations are made by the Board's actuary who submits billings for said services. The Board of Trustees is vested with the fiduciary responsibility and authority for the general administration and management of the Retirement System. **The Board is of the opinion that the costs for providing estimates and calculations is not the responsibility of the Retirement System but is the responsibility of the party or parties to the domestic relations proceeding.**

B. The parties to the domestic relations proceeding are encouraged to address each party's responsibility for payment of actuarial costs within the terms of their respective EDRO, other court order and/or correspondence which requests and/or requires actuarial calculation(s). The parties shall complete a Fee Payment Agreement and forward that Agreement to the Board of Trustees. In the absence of a completed and signed Fee Payment Agreement, or if the responsibility for payment of actuarial fees and costs is not addressed in the EDRO, then the Board of Trustees will divide the actuarial fees and costs equally (50/50) between the parties to the EDRO.

C. Upon receipt of a court-entered domestic relations order the Board of Trustees will follow the procedures outlined in Section IV above. The parties to the proceeding must forward to the Board of Trustees a deposit in such amount as the Board determines, which is related to and to be applied against the actuarial fees and costs. **The parties must provide the deposit once the Retirement System legal counsel provides written notice that the court order complies with applicable law and Plan provisions.** In the event that the parties do not provide said deposit, the applicable actuarial fees and costs, plus interest at the Plan's actuarially assumed rate, shall be deducted from the parties' benefits at such time as the benefits become payable from the Plan.

D. Upon the Participant's retirement, the Board of Trustees will pay the normal actuarial costs for determining the amounts otherwise payable to the Participant (i.e., the amount for calculation of the Participant's straight life benefit and applicable options). Any additional actuarial costs for calculations required pursuant to the terms of the EDRO will be the responsibility of the parties to the EDRO.

- E. In all other cases where a member or retiree of the Retirement System, or the spouse or alternate payee of a member or retiree, seeks actuarial information concerning the retirement allowance of the member or retiree, the Board has no objection to the actuary providing the information to the requestor(s) provided:
1. The member, retiree or spouse of the member or retiree directly contacts the actuary:
 2. The Board of Trustees and the Board's legal counsel (VanOverbeke, Michaud & Timmony, P.C.) shall be a copy recipient of all correspondence between the member, retiree or spouse of a member or retiree or their legal counsel.
 3. The Retirement System shall be reimbursed for all costs associated with the request by the party or parties requesting the actuarial calculation. The Board's actuary shall obtain and forward to the Board a Fee Payment Agreement signed by the party or parties requesting said calculation or estimate. In the absence of a signed payment agreement or specific terms in the EDRO, the Board of Trustees shall split (50/50) the actuarial costs between the parties to the order.

VI. ALTERNATE PAYEE'S COMMENCEMENT OF BENEFITS

- A. Upon receipt and approval of an EDRO or other appropriate order, the Board of Trustees resolves to put a copy in the Participant's file. The Board of Trustees does not notify Alternate Payees of their eligibility to commence receipt of benefits until such time as the Participant files application for retirement. If it is the intent of the Alternate Payee to commence receipt of benefits at the Participant's earliest retirement date, the Alternate Payee must keep track of that date and make application in writing to the Retirement System as indicated.
- B. An Alternate Payee must make application not less than thirty (30) and not more than ninety (90) days prior to their intended benefit commencement date.

FURTHER RESOLVED, that a copy of this resolution shall be provided to the Board's actuary and legal counsel, and

FURTHER RESOLVED, that a copy of this resolution shall be provided to the parties and attorneys involved in domestic relations proceedings involving Retirement System benefits.